

118TH CONGRESS
2D SESSION

S. _____

To amend the Tariff Act of 1930 to increase accountability relating to articles receiving exemptions from duties for de minimis entries and to require regulations on enhanced data collection with respect to such entries, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BRAUN (for himself and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Tariff Act of 1930 to increase accountability relating to articles receiving exemptions from duties for de minimis entries and to require regulations on enhanced data collection with respect to such entries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ensure Accountability
5 in De Minimis Act of 2024”.

1 **SEC. 2. LIMITATION ON PERSONS AUTHORIZED TO ENTER**
2 **ARTICLES ELIGIBLE FOR DE MINIMIS EXEMP-**
3 **TION FROM DUTIES.**

4 (a) IN GENERAL.—Section 498 of the Tariff Act of
5 1930 (19 U.S.C. 1498) is amended by adding at the end
6 the following:

7 “(c) IMPORTATION UNDER ADMINISTRATIVE EXEMP-
8 TION ONLY BY CERTAIN PARTIES.—Notwithstanding any
9 other provision of this Act, an article is eligible for an ad-
10 ministrative exemption under section 321(a)(2)(C) only if
11 the article is entered—

12 “(1) as international mail; or

13 “(2) by—

14 “(A) the consignee, the owner, or the pur-
15 chaser of the article; or

16 “(B) if designated by a person specified in
17 subparagraph (A), a person holding a valid cus-
18 toms broker’s license issued under section
19 641(b).”.

20 (b) APPLICABILITY.—The amendments made by sub-
21 section (a) shall apply with respect to articles entered, or
22 withdrawn from warehouse for consumption, on or after
23 the date that is 60 days after the date of the enactment
24 of this Act.

1 **SEC. 3. MODIFICATION TO PENALTIES FOR FRAUD, GROSS**
2 **NEGLIGENCE, AND NEGLIGENCE.**

3 (a) DIRECTING OR FACILITATING VIOLATIONS.—Sec-
4 tion 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is
5 amended—

6 (1) in subsection (a)(1)(B)—

7 (A) by striking “may aid or abet” and in-
8 serting the following: “may—

9 “(i) aid or abet”;

10 (B) by striking the period at the end and
11 inserting “; or”; and

12 (C) by adding at the end the following:

13 “(ii) direct or facilitate a violation of
14 subparagraph (A).”; and

15 (2) in subsection (b)(1)(A)(ii), by striking “or
16 the aiding or procuring of the entry or introduction”
17 and inserting “the aiding or procuring, or the direc-
18 tion or facilitation of the entry or introduction or at-
19 tempted entry or introduction”.

20 (b) RECURRING NEGLIGENT OR GROSSLY NEG-
21 LIGENT VIOLATIONS RELATING TO DE MINIMIS EN-
22 TRIES.—Section 592(c) of the Tariff Act of 1930 (19
23 U.S.C. 1592(c)) is amended—

24 (1) by redesignating paragraphs (4) through
25 (14) as paragraphs (5) through (15), respectively;
26 and

1 (2) by inserting after paragraph (3) the fol-
2 lowing:

3 “(4) RECURRING NEGLIGENT OR GROSSLY NEG-
4 LIGENT VIOLATIONS RELATING TO DE MINIMIS EN-
5 TRIES.—

6 “(A) IN GENERAL.—A recurring negligent
7 or grossly negligent violation of subsection (a)
8 that relates to entering articles for which an ad-
9 ministrative exemption from duties under sec-
10 tion 321(a)(2)(C) is sought is punishable by a
11 civil penalty in—

12 “(i) except as provided by clause (ii),
13 an amount not to exceed the greater of—

14 “(I) 10 times the aggregate
15 amount of the lawful duties, taxes,
16 and fees of which the United States is
17 or may be deprived; or

18 “(II) \$2,000; and

19 “(ii) if the recurring violation did not
20 affect the assessment of duties, an amount
21 not to exceed the greater of—

22 “(I) 200 percent of the aggregate
23 domestic value of the merchandise; or

24 “(II) \$2,000.

