

114TH CONGRESS
1ST SESSION

H. R. 3687

To modify the prohibition on United States assistance and financing for certain exports to Cuba under the Trade Sanctions Reform and Export Enhancement Act of 2000, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 2015

Mr. CRAWFORD (for himself, Mr. CONAWAY, and Mr. POE of Texas) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Financial Services and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To modify the prohibition on United States assistance and financing for certain exports to Cuba under the Trade Sanctions Reform and Export Enhancement Act of 2000, 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 “Cuba Agricultural Ex-
5 ports Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The United States has a long history of
4 providing safe and reliable exports. Close proximity
5 to Cuba further lends itself to low transportation
6 costs for United States goods exported to Cuba. The
7 United States is geographically poised to be a sig-
8 nificant trading partner in agricultural commodities.
9 United States and Cuban borders are less than 100
10 miles apart, meaning lower shipping costs and short-
11 er transit times compared to our competitors.

12 (2) Cuba imports approximately 80 percent of
13 its food, with global agricultural exports to Cuba
14 doubling over the past decade to \$1.9 billion.

15 (3) In 2005, the United States Department of
16 the Treasury published a final rule narrowing the
17 definition of “cash in advance” for trading with
18 Cuba, requiring that cash payments must be made
19 before United States products leave United States
20 ports, rather than the more customary payment
21 upon delivery. United States firms are precluded
22 from offering credit to ALIMPORT, a state-owned
23 and state-controlled entity that makes all decisions
24 regarding United States imports to the Cuban mar-
25 ket, resulting in declining United States agricultural
26 exports to Cuba. Notably, rice exports fell from a

1 value of \$64 million in 2004 to essentially \$0 in
2 2009 and subsequent years. Recent action by the
3 Administration reverses that change to the definition
4 of cash in advance, but United States agricultural
5 exporters are still not permitted to extend credit to
6 Cuban buyers, a key disadvantage relative to other
7 exporting nations.

8 (4) Despite these restrictions, the United States
9 has been the largest exporter of agricultural goods
10 to Cuba over the last decade. However, the United
11 States slipped to being the second leading exporter
12 of agricultural goods to Cuba in 2013 and the third
13 leading exporter of agricultural goods to Cuba in
14 2014.

15 (5) While trade opportunities exist, Cuba re-
16 mains an undemocratic autocracy that oppresses its
17 own people and restricts freedom.

18 (6) In addition, there is no opportunity for
19 United States agricultural businesses to trade di-
20 rectly with the Cuban people and there is no Cuban
21 market. At present, there is just one opportunity for
22 United States businesses to trade with Cuba and
23 that is through ALIMPORT, the state-owned and
24 state-controlled entity described in paragraph (3).

1 (7) With these cautionary factors in mind, it is
2 important to provide United States farmers and
3 ranchers additional opportunities to benefit from
4 trade with Cuba.

5 **SEC. 3. MODIFICATION OF PROHIBITION ON UNITED**
6 **STATES ASSISTANCE AND FINANCING FOR**
7 **CERTAIN EXPORTS TO CUBA UNDER THE**
8 **TRADE SANCTIONS REFORM AND EXPORT EN-**
9 **HANCEMENT ACT OF 2000.**

10 (a) ASSISTANCE FOR EXPORTS TO CUBA.—Section
11 908 of the Trade Sanctions Reform and Export Enhance-
12 ment Act of 2000 (22 U.S.C. 7207) is amended—

13 (1) in the section heading, by striking “**AND**
14 **FINANCING**”;

15 (2) by striking subsection (b);

16 (3) in subsection (a)—

17 (A) by redesignating paragraphs (2) and
18 (3) as subsections (b) and (c), respectively, and
19 by moving such subsections, as so redesignated,
20 2 ems to the left; and

21 (B) by adding at the end of subsection (a)
22 the following:

23 “(2) EXCEPTION FOR CERTAIN PROGRAMS.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), paragraph (1) shall not apply with

1 respect to exports to Cuba under section 202 of
2 the Agricultural Trade Act of 1978 (7 U.S.C.
3 5622), section 203 of the Agricultural Trade
4 Act of 1978 (7 U.S.C. 5623), or section 702 of
5 the Agricultural Trade Act of 1978 (7 U.S.C.
6 5722), including any obligation or expenditure
7 of funds by Federal commodity promotion pro-
8 grams established in accordance with a com-
9 modity promotion law, as defined by section
10 501(a) of the Federal Agriculture Improvement
11 and Reform Act of 1996 (7 U.S.C. 7401(a)).

