

116TH CONGRESS
1ST SESSION

S. 365

To amend section 232 of the Trade Expansion Act of 1962 to require the Secretary of Defense to initiate investigations and to provide for congressional disapproval of certain actions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 2019

Mr. PORTMAN (for himself, Mr. JONES, Ms. ERNST, Mr. ALEXANDER, Mrs. FEINSTEIN, Mrs. FISCHER, Ms. SINEMA, Mr. YOUNG, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend section 232 of the Trade Expansion Act of 1962 to require the Secretary of Defense to initiate investigations and to provide for congressional disapproval of certain actions, 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 Security Act
5 of 2019”.

1 **SEC. 2. INVESTIGATIONS TO DETERMINE EFFECTS ON NA-**
 2 **TIONAL SECURITY OF IMPORTS OF ARTICLES**
 3 **AND CONGRESSIONAL REVIEW OF PRESI-**
 4 **DENTIAL ACTIONS.**

5 (a) INVESTIGATIONS AND DETERMINATIONS BY SEC-
 6 RETARY OF DEFENSE.—Section 232 of the Trade Expans-
 7 sion Act of 1962 (19 U.S.C. 1862) is amended—

8 (1) in subsection (b)—

9 (A) in paragraph (1)—

10 (i) in subparagraph (A), by striking
 11 “Secretary of Commerce” and all that fol-
 12 lows through “‘Secretary’)” and inserting
 13 “Secretary of Defense”; and

14 (ii) in subparagraph (B)—

15 (I) by striking “Secretary shall”
 16 and inserting “Secretary of Defense
 17 shall”; and

18 (II) by striking “Secretary of De-
 19 fense of” and inserting “Secretary of
 20 Commerce of”;

21 (B) in paragraph (2)—

22 (i) by striking subparagraph (B);

23 (ii) in the matter preceding clause

24 (i)—

25 (I) by striking “(A) In” and in-
 26 serting “In”; and

1 (II) by striking “Secretary” and
2 inserting “Secretary of Defense”; and
3 (iii) by striking clauses (i) through
4 (iii) and inserting the following:

5 “(A) consult with the Secretary of Commerce
6 regarding the methodological and policy questions
7 raised in any investigation initiated under paragraph
8 (1);

9 “(B) prepare an assessment of the defense re-
10 quirements and national security impact of any arti-
11 cle that is the subject of an investigation, which
12 shall focus on—

13 “(i) the impact of the importation of the
14 article on military readiness and critical infra-
15 structure; and

16 “(ii) the need for a reliable supply of the
17 article to protect national security;

18 “(C) seek information and advice from the Sec-
19 retary of Commerce;

20 “(D) consult with appropriate officers of the
21 United States;

22 “(E) consult with members of the Committee
23 on Finance of the Senate and members of the Com-
24 mittee on Ways and Means of the House of Rep-
25 resentatives; and

1 “(F) hold public hearings, co-chaired with the
2 Department of Commerce, or otherwise afford inter-
3 ested parties an opportunity to present information
4 and advice relevant to such investigation.”;

5 (C) in paragraph (3)—

6 (i) by redesignating subparagraph (B)
7 as subparagraph (D);

8 (ii) by striking subparagraph (A) and
9 inserting the following:

10 “(A) Not later than 200 days after the date on which
11 the Secretary of Defense initiates an investigation under
12 paragraph (1) with respect to an article, the Secretary of
13 Defense shall submit to the President a report on the find-
14 ings of such investigation with respect to the effect of the
15 importation of such article in such quantities or under
16 such circumstances on the national security of the United
17 States.

18 “(B) If the report described in subparagraph (A) in-
19 cludes an affirmative finding that the importation of an
20 article in such quantities or under such circumstances
21 threatens to impair the national security, the President
22 may direct the Secretary of Commerce to devise rec-
23 ommendations to address such threat.

24 “(C) Not later than 100 days after receiving from
25 the President under subparagraph (B) a direction to de-

1 vise recommendations with respect to an article, the Sec-
 2 retary of Commerce, in consultation with the United
 3 States Trade Representative, the Secretary of Defense,
 4 members of the Committee on Finance of the Senate, and
 5 members of the Committee on Ways and Means of the
 6 House of Representatives, shall submit to the President
 7 a report that includes—

8 “(i) recommendations for action or inaction
 9 under this section with respect to the article; and

10 “(ii) the findings of the Secretary of Commerce
 11 with respect to the investigation by the Secretary of
 12 Defense under paragraph (1).”; and

13 (iii) in subparagraph (D), as redesign-
 14 nated by subparagraph (C)—

15 (I) by striking “Secretary” and
 16 inserting “Secretary of Defense”; and

17 (II) by inserting “or the report
 18 submitted by the Secretary of Com-
 19 merce under subparagraph (C)” after
 20 “subparagraph (A)”; and

21 (D) in paragraph (4), by inserting “of De-
 22 fense, in consultation with the Secretary of
 23 Commerce,” after “The Secretary”;

24 (2) in subsection (c)(1), by striking subpara-
 25 graph (A) and inserting the following:

1 “(A) Not later than 60 days after receiving rec-
 2 ommendations submitted under subsection (b)(3)(C)(i)
 3 with respect to an article, the President shall—

4 “(i) decide whether to take action based on
 5 such recommendations; and

6 “(ii) if the President decides to take action
 7 under clause (i), determine the nature and duration
 8 of the action to be taken to adjust the imports of the
 9 article and its derivatives so that such imports will
 10 not threaten to impair the national security.”;

11 (3) by redesignating the second subsection (d)
 12 as subsection (e);

13 (4) in subsection (d)—

14 (A) by striking “the Secretary and the
 15 President” each place it appears and inserting
 16 “the Secretary of Defense, the Secretary of
 17 Commerce, and the President”; and

18 (B) by inserting “, the production of which
 19 is needed for national defense requirements and
 20 critical infrastructure in the United States”
 21 after “welfare of individual domestic indus-
 22 tries”; and

23 (5) in subsection (e)(1), as redesignated by
 24 paragraph (3), by striking “Secretary” and inserting
 25 “Secretary of Defense”.

1 (b) CONGRESSIONAL DISAPPROVAL OF PRESI-
 2 DENTIAL ACTION.—Section 232(f) of the Trade Expan-
 3 sion Act of 1962 (19 U.S.C. 1862(f)) is amended—

4 (1) in paragraph (1), by striking “of petroleum
 5 or petroleum products”; and

6 (2) in paragraph (2)(B)—

7 (A) by striking “petroleum imports” and
 8 inserting “imports”; and

9 (B) by striking “of petroleum or petroleum
 10 products”.

11 (c) APPLICABILITY.—

12 (1) IN GENERAL.—Except as provided in para-
 13 graph (2), subsection (f) of section 232 of the Trade
 14 Expansion Act of 1962 (19 U.S.C. 1862), as amend-
 15 ed by subsection (b), shall apply to adjustments of
 16 imports under that section on or after July 1, 2018.

17 (2) EXCEPTION.—Subsection (f) of section 232
 18 of the Trade Expansion Act of 1962 (19 U.S.C.
 19 1862), as amended by subsection (b), shall not apply
 20 to the presidential actions taken under that section
 21 on March 8, 2018, relating to the adjustment of im-
 22 ports of steel and aluminum, or any subsequent ac-
 23 tions (including proclamations, Executive orders, or

- 1 other Executive acts) relating to those presidential
- 2 actions.

