

118TH CONGRESS
1ST SESSION

S. 2004

To amend the Tariff Act of 1930 relating to de minimis treatment under that Act.

IN THE SENATE OF THE UNITED STATES

JUNE 15, 2023

Mr. BROWN (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Tariff Act of 1930 relating to de minimis treatment under that Act.

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 “Import Security and
5 Fairness Act”.

6 **SEC. 2. ADDITIONAL EXCEPTIONS TO EXEMPTIONS FOR DE**
7 **MINIMIS TREATMENT UNDER THE TARIFF**
8 **ACT OF 1930.**

9 Section 321 of the Tariff Act of 1930 (19 U.S.C.
10 1321) is amended—

1 (1) in subsection (a)—

2 (A) in the matter preceding paragraph (1),
3 by striking “(a) The Secretary” and inserting
4 “(a) IN GENERAL.—The Secretary”;

5 (B) in paragraph (2)(C), by striking
6 “\$800” and inserting “except as provided in
7 subsection (b)(1), \$800”; and

8 (C) in the matter following such paragraph
9 (2)(C), as so amended, by striking “subdivision
10 (2)” each place it appears and inserting “para-
11 graph”; and

12 (2) by striking “(b) The Secretary” and insert-
13 ing the following:

14 “(b) EXCEPTIONS.—

15 “(1) IN GENERAL.—An article may not be ad-
16 mitted free of duty or tax under the authority pro-
17 vided by subsection (a)(2)(C) if the country of origin
18 of such article, or the country from which such arti-
19 cle is shipped, is—

20 “(A) a nonmarket economy country (as
21 such term is defined in section 771(18)); and

22 “(B) a country included in the priority
23 watch list (as such term is defined in section
24 182(g)(3) of the Trade Act of 1974 (19 U.S.C.
25 2242(g)(3))).

1 “(2) OTHER EXCEPTIONS.—The Secretary”.

2 **SEC. 3. ADDITIONAL ADMINISTRATIVE PROVISIONS RELAT-**
3 **ING TO DE MINIMIS TREATMENT UNDER THE**
4 **TARIFF ACT OF 1930.**

5 (a) ADMINISTRATIVE EXEMPTIONS.—Section 321 of
6 the Tariff Act of 1930 (19 U.S.C. 1321), as amended by
7 section 2, is further amended by adding at the end the
8 following:

9 “(c) SUBMISSION OF DOCUMENTATION AND INFOR-
10 MATION.—

11 “(1) IN GENERAL.—For any articles that may
12 qualify for an administrative exemption pursuant to
13 subsection (a)(2), the Secretary of the Treasury
14 shall, not later than 180 days after the date of the
15 enactment of the Import Security and Fairness Act,
16 prescribe regulations to require the submission,
17 transmission, or otherwise making available of such
18 documentation or information to U.S. Customs and
19 Border Protection as the Secretary determines is
20 reasonably necessary for U.S. Customs and Border
21 Protection to determine the eligibility of such arti-
22 cles to qualify for such exemption.

23 “(2) MATTERS TO BE INCLUDED.—The regula-
24 tions prescribed under paragraph (1)—

1 “(A) shall require that documentation or
2 information with respect to an article described
3 in that paragraph include, at a minimum—

4 “(i) a description of the article;

5 “(ii) the appropriate classification of
6 the article under the Harmonized Tariff
7 Schedule of the United States;

8 “(iii) the country of origin of the arti-
9 cle;

10 “(iv) the country from which the arti-
11 cle is shipped;

12 “(v) the identity of the shipper;

13 “(vi) the identity of the importer; and

14 “(vii) the transaction value of the ar-
15 ticle in the United States; and

16 “(B) may provide that such documentation
17 or information include other documentation or
18 information regarding the offer for sale or pur-
19 chase, or the subsequent sale, purchase, trans-
20 portation, importation or warehousing of an ar-
21 ticle described in paragraph (1), including such
22 documentation or information relating to the of-
23 fering of the article for sale or purchase in the
24 United States through a commercial or mar-

1 keting platform, including an electronic com-
2 mercial or marketing platform.