25 “(B) RECURRING DEFINED.—

1 “(i) IN GENERAL.—In this paragraph,
2 the term ‘recurring’, with respect to a vio-
3 lation of subsection (a) by a person that
4 relates to entering articles described in
5 subparagraph (A), means that—

6 “(I) the violation—

7 “(aa) is a second or subse-
8 quent such violation by that per-
9 son; and

10 “(bb) takes place not later
11 than 3 months after the person
12 received a penalty claim under
13 subsection (b)(2) for a prior such
14 violation and for which the per-
15 son had the opportunity seek re-
16 mission or mitigation; and

17 “(II) the person has been found
18 to have repeatedly, over an aggregate
19 period of 3 months or more, com-
20 mitted violations of subsection (a)
21 that relate to entering articles de-
22 scribed in subparagraph (A).

23 “(ii) EFFECT OF INTERVENING COM-
24 PLIANT ENTRIES.—For purposes of clause
25 (i), if, between negligent or grossly neg-

1 ligent violations of subsection (a) by a per-
2 son that relate to entering articles de-
3 scribed in subparagraph (A), that person
4 submits entry documentation with respect
5 to a shipment of articles described in sub-
6 paragraph (A) accurately and in compli-
7 ance with the law, the submission of such
8 entry documentation shall not prevent the
9 negligent or grossly negligent violations
10 from being considered recurring.”.

11 (c) DEFINITIONS OF NEGLIGENT AND GROSSLY
12 NEGLIGENT.—Section 592(a) of the Tariff Act of 1930
13 (19 U.S.C. 1592(a)) is amended by adding at the end the
14 following:

15 “(3) DEFINITIONS.—In this section:

16 “(A) GROSSLY NEGLIGENT.—The term
17 ‘grossly negligent’, with respect to a violation of
18 paragraph (1) by a person, means that the per-
19 son committed the violation with—

20 “(i) actual knowledge of or wanton
21 disregard for the relevant facts; and

22 “(ii) indifference or disregard to
23 whether the person was violating para-
24 graph (1).

1 “(B) NEGLIGENT.—The term ‘negligent’,
2 with respect to a violation of paragraph (1) by
3 a person, means that the person failed to exer-
4 cise reasonable care and competence—

5 “(i) to ensure that documents, data,
6 and information provided by the person in
7 connection with the entry of merchandise
8 are complete and accurate; or

9 “(ii) to perform any material act re-
10 quired by law.”.

11 (d) TECHNICAL AMENDMENT.—Section 592 of the
12 Tariff Act of 1930 (19 U.S.C. 1592), as amended by this
13 section, is further amended by striking “the Customs
14 Service” each place it appears and inserting “U.S. Cus-
15 toms and Border Protection”.

16 **SEC. 4. DEADLINE FOR INFORMATION SHARING AGREE-**
17 **MENTS WITH FEDERAL AGENCIES PARTICI-**
18 **PATING IN INTERNATIONAL TRADE DATA**
19 **SYSTEM.**

20 Section 411(d)(4)(A)(ii) of the Tariff Act of 1930 (19
21 U.S.C. 1411(d)(4)(A)(ii)) is amended by striking “enters
22 into” inserting “not later than 18 months after the date
23 of the enactment of the Ensure Accountability in De Mini-
24 mis Act of 2024, enters into”.

1 **SEC. 5. REGULATIONS ON ENHANCED DATA COLLECTION**
2 **WITH RESPECT TO DE MINIMIS ENTRIES.**

3 (a) REQUIREMENT FOR REGULATIONS.—

4 (1) IN GENERAL.—Not later than 18 months
5 after the date of the enactment of this Act, the Sec-
6 retary of the Treasury, in consultation with the
7 Commissioner of U.S. Customs and Border Protec-
8 tion and pursuant to subsections (b) and (c), shall
9 prescribe regulations requiring enhanced data collec-
10 tion with respect to articles for which an administra-
11 tive exemption from duties under section
12 321(a)(2)(C) of the Tariff Act of 1930 (19 U.S.C.
13 1321(a)(2)(C)) is sought, including obtaining infor-
14 mation with respect to the origin of materials used
15 in the production of such articles, in order to ensure
16 that the articles for which the exemption is sought
17 are not articles described in paragraph (2) or arti-
18 cles that are otherwise prohibited from entering the
19 United States.

