

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5913

To amend title 28, United States Code, to provide for service of process over foreign nationals in cases involving defective products causing injury in the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2008

Ms. LINDA T. SÁNCHEZ of California (for herself, Mr. CONYERS, Ms. ZOE LOFGREN of California, Mr. COHEN, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 28, United States Code, to provide for service of process over foreign nationals in cases involving defective products causing injury in the United States, 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 “Protecting Americans  
5       from Unsafe Foreign Products Act”.

1 **SEC. 2. SERVICE OF PROCESS ON FOREIGN MANUFACTUR-**  
2 **ERS IN CERTAIN CASES.**

3 (a) IN GENERAL.—Chapter 113 of title 28, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing new section:

6 **“§ 1698. Service on foreign manufacturers in certain**  
7 **cases**

8 “(a) SERVICE OF PROCESS.—Process in any action  
9 that is brought in a Federal or State court against a cit-  
10 izen or subject of a foreign state, for injury that was sus-  
11 tained in the United States and that relates to the pur-  
12 chase or use of a product, or component thereof, that is  
13 manufactured outside the United States by the citizen or  
14 subject may be served on the citizen or subject wherever  
15 the citizen or subject resides, is found, has an agent, or  
16 transacts business, if the citizen or subject—

17 “(1) knew or reasonably should have known  
18 that the product or component would be imported  
19 for sale or use in the United States; or

20 “(2) had contacts with the United States,  
21 whether or not such contacts occurred in the place  
22 where the injury occurred.

23 “(b) PERSONAL JURISDICTION.—Service on a citizen  
24 or subject under subsection (a) establishes jurisdiction  
25 over the person of the citizen or subject.

26 “(c) DEFINITIONS.—As used in this subsection—

1           “(1) an ‘agent’ of a citizen or subject of a for-  
2           foreign state who manufactures a product or compo-  
3           nent includes an importer, distributor, wholesaler, or  
4           other commercial entity who conducts business with  
5           the citizen or subject for the purpose of selling, or  
6           incorporating into another product for sale, in the  
7           United States the product or component;

8           “(2) a citizen or subject of a foreign state  
9           ‘transacts business’ in a place if a product or compo-  
10          nent manufactured by that citizen or subject is sold  
11          in that place, whether directly by the citizen or sub-  
12          ject, or through an intermediary, subsidiary, affil-  
13          iate, or partner of the citizen or subject; and

14          “(3) the term ‘State’ includes the District of  
15          Columbia, the Commonwealth of Puerto Rico, and  
16          any territory of the United States.

17          “(d) SERVICE ON AGENT OR RELATED ENTITY.—  
18          For purposes of subsection (a), service on an agent of a  
19          citizen or subject of a foreign state, or on an intermediary,  
20          subsidiary, affiliate, or partner of the citizen or subject  
21          to whom subsection (c)(2) applies, constitutes service on  
22          the citizen or subject.”.

23          (b) CONFORMING AMENDMENT.—The table of sec-  
24          tions for chapter 113 of title 28, United States Code, is  
25          amended by adding at the end the following new item:

“1698. Service on foreign manufacturers in certain cases.”.

1 **SEC. 3. CHOICE OF LAW IN CERTAIN ACTIONS AGAINST**  
2 **CITIZENS OR SUBJECTS OF FOREIGN STATES.**

3 (a) IN GENERAL.—Chapter 111 of title 28, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing new section:

6 **“§ 1660. Choice of law in certain actions against man-**  
7 **ufacturers who are citizens or subjects of**  
8 **foreign states**

9 “(a) IN GENERAL.—In any civil action in any State  
10 or Federal court against a citizen or subject of a foreign  
11 state for injury sustained in the United States that relates  
12 to the purchase or use of a product, or component thereof,  
13 manufactured outside the United States, the law of the  
14 State where the injury occurred shall govern all issues con-  
15 cerning liability and damages.

16 “(b) DEFINITION.—As used in this section, the term  
17 ‘State’ includes the District of Columbia, the Common-  
18 wealth of Puerto Rico, and any territory of the United  
19 States.”.

20 (b) CONFORMING AMENDMENT.—The table of sec-  
21 tions at the beginning of chapter 111 of title 28, United  
22 States Code, is amended by adding at the end the fol-  
23 lowing new item:

“1660. Choice of law in certain actions against manufacturers who are citizens  
or subjects of foreign states.”.

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