

117TH CONGRESS
2D SESSION

H. R. 7875

To provide for the expedited and duty-free importation of infant formula that may be lawfully marketed in the European Union, Canada, Japan, or the United Kingdom, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2022

Mr. SHERMAN (for himself, Mr. BACON, Mr. GOTTHEIMER, Ms. MANNING, Mr. THOMPSON of California, Mr. COHEN, and Mrs. DEMINGS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 provide for the expedited and duty-free importation of infant formula that may be lawfully marketed in the European Union, Canada, Japan, or the United Kingdom, 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 “Emergency Infant For-
5 mula Act”.

1 **SEC. 2. EXPEDITED IMPORTATION OF INFANT FORMULA.**

2 (a) AUTHORIZATION FOR IMPORTATION AND SALE.—

3 (1) DECLARATION OF SHORTAGE.—The Presi-
4 dent may declare, in consultation with the Commis-
5 sioner of Food and Drugs and through Executive
6 order, that a shortage exists in the United States of
7 infant formula with respect to any period specified
8 in such order.

9 (2) AUTHORIZATION FOR IMPORTATION AND
10 SALE.—The President, in consultation with the
11 Commissioner of Food and Drugs, may authorize
12 the importation, distribution, and sale of any cov-
13 ered infant formula, notwithstanding the provisions
14 of the Federal Food, Drug, and Cosmetic Act (21
15 U.S.C. 201 et seq.), if the applicable brand, manu-
16 facturer, or manufacturing plant, or the specific in-
17 fant formula product, is included in the Executive
18 order promulgated pursuant to the authority pro-
19 vided by paragraph (1). Such Executive order may
20 further specify, with respect to such authorized
21 products, specific requirements with respect to the
22 labeling or usage guidance to be eligible for importa-
23 tion, distribution, and sale pursuant to the authority
24 provided by this paragraph.

25 (3) LABELING REQUIREMENTS.—

1 (A) EXEMPTION FROM UNITED STATES LA-
2 BELING REQUIREMENTS.—Any provision of the
3 Federal Food, Drug, and Cosmetic Act (21
4 U.S.C. 201 et seq.) relating to labeling require-
5 ments for infant formula products imported
6 into the United States shall not apply with re-
7 spect to such products imported pursuant to
8 the authority provided by paragraph (2).

9 (B) REQUIREMENT WITH RESPECT TO
10 FOREIGN MARKETING ELIGIBILITY.—Notwith-
11 standing subparagraph (A), the Commissioner
12 of Food and Drugs shall require any retailer of
13 covered infant formula imported subject to the
14 authority provided by paragraph (2), including
15 an online retailer, to include in an appropriate
16 and conspicuous place next to the product or
17 description of the product, as applicable, a
18 label—

19 (i) that indicates that such product
20 has not been approved for importation, dis-
21 tribution, or sale by the Commissioner of
22 Food and Drugs and is authorized for sale
23 only subject to the provisions of this Act;
24 and

1 (ii) that may additionally indicate the
2 foreign country or countries where such
3 product may be lawfully marketed.

4 (4) TERMINATION OF SHORTAGE.—The Presi-
5 dent may, upon determining that a shortage no
6 longer exists in the United States of infant formula,
7 terminate a declaration described in paragraph (1).

8 (b) DUTY-FREE TREATMENT.—Notwithstanding any
9 other provision of law, the President may, during any pe-
10 riod in which an infant formula shortage is declared in
11 accordance with subsection (a)(1), reduce or suspend any
12 duties imposed—

13 (1) with respect to the importation of covered
14 infant formula; or

15 (2) with respect to any other article used in the
16 production of infant formula that the importer cer-
17 tifies is being imported for such production.

18 (c) PRIORITY HANDLING OF ENTRIES.—During any
19 period in which an infant formula shortage is declared in
20 accordance with subsection (a)(1), the Commissioner of
21 U.S. Customs and Border Patrol shall give the highest pri-
22 ority and take any steps as may be necessary to expedite
23 the processing of all entries of covered infant formula and
24 articles used in the production of infant formula (as de-
25 scribed in subsection (b)(2)).

1 (d) DEFINITIONS.—In this Act:

2 (1) COVERED INFANT FORMULA.—

3 (A) IN GENERAL.—Subject to subpara-
4 graph (B), the term “covered infant formula”
5 means any infant formula that is lawfully mar-
6 keted in the European Union, Canada, Japan,
7 the United Kingdom, or any country the Presi-
8 dent determines to have sufficient health and
9 safety standards with respect to infant formula.

10 (B) EXCEPTION.—The President may ex-
11 clude from the definition of the term “covered
12 infant formula” products whose label—

13 (i) is not in English or another lan-
14 guage specified by the President;

15 (ii) does not include instructions for
16 the use of the product which incorporate
17 the imperial system of measurement; or

18 (iii) does not identify all potential al-
19 lergens that are contained in the product
20 and appear on a list of potential allergens
21 identified by the President.

22 (2) INFANT FORMULA.—In paragraph (1), the
23 term “infant formula” has the meaning given to
24 such term in section 201 of the Federal Food, Drug,
25 and Cosmetic Act (21 U.S.C. 201).

1 (e) SUNSET.—This Act shall cease to be effective on
2 the date that is 5 years after the date of enactment of
3 this Act.

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