

113TH CONGRESS
2D SESSION

H. R. 4763

To amend the Tariff Act of 1930 with respect to requirements for domestic industries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 29, 2014

Mr. CÁRDENAS (for himself and Mr. FARENTHOLD) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Tariff Act of 1930 with respect to requirements for domestic industries, 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 “Trade Protection Not
5 Troll Protection Act”.

6 **SEC. 2. UNFAIR PRACTICES IN IMPORT TRADE.**

7 (a) IN GENERAL.—Section 337 of the Tariff Act of
8 1930 (19 U.S.C. 1337) is amended as follows:

9 (1) Subsection (a) is amended—

10 (A) in paragraph (3)—

1 (i) by striking “or” at the end of sub-
2 paragraph (B);

3 (ii) in subparagraph (C), by striking
4 “engineering, research and development, or
5 licensing.” and inserting “engineering and
6 research and development; or”; and

7 (iii) by adding after subparagraph (C)
8 the following:

9 “(D) substantial investment in licensing activi-
10 ties that leads to the adoption and development of
11 articles that incorporate the patent, copyright, trade-
12 mark, mask work, or design.”;

13 (B) by redesignating paragraph (4) as
14 paragraph (5); and

15 (C) by inserting after paragraph (3) and
16 following:

17 “(4) For purposes of paragraph (3), the complainant
18 may not rely upon activities by its licensees unless the li-
19 cense leads to the adoption and development of articles
20 that incorporate the claimed patent, copyright, trademark,
21 mask work, or design for sale in the United States.”.

22 (2) Subsection (b) is amended by adding at the
23 end the following:

24 “(4)(A) Whenever a complaint relies, in whole
25 or in part, on activity falling under subparagraph

1 (C) or (D) of subsection (a)(3) in order to meet the
2 legal standard set forth in subsection (a)(3), the
3 Commission may not initiate an investigation until
4 the Commission has first conducted a preliminary
5 investigation of whether it is likely that an industry
6 in the United States exists or is in the process of
7 being established within the meaning of subsection
8 (a)(2).

9 “(B) In the preliminary investigation under
10 subparagraph (A), the complainant’s case shall be
11 limited to the assertions and evidence set forth in
12 the complaint, and confidential business information
13 contained in the complaint that may be disclosed
14 under protective order, and the Commission shall ac-
15 cept additional facts, evidence, and argument from
16 named respondents and the public.

17 “(C) The Commission shall render its deter-
18 mination in the preliminary investigation under this
19 paragraph not later than 45 days after the filing of
20 the complaint. If the Commission finds that it is not
21 likely that an industry in the United States exists or
22 is in the process of being established, the Commis-
23 sion may not initiate an investigation of the matter
24 alleged in the complaint.”.

25 (3) Subsection (c) is amended—

1 (A) by striking the first sentence and in-
2 serting the following: “The Commission shall
3 determine, with respect to each investigation
4 conducted by it under this section, whether or
5 not there is a violation of this section, except
6 that the Commission—

7 “(A) may, by issuing a consent order or on the
8 basis of an agreement between the private parties to
9 the investigation, including an agreement to present
10 the matter for arbitration, terminate any such inves-
11 tigation, in whole or in part, without making such
12 a determination; or

13 “(B)(i) may determine during the course of the
14 investigation that the articles under investigation
15 should not be excluded from entry based upon con-
16 sideration of the public interest, including the effect
17 of such exclusion upon the public health and welfare,
18 competitive conditions in the United States economy,
19 the production of like or directly competitive articles
20 in the United States, United States consumers,
21 whether protected articles in the United States will
22 be protected by an exclusion order, and whether the
23 complainant or its licensees can meet market de-
24 mand for protected articles; and

1 “(ii) upon a finding under clause (i) that the
2 articles should not be excluded, shall terminate the
3 investigation, in whole or in part, without making
4 any further determination.”;

5 (B) in the second sentence, by striking
6 “Each determination” and inserting the fol-
7 lowing:

8 “(2) Each determination”; and

9 (C) in the third sentence, by striking “eq-
10 uitable defenses” and inserting “equitable de-
11 fenses, including equitable defenses and prin-
12 ciples applied to any remedy considered in
13 United States district courts,”.

14 (4) Subsection (d)(1) is amended—

15 (A) by striking “considering the effect of
16 such exclusion upon the public health and wel-
17 fare,” and inserting “considering equitable de-
18 fenses and principles and the effect of such ex-
19 clusion upon the public interest, including the
20 public health and welfare,”; and

21 (B) by striking “and United States con-
22 sumers,” and inserting “United States con-
23 sumers, whether protected articles in the
24 United States will be protected by an exclusion
25 order, and whether the complainant or its li-

1 censees can meet market demand for protected
2 articles,”.

3 (5) Subsection (e)(1) is amended—

4 (A) by striking “considering the effect of
5 such exclusion upon the public health and wel-
6 fare,” and inserting “considering equitable de-
7 fenses and principles and the effect of such ex-
8 clusion upon the public interest, including the
9 public health and welfare,”; and

10 (B) by striking “and United States con-
11 sumers,” and inserting “United States con-
12 sumers, whether protected articles in the
13 United States will be protected by an exclusion
14 order, and whether the complainant or its li-
15 censees can meet market demand for protected
16 articles,”.

17 (6) Subsection (f)(1) is amended—

18 (A) by striking “considering the effect of
19 such exclusion upon the public health and wel-
20 fare,” and inserting “considering equitable de-
21 fenses and principles and the effect of such ex-
22 clusion upon the public interest, including the
23 public health and welfare,”; and

24 (B) by striking “and United States con-
25 sumers,” and inserting “United States con-

1 consumers, whether protected articles in the
2 United States will be protected by an exclusion
3 order, and whether the complainant or its li-
4 censees can meet market demand for protected
5 articles,”.

6 (7) Subsection (g)(1) is amended, in the matter
7 following subparagraph (E)—

8 (A) by striking “considering the effect of
9 such exclusion upon the public health and wel-
10 fare,” and inserting “considering equitable de-
11 fenses and principles and the effect of such ex-
12 clusion upon the public interest, including the
13 public health and welfare,”; and

14 (B) by striking “and United States con-
15 sumers,” and inserting “United States con-
16 sumers, whether protected articles in the
17 United States will be protected by an exclusion
18 order, and whether the complainant or its li-
19 censees can meet market demand for protected
20 articles,”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 subsection (a) shall apply to complaints filed under section
23 337 of the Tariff Act of 1930 on or after the date of the
24 enactment of this Act.

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