12 “(B) RESTRICTION ON CERTAIN RECIPI-
13 ENTS.—The exception under subparagraph (A)
14 shall not apply if the recipient of the United
15 States assistance would be an entity controlled
16 by the Government of Cuba, including the Rev-
17 olutionary Armed Forces of Cuba, the Ministry
18 of the Interior of Cuba, or any subdivision of ei-
19 ther governmental entity.”;

20 (4) in subsection (b), as so redesignated, by
21 striking “paragraph (1)” and inserting “subsection
22 (a)”;

23 (5) in subsection (c), as so redesignated, by
24 striking “paragraph (1)” and inserting “subsection
25 (a)(1)”.

1 (b) FINANCING OF SALES OF AGRICULTURAL COM-
2 MODITIES TO CUBA.—

3 (1) IN GENERAL.—Notwithstanding any other
4 provision of law (other than section 908 of the
5 Trade Sanctions Reform and Export Enhancement
6 Act of 2000 (22 U.S.C. 7207), as amended by sub-
7 section (a)), a person subject to the jurisdiction of
8 the United States may provide payment or financing
9 terms for sales of agricultural commodities to Cuba
10 or an individual or entity in Cuba.

11 (2) DEFINITIONS.—In this section:

12 (A) AGRICULTURAL COMMODITY.—The
13 term “agricultural commodity” has the meaning
14 given the term in section 102 of the Agricul-
15 tural Trade Act of 1978 (7 U.S.C. 5602).

16 (B) FINANCING.—The term “financing”
17 includes any loan or extension of credit.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section take effect on the date of the enactment of
20 this Act and apply with respect to exports to Cuba on or
21 after such date of enactment.

1 **SEC. 4. AUTHORITY OF PERSONS SUBJECT TO THE JURIS-**
2 **DICTION OF THE UNITED STATES TO INVEST**
3 **WITH RESPECT TO CERTAIN AGRICULTURAL**
4 **BUSINESS IN CUBA.**

5 (a) IN GENERAL.—Notwithstanding any other provi-
6 sion of law, a person subject to the jurisdiction of the
7 United States may make an investment with respect to
8 the development of an agricultural business in Cuba if the
9 Secretary of State and Secretary of Agriculture jointly de-
10 termine that—

11 (1) the agricultural business is not controlled by
12 the Government of Cuba, including the Revolu-
13 tionary Armed Forces of Cuba, the Ministry of the
14 Interior of Cuba, or any subdivision of either govern-
15 mental entity; and

16 (2) the agricultural business does not traffic in
17 property of persons subject to the jurisdiction of the
18 United States which was confiscated by the Cuban
19 Government on or after January 1, 1959.

20 (b) DEFINITIONS.—In this section:

21 (1) AGRICULTURAL BUSINESS.—The term “ag-
22 ricultural business” means any entity involved in the
23 production, manufacture, or distribution of agricul-
24 tural products (as such term is defined in section
25 207 of the Agricultural Marketing Act of 1946 (7
26 U.S.C. 1626)).

1 (2) CONFISCATED, CUBAN GOVERNMENT, PROP-
2 ERTY, AND TRAFFIC.—The terms “confiscated”,
3 “Cuban Government”, “property”, and “traffic”
4 have the meaning given such terms in section 4 of
5 the Cuban Liberty and Democratic Solidarity
6 (LIBERTAD) Act of 1996 (22 U.S.C. 6023).

7 (3) INVESTMENT.—The term “investment”,
8 with respect to the development of an agricultural
9 business in Cuba, means—

10 (A) entry into a contract involving the pur-
11 chase of a share of ownership, including an eq-
12 uity interest, in the development of the agricul-
13 tural business;

14 (B) entry into a contract providing for par-
15 ticipation in royalties, earnings, or profits in
16 the development of the agricultural business; or

17 (C) entry into, or performance or financing
18 of, a contract to sell goods, services, or tech-
19 nology relating to the agricultural business.

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