20 (2) ARTICLES DESCRIBED.—An article is de-
21 scribed in this paragraph if the article—

22 (A) is produced with forced labor (as de-
23 fined in section 307 of the Tariff Act of 1930
24 (19 U.S.C. 1307));

25 (B) bears a counterfeit mark (within the
26 meaning of section 45 of the Act entitled “An

1 Act to provide for the registration and protec-
2 tion of trademarks used in commerce, to carry
3 out the provisions of certain international con-
4 ventions, and for other purposes”, approved
5 July 5, 1946 (commonly known as the “Trade-
6 mark Act of 1946” or the “Lanham Act”) (15
7 U.S.C. 1127)); or

8 (C) is a controlled substance (as defined in
9 section 102 of the Controlled Substances Act
10 (21 U.S.C. 802)) that is not imported in ac-
11 cordance with applicable law.

12 (b) DEVELOPMENT OF REGULATIONS.—In devel-
13 oping the regulations required by subsection (a), the Sec-
14 retary shall—

15 (1) solicit comments from and consult with a
16 broad range of parties that are likely to be affected
17 by the regulations, including importers, exporters,
18 carriers, customs brokers, and freight forwarders,
19 among other interested parties;

20 (2) ensure the protection of the privacy of pro-
21 prietary information (within the meaning of section
22 777(b) of the Tariff Act of 1930 (19 U.S.C.
23 1677f(b))), except for information shared, through
24 the International Trade Data System established
25 pursuant to section 411(d) of the Tariff Act of 1930

1 (19 U.S.C. 1411(d)), with Federal agencies partici-
2 pating in that system;

3 (3) to the extent practicable, avoid imposing re-
4 quirements pursuant to those regulations that are
5 redundant with each other or that are redundant
6 with requirements under other provisions of law; and

7 (4) include regulations that request the Post-
8 master General to transmit to the Secretary the in-
9 formation described in subsection (a)(1), to the ex-
10 tent feasible and consistent with international law,
11 with respect to the country of origin of materials
12 used in the production of articles in international
13 mail shipments for which an administrative exemp-
14 tion from duties under section 321(a)(2)(C) of the
15 Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(C)) is
16 sought.

17 (c) NOTICE OF PROPOSED RULEMAKING AND COM-
18 MENT PERIOD.—The Secretary, in consultation with the
19 Commissioner, shall—

20 (1) publish a notice of proposed rulemaking in
21 the Federal Register; and

22 (2) provide for a period of not less than 60
23 days for public comment on the proposed rule-
24 making.

25 (d) CIVIL PENALTY.—

1 (B) that were seized by U.S. Customs and
2 Border Protection at ports of entry for entering
3 the United States illegally;

4 (2) a description of such articles;

5 (3) the country of origin of such articles, to the
6 extent feasible; and

7 (4) the aggregate fair retail value of such arti-
8 cles in the country of shipment.

9 (b) GOVERNMENT ACCOUNTABILITY OFFICE ASSESS-
10 MENT OF SHORTCOMINGS IN INFORMATION SHARING.—

11 (1) IN GENERAL.—Not later than one year
12 after the date of the enactment of this Act, the
13 Comptroller General of the United States shall sub-
14 mit to Congress a report assessing—

15 (A) shortcomings in information shared
16 through the International Trade Data System
17 established pursuant to section 411(d) of the
18 Tariff Act of 1930 (19 U.S.C. 1411(d)) among
19 Federal agencies participating in that system;

20 (B) implications of those shortcomings
21 with respect to the enforcement of regulations;
22 and

23 (C) the establishment of memoranda of un-
24 derstanding by the Secretary of the Treasury
25 with Federal agencies participating in the Inter-

1 national Trade Data System pursuant to sec-
2 tion 411(d)(4)(A)(ii) of the Tariff Act of 1930,
3 as amended by section 4.

4 (2) FORM.—The report required by paragraph
5 (1) shall be submitted in unclassified form, but may
6 include a classified annex.

7 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
8 FINED.—In this section, the term “appropriate congres-
9 sional committees” means—

10 (1) the Committee on Finance and the Com-
11 mittee on Homeland Security and Governmental Af-
12 fairs of the Senate; and

13 (2) the Committee on Ways and Means and the
14 Committee on Homeland Security of the House of
15 Representatives.