3 “(3) VERACITY OF DOCUMENTATION AND IN-
4 FORMATION.—

5 “(A) IN GENERAL.—The regulations pre-
6 scribed pursuant to paragraph (1) shall provide
7 that—

8 “(i) the documentation or information
9 described in that paragraph is true and
10 correct to the best of the knowledge and
11 belief of the party submitting, transmit-
12 ting, or otherwise making available such
13 documentation or information, subject to
14 any penalties authorized by law; or

15 “(ii) if such party is not able to rea-
16 sonably verify whether such documentation
17 or information is true and correct to the
18 best of the knowledge and belief of the
19 party, such documentation or information
20 may be submitted, transmitted, or other-
21 wise made available on the basis of what
22 the party reasonably believes to be true
23 and correct.

24 “(B) USE FOR ANY LAWFUL PURPOSE.—
25 Such documentation or information may be

1 used by U.S. Customs and Border Protection
2 for any lawful purpose.

3 “(4) CIVIL PENALTIES.—Any person who vio-
4 lates the regulations prescribed pursuant to para-
5 graph (1) is liable for a civil penalty of \$5,000 for
6 the first violation, and \$10,000 for each subsequent
7 violation. A penalty imposed under this paragraph is
8 in addition to any other penalty provided by law.

9 “(d) IMPORTATIONS INVOLVING SUSPENDED OR
10 DEBARRED PERSONS.—The Secretary of the Treasury is
11 authorized to prescribe regulations to authorize exceptions
12 to any administrative exemption pursuant to subsection
13 (a) for any articles the importation of which is caused or
14 otherwise facilitated by any person suspended or debarred
15 from doing business with the Federal Government at the
16 time of the importation.”.

17 (b) EXAMINATION OF MERCHANDISE.—Section
18 499(c) of the Tariff Act of 1930 (19 U.S.C. 1499(c)) is
19 amended—

20 (1) by striking “the Customs Service” each
21 place it appears and inserting “U.S. Customs and
22 Border Protection”; and

23 (2) in paragraph (2)—

24 (A) in the first sentence, by striking “The
25 Customs Service” and inserting the following:

1 “(A) IN GENERAL.—U.S. Customs and
2 Border Protection”;

3 (B) in the second sentence—

4 (i) by striking “The” and inserting
5 the following:

6 “(B) INFORMATION TO BE INCLUDED.—
7 The”; and

8 (ii) by redesignating the subsequent
9 subparagraphs (A), (B), (C), (D), and (E)
10 as clauses (i), (ii), (iii), (iv), and (v), re-
11 spectively, and moving such clauses, as re-
12 designated, 2 ems to the right; and

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

14 “(C) ADDITIONAL REQUIREMENTS RELAT-
15 ING TO MERCHANDISE THAT MAY QUALIFY FOR
16 CERTAIN ADMINISTRATIVE EXEMPTIONS.—

17 “(i) IN GENERAL.—In a case in which
18 U.S. Customs and Border Protection has
19 made a decision to detain merchandise that
20 may qualify for an administrative exemp-
21 tion pursuant to section 321(a)(2)(C), U.S.
22 Customs and Border Protection shall issue
23 such notice to each party that U.S. Cus-
24 toms and Border Protections determines
25 may have an interest in the detained mer-

1 chandise, based on information reasonably
2 available to U.S. Customs and Border Pro-
3 tection, in such form and manner as the
4 Secretary of the Treasury shall by regula-
5 tion prescribe.

6 “(ii) VOLUNTARY ABANDONMENT OF
7 MERCHANDISE.—In the case of merchan-
8 dise described in clause (i), such notice
9 shall also advise each such interested party
10 that, in lieu of supplying information to
11 U.S. Customs and Border Protection in ac-
12 cordance with subparagraph (B)(v), the in-
13 terested parties may voluntarily abandon
14 the merchandise.

15 “(iii) ABANDONMENT OR EXPORT DUE
16 TO LACK OF RESPONSE.—If U.S. Customs
17 and Border Protection does not receive a
18 response from each interested party in
19 merchandise described in clause (i) within
20 30 days of the date on which such notice
21 is issued to the interested parties, the mer-
22 chandise may—

23 “(I) be denied entry and be per-
24 mitted to be exported, with the im-

1 porter responsible for paying all ex-
2 penses of exportation; or

3 “(II) be deemed to be abandoned,
4 in which case title to such merchan-
5 dise shall be vested in the United
6 States and the merchandise shall be
7 disposed of in accordance with law.”.

8 **SEC. 4. EFFECTIVE DATE.**

9 The amendments made by this Act shall apply with
10 respect to articles entered, or withdrawn from warehouse
11 for consumption, on or after the 180th day after the date
12 of the enactment of this Act.

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