

117TH CONGRESS
2D SESSION

H. R. 6412

To exclude products from non-market economy countries and products that are subject to certain enforcement actions from the privilege of de minimis treatment under the Tariff Act of 1930, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 2022

Mr. BLUMENAUER introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To exclude products from non-market economy countries and products that are subject to certain enforcement actions from the privilege of de minimis treatment under the Tariff Act of 1930, 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 “Import Security and
5 Fairness Act”.

1 **SEC. 2. ADDITIONAL EXCEPTIONS TO EXEMPTIONS FOR DE**
2 **MINIMIS TREATMENT UNDER THE TARIFF**
3 **ACT OF 1930.**

4 Section 321 of the Tariff Act of 1930 (19 U.S.C.
5 1321) is amended—

6 (1) in subsection (a)—

7 (A) in the matter preceding paragraph (1),
8 by striking “(a) The Secretary” and inserting
9 “(a) IN GENERAL.—The Secretary”;

10 (B) in paragraph (2)(C), by striking
11 “\$800” and inserting “except as provided in
12 subsection (b)(1), \$800”; and

13 (C) in the matter following such paragraph
14 (2)(C), as so amended—

15 (i) by striking “subdivision (2)” each
16 place it appears and inserting “para-
17 graph”; and

18 (ii) by inserting after “lots” the fol-
19 lowing: “or is forwarded through a dis-
20 tribution or processing facility located in a
21 foreign country”;

22 (2) by striking “(b) The Secretary” and insert-
23 ing the following:

24 “(b) EXCEPTIONS.—

1 “(1) IN GENERAL.—The following articles may
2 not be admitted free of duty or tax under the au-
3 thority provided by subsection (a)(2)(C):

4 “(A) An article the country of origin of
5 which—

6 “(i) is a nonmarket economy country
7 (as such term is defined in section
8 771(18)); and

9 “(ii) is a country included in the pri-
10 ority watch list (as such term is defined in
11 section 182(g)(3) of the Trade Act of 1974
12 (19 U.S.C. 2242(g)(3))).

13 “(B) An article that is subject to an action
14 authorized under section 301(c) of the Trade
15 Act of 1974 (19 U.S.C. 2411(c)) or section
16 232(c) of the Trade Expansion Act of 1962 (19
17 U.S.C. 1862(c)).

18 “(2) OTHER EXCEPTIONS.—The Secretary”;

19 and

20 (3) by adding at the end the following:

21 “(c) DEFINITION.—In subsection (a)(2), the term
22 ‘distribution or processing facility’ means a facility used
23 primarily for the storage of articles that are intended for
24 subsequent shipment.”.

1 **SEC. 3. ADDITIONAL ADMINISTRATIVE PROVISIONS RELAT-**
2 **ING TO DE MINIMIS TREATMENT UNDER THE**
3 **TARIFF ACT OF 1930.**

4 (a) ADMINISTRATIVE EXEMPTIONS.—Section 321 of
5 the Tariff Act of 1930 (19 U.S.C. 1321), as amended by
6 section 2, is further amended by adding at the end the
7 following:

8 “(c) SUBMISSION OF DOCUMENTATION AND INFOR-
9 MATION.—

10 “(1) IN GENERAL.—For any articles that may
11 qualify for an administrative exemption pursuant to
12 subsection (a)(2), the Secretary of the Treasury is
13 authorized to prescribe regulations to authorize or
14 require the submission, transmission, or otherwise
15 making available of such documentation or informa-
16 tion to U.S. Customs and Border Protection as the
17 Secretary determines is reasonably necessary for
18 U.S. Customs and Border Protection to determine
19 the eligibility of such articles to qualify for such ex-
20 emption.

21 “(2) MATTERS TO BE INCLUDED.—The regula-
22 tions prescribed pursuant to paragraph (1) may pro-
23 vide that such documentation or information include
24 documentation or information regarding the offer for
25 sale or purchase, or the subsequent sale, purchase,
26 transportation, importation or warehousing of such

1 articles, including such documentation or informa-
2 tion relating to the offering of such articles for sale
3 or purchase in the United States through a commer-
4 cial or marketing platform, including an electronic
5 commercial or marketing platform.

