

118TH CONGRESS
2D SESSION

S. 3866

To require the imposition of additional duties with respect to imports of green energy goods that originate in the People’s Republic of China, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2024

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require the imposition of additional duties with respect to imports of green energy goods that originate in the People’s Republic of China, 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 “Declaring Our Energy
5 Independence from China Act of 2024”.

6 **SEC. 2. FINDINGS; STATEMENT OF POLICY.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) The People’s Republic of China is the lead-
2 ing manufacturer of green energy goods and domi-
3 nates the downstream supply chain, exerting more
4 control over the global production of green energy
5 than the Organization of the Petroleum Exporting
6 Countries exerts over global oil production.

7 (2) The Federal Government and State govern-
8 ments in the United States have imposed mandates
9 and implemented policies to reduce carbon emissions
10 and pursue objectives intended to mitigate climate
11 change.

12 (3) Mandates and policies intended to mitigate
13 climate change undermine the energy independence
14 of the United States and make the United States de-
15 pendent on the People’s Republic of China for its
16 energy needs.

17 (b) STATEMENT OF POLICY.—It is the policy of the
18 United States to establish energy independence from the
19 People’s Republic of China.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) GREEN ENERGY COMPONENT.—The term
23 “green energy component” means a qualifying bat-
24 tery component, solar energy component, or wind en-
25 ergy component.

1 (2) GREEN ENERGY GOOD.—The term “green
2 energy good” means a battery cell, battery module,
3 photovoltaic cell, solar module, or wind energy com-
4 ponent.

5 (3) OTHER TERMS.—The terms “battery cell”,
6 “battery module”, “qualifying battery component”,
7 “photovoltaic cell”, “solar energy component”,
8 “solar module”, and “wind energy component” have
9 the meanings given those terms in section 45X(c) of
10 the Internal Revenue Code of 1986.

11 **SEC. 4. LIST OF GREEN ENERGY COMPONENTS PRODUCED**
12 **IN THE UNITED STATES AND IMPORTED**
13 **FROM THE PEOPLE’S REPUBLIC OF CHINA**
14 **AND OTHER COUNTRIES.**

15 Not later than 180 days after the date of the enact-
16 ment of this Act, and annually thereafter, the United
17 States International Trade Commission shall publish on
18 a publicly accessible internet website of the Office of In-
19 dustry and Competitive Analysis of the Commission a list
20 of green energy components that includes the following:

21 (1) The heading or subheading of the Har-
22 monized Tariff Schedule of the United States under
23 which each such component is classifiable.

24 (2) The total volume and value of each such
25 component produced in the United States.

1 (3) The total volume and value of each such
2 component imported into the United States from the
3 People’s Republic of China.

4 (4) The total volume and value of each such
5 component imported into the United States from
6 any other country.

7 **SEC. 5. IMPOSITION OF DUTIES WITH RESPECT TO GREEN**
8 **ENERGY GOODS THAT ORIGINATE IN THE**
9 **PEOPLE’S REPUBLIC OF CHINA.**

10 (a) IN GENERAL.—The President shall impose a
11 duty, at a rate calculated under subsection (b), with re-
12 spect to each green energy good that is imported into the
13 United States and originates in the People’s Republic of
14 China.

15 (b) CALCULATION OF RATE.—

16 (1) RATE.—The rate of the duty imposed under
17 subsection (a) is—

18 (A) during the 12-month period beginning
19 on the date that is 180 days after the date of
20 the enactment of this Act, 25 percent ad valo-
21 rem; and

22 (B) during the 12-month period that be-
23 gins on the day after the end of the 12-month
24 period described in subparagraph (A), and each

1 12-month period thereafter until the date that
 2 is 5 years after such date of enactment—

3 (i) the rate in effect for the preceding
 4 12-month period; plus

5 (ii) 5 percent ad valorem.

6 (2) VALUATION.—For purposes of determining
 7 the amount of duty applicable under paragraph (1)
 8 with respect to a green energy good, the value of the
 9 goods shall be the price at which the same or a simi-
 10 lar imported good is freely offered for sale, packed
 11 ready for delivery, in the principal market of the
 12 United States to all purchasers, at the time of ex-
 13 portation of the good, in the usual wholesale quan-
 14 tities and in the ordinary course of trade, with allow-
 15 ance made for duty, cost of transportation and in-
 16 surance, and other necessary expenses from the
 17 place of shipment to the place of delivery.

18 (c) RULE OF ORIGIN.—

19 (1) IN GENERAL.—For purposes of this section,
 20 a green energy good originates in the People’s Re-
 21 public of China if the good is produced—

22 (A) in the People’s Republic of China;

23 (B) by an entity organized under the laws
 24 of, headquartered in, or with its principal place
 25 of business in the People’s Republic of China,

1 without regard to the country in which that en-
 2 tity is located; or

3 (C) by an entity with respect to which con-
 4 trol is exercised by an entity described in sub-
 5 paragraph (B).

6 (2) CONTROL DEFINED.—For purposes of para-
 7 graph (1)(C), the term “control” has the meaning
 8 given that term in section 800.208 of title 31, Code
 9 of Federal Regulations (as in effect on the day be-
 10 fore the date of the enactment of this Act).

11 (d) ADDITIONAL DUTIES.—A duty imposed under
 12 subsection (a) with respect to a green energy good shall
 13 be in addition to any other duties applicable to that com-
 14 ponent.

15 (e) PROHIBITION ON USE OF EMERGENCY AUTHOR-
 16 ITY.—The President may not exercise the authority pro-
 17 vided under section 318(a) of the Tariff Act of 1930 (19
 18 U.S.C. 1318(a)) to provide for the importation free of
 19 duty of any green energy good that originates in the Peo-
 20 ple’s Republic of China.

21 **SEC. 6. REPORT ON INDUSTRIAL SUBSIDIES PROVIDED BY**
 22 **THE PEOPLE’S REPUBLIC OF CHINA.**

23 (a) IN GENERAL.—Not later than 180 days after the
 24 date of the enactment of this Act, the United States Trade
 25 Representative shall submit to Congress a report assessing

1 the extent to which the Government of the People’s Re-
2 public of China has, during the 15-year period preceding
3 such date of enactment, provided industrial subsidies to
4 the battery, solar energy, and wind energy sectors of the
5 People’s Republic of China.

6 (b) INDUSTRIAL SUBSIDY DEFINED.—In this section,
7 the term “industrial subsidy” includes, at a minimum, the
8 following actions by a government for the benefit of an
9 industry:

10 (1) The direct transfer of funds, as with a
11 grant, loan, or equity infusion.

12 (2) The potential direct transfer of funds, as
13 with a loan guarantee.

14 (3) Foregoing or not collecting revenue that is
15 otherwise due, as with tax credits or deductions from
16 taxable income.

17 (4) Providing preferential access to capital,
18 land, or electricity.

19 (5) Providing goods or services other than gen-
20 eral infrastructure.

21 (6) Purchasing goods.

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