

**AMENDMENT TO H.R.5136, AS REPORTED**  
**OFFERED BY MS. KIRKPATRICK OF ARIZONA**

Page 122, after line 18, insert the following:

1 **SEC. 359. RECOVERY OF MISSING DEPARTMENT OF DE-**  
2 **FENSE PROPERTY.**

3 (a) IN GENERAL.—Section 2789 of title 10, United  
4 States Code, is amended to read as follows:

5 **“§ 2789. Recovery of Department of Defense property:**  
6 **unauthorized or improper disposition**

7 “(a) PROHIBITIONS.—No member of the armed  
8 forces, civilian employee of the Government, employee or  
9 agent of a contractor, or any other person may sell, lend,  
10 pledge, barter, give, transfer, or otherwise dispose of any  
11 clothing, arms, articles, equipment, or any other military  
12 or Department of Defense property—

13 “(1) to any person not authorized to receive the  
14 property in accordance with applicable requirements  
15 established by the Department of Defense or a com-  
16 ponent thereof; or

17 “(2) in violation of applicable demilitarization  
18 regulations of the Department of Defense or a com-  
19 ponent thereof.

1           “(b) SEIZURE OF IMPROPERLY DISPOSED OF PROP-  
2   ERTY.—If a member of the armed forces, civilian employee  
3   of the Government, employee or agent of a contractor, or  
4   any other person has improperly disposed of military or  
5   Department of Defense property in violation of subsection  
6   (a), any civil or military officer of the United States or  
7   any State or local law enforcement official may seize the  
8   property, wherever found. Title to military or Department  
9   of Defense property disposed of in violation of subsection  
10   (a) remains with the United States. Possession of such  
11   property by a person who is neither a member of the  
12   armed forces nor an official of the United States is prima  
13   facie evidence that the property has been disposed of in  
14   violation of subsection (a).

15           “(c) DELIVERY OF SEIZED PROPERTY.—Any official  
16   who seizes property under subsection (b) and is not au-  
17   thorized to retain it for the United States shall imme-  
18   diately deliver the property to an authorized member of  
19   the armed forces or other authorized official of the De-  
20   partment of Defense or the Department of Justice.

21           “(d) RETROACTIVE ENFORCEMENT AUTHORIZED.—  
22   This section shall apply to any military or Department of  
23   Defense property which was the subject of unauthorized  
24   disposition any time after January 1, 2002. This section

1 shall apply to significant military equipment which was the  
2 subject of unauthorized disposition at any time.

3       “(e) SEVERABILITY CLAUSE.—In the event that any  
4 portion of this section is held unenforceable, all other por-  
5 tions of this section shall remain in full force and effect.

6       “(f) DEFINITION.—In this section, the term ‘signifi-  
7 cant military equipment’ means defense articles on the  
8 United States Munitions List for which special export con-  
9 trols are warranted because of their capacity for substan-  
10 tial military utility or capability.”.

11       (b) CLERICAL AMENDMENT.—The item relating to  
12 such section in the table of sections at the beginning of  
13 chapter 165 of such title is amended to read as follows:

“2789. Recovery of Department of Defense property: unauthorized or improper  
disposition.”.