6 “(3) VERACITY OF DOCUMENTATION AND IN-
7 FORMATION.—

8 “(A) IN GENERAL.—The regulations pre-
9 scribed pursuant to paragraph (1) shall provide
10 that—

11 “(i) such documentation or informa-
12 tion is true and correct to the best of the
13 knowledge and belief of the party submit-
14 ting, transmitting, or otherwise making
15 available such documentation or informa-
16 tion, subject to any penalties authorized by
17 law; or

18 “(ii) if such party is not able to rea-
19 sonably verify whether such documentation
20 or information is true and correct to the
21 best of the knowledge and belief of the
22 party, such documentation or information
23 may be submitted, transmitted, or other-
24 wise made available on the basis of what

1 the party reasonably believes to be true
2 and correct.

3 “(B) USE FOR ANY LAWFUL PURPOSE.—
4 Such documentation or information may be
5 used by U.S. Customs and Border Protection
6 for any lawful purpose.

7 “(4) CIVIL PENALTIES.—Any person who vio-
8 lates the regulations prescribed pursuant to para-
9 graph (1) is liable for a civil penalty of \$5,000 for
10 the first violation, and \$10,000 for each subsequent
11 violation. A penalty imposed under this paragraph is
12 in addition to any other penalty provided by law.

13 “(d) IMPORTATIONS INVOLVING SUSPENDED OR
14 DEBARRED PERSONS.—The Secretary of the Treasury is
15 authorized to prescribe regulations to authorize exceptions
16 to any administrative exemption pursuant to subsection
17 (a) for any articles the importation of which is caused or
18 otherwise facilitated by any person suspended or debarred
19 from doing business with the Federal Government at the
20 time of the importation.”.

21 (b) EXAMINATION OF MERCHANDISE.—Section
22 499(c) of the Tariff Act of 1930 (19 U.S.C. 1499(c)) is
23 amended—

1 (1) by striking “the Customs Service” each
2 place it appears and inserting “U.S. Customs and
3 Border Protection”; and

4 (2) in paragraph (2)—

5 (A) in the first sentence, by striking “The
6 Customs Service” and inserting the following:

7 “(A) IN GENERAL.—U.S. Customs and
8 Border Protection”;

9 (B) in the second sentence—

10 (i) by striking “The” and inserting
11 the following:

12 “(B) INFORMATION TO BE INCLUDED.—
13 The”; and

14 (ii) by redesignating the subsequent
15 subparagraphs (A), (B), (C), (D), and (E)
16 as clauses (i), (ii), (iii), (iv), and (v), re-
17 spectively, and moving the margins of such
18 clauses, as redesignated, 2 ems to the
19 right; and

20 (C) by adding at the end the following:

21 “(C) ADDITIONAL REQUIREMENTS RELAT-
22 ING TO MERCHANDISE THAT MAY QUALIFY FOR
23 CERTAIN ADMINISTRATIVE EXEMPTIONS.—

24 “(i) IN GENERAL.—In the case of de-
25 tained merchandise that may qualify for an

1 administrative exemption pursuant to sec-
2 tion 321(a)(2)(C), U.S. Customs and Bor-
3 der Protection shall issue such notice to
4 each party that U.S. Customs and Border
5 Protections determines may have an inter-
6 est in the detained merchandise, based on
7 information reasonably available to U.S.
8 Customs and Border Protection, in such
9 form and manner as the Secretary of the
10 Treasury shall by regulation prescribe.

11 “(ii) VOLUNTARY ABANDONMENT OF
12 MERCHANDISE.—In the case of detained
13 merchandise that may qualify for an ad-
14 ministrative exemption pursuant to section
15 321(a)(2)(C), such notice shall also advise
16 each such interested party that, in lieu of
17 supplying information to U.S. Customs
18 and Border Protection in accordance with
19 subparagraph (B)(v), the interested parties
20 may voluntarily abandon the detained mer-
21 chandise.

22 “(iii) ABANDONMENT DUE TO LACK
23 OF RESPONSE.—If U.S. Customs and Bor-
24 der Protection does not receive a response
25 from each interested party in detained

1 merchandise that may qualify for an ad-
2 ministrative exemption pursuant to section
3 321(a)(2)(C) within 15 days of the date on
4 which such notice is issued to the inter-
5 ested parties, the merchandise shall be
6 deemed to be abandoned and title to such
7 merchandise shall be vested in the United
8 States and disposed of in accordance with
9 law.”.

10 **SEC. 4. EFFECTIVE DATE.**

11 The amendments made by this Act shall apply with
12 respect to articles entered, or withdrawn from warehouse
13 for consumption, on or after the 15th day after the date
14 of the enactment of this Act.

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