

118TH CONGRESS
1ST SESSION

S. 104

To amend title VII of the Tariff Act of 1930 to provide for the treatment of core seasonal industries affected by antidumping or countervailing duty investigations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 2023

Mr. RUBIO (for himself and Mr. SCOTT of Florida) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title VII of the Tariff Act of 1930 to provide for the treatment of core seasonal industries affected by antidumping or countervailing duty investigations, 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 “Defending Domestic
5 Produce Production Act of 2023”.

1 **SEC. 2. DEFINITIONS.**

2 (a) CORE SEASONAL INDUSTRY.—Section 771 of the
3 Tariff Act of 1930 (19 U.S.C. 1677) is amended by add-
4 ing at the end the following:

5 “(37) CORE SEASONAL INDUSTRY.—The term
6 ‘core seasonal industry’ means the producers—

7 “(A) of a domestic like product that is a
8 raw agricultural product,

9 “(B) whose collective output of the domes-
10 tic like product constitutes a majority of the
11 total production of the domestic like product in
12 any State or group of States that accounts for
13 a major portion of the total production of the
14 domestic like product during any discrete sea-
15 son or cyclical period of time that concludes not
16 later than 8 weeks after the date in which the
17 product is harvested, and

18 “(C) that make substantially all of their
19 sales of the domestic like product during the
20 season or cyclical period of time described in
21 subparagraph (B).”.

22 (b) INDUSTRY.—Section 771(4)(A) of the Tariff Act
23 of 1930 (19 U.S.C. 1677(4)(A)) is amended—

24 (1) by striking “‘industry’ means the pro-
25 ducers” and inserting the following: “‘industry’
26 means—

1 “(i) the producers”;

2 (2) by striking the end period and inserting “,
3 or”; and

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

5 “(ii) a core seasonal industry.”.

6 (c) INTERESTED PARTY.—Section 771(9)(E) of the
7 Tariff Act of 1930 (19 U.S.C. 1677(9)(E)) is amended—

8 (1) by striking “association a majority” and in-
9 serting the following: “association—

10 “(i) except as provided in clause (ii),
11 a majority”;

12 (2) by inserting “or” after “States,”; and

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

14 “(ii) in the case of a proceeding under
15 this title involving a core seasonal industry,
16 whose members constitute not less than 80
17 percent of the core seasonal industry,”.

18 **SEC. 3. IMPROVEMENTS TO COUNTERVAILING DUTY PRO-**

19 **CEDURES FOR CORE SEASONAL INDUSTRIES.**

20 (a) DETERMINATION OF INDUSTRY SUPPORT.—Sec-
21 tion 702(c)(4) of the Tariff Act of 1930 (19 U.S.C.

22 1671a(c)(4)) is amended—

23 (1) in subparagraph (A)—

24 (A) by redesignating clauses (i) and (ii) as
25 subclauses (I) and (II), and by moving such

1 subclauses, as so redesignated, 2 ems to the
2 right;

3 (B) in the matter preceding subclause (I),
4 as redesignated by subparagraph (A), by strik-
5 ing “behalf of the industry, if—” and inserting
6 the following: “behalf of—

7 “(i) an industry (other than a core
8 seasonal industry), if—”;

9 (C) in subclause (II), as redesignated by
10 subparagraph (A), by striking the period at the
11 end and inserting “, or”; and

12 (D) by adding at the end the following:

13 “(ii) a core seasonal industry, if the
14 domestic producers or workers who sup-
15 port the petition account for at least 50
16 percent of the total production of the do-
17 mestic like product in any State or group
18 of States that accounts for at least 50 per-
19 cent of total production of the domestic
20 like product during the season or cyclical
21 period of time specified in the petition, de-
22 termined by averaging production over the
23 3 seasons or cyclical periods of time pre-
24 ceding the filing of the petition.”;

1 (2) in subparagraph (B)(i), by inserting “(dur-
2 ing the season or cyclical period of time specified in
3 the petition, if applicable)” after “their interests as
4 domestic producers”; and

5 (3) in subparagraph (D), in the matter pre-
6 ceding clause (i), by striking “support” and all that
7 follows through “domestic like product” and insert-
8 ing “industry support in accordance with subpara-
9 graph (A)”.

10 (b) SUSPENSION OF INVESTIGATIONS FOR EXTRAOR-
11 DINARY CIRCUMSTANCES.—Section 704(c)(4)(A)(i) of the
12 Tariff Act of 1930 (19 U.S.C. 1671c(c)(4)(A)(i)) is
13 amended by inserting “(as defined in section
14 771(4)(A)(i))” after “domestic industry”.

15 (c) EFFECT OF FINAL DETERMINATIONS.—Section
16 705(c)(1) of the Tariff Act of 1930 (19 U.S.C.
17 1671d(c)(1)) is amended—

18 (1) by redesignating subparagraph (C) as sub-
19 paragraph (D);

20 (2) in subparagraph (B)(ii), by striking “, and”
21 and inserting a comma; and

22 (3) by inserting after subparagraph (B) the fol-
23 lowing:

24 “(C) in cases involving a countervailable
25 subsidy that affects a core seasonal industry

1 solely during a specific season or cyclical period
2 of time, the administering authority shall limit
3 the application of any rate determined under
4 subparagraph (B) to that season or cyclical pe-
5 riod of time, and”.

6 **SEC. 4. IMPROVEMENTS TO ANTIDUMPING DUTY PROCE-**
7 **DURES FOR CORE SEASONAL INDUSTRIES.**

8 (a) DETERMINATION OF INDUSTRY SUPPORT.—Sec-
9 tion 732(c)(4) of the Tariff Act of 1930 (19 U.S.C.
10 1673a(c)(4)) is amended—

11 (1) in subparagraph (A)—

12 (A) by redesignating clauses (i) and (ii) as
13 subclauses (I) and (II), and by moving such
14 subclauses, as so redesignated, 2 ems to the
15 right;

16 (B) in the matter preceding subclause (I),
17 as redesignated by subparagraph (A), by strik-
18 ing “behalf of the industry, if—” and inserting
19 the following: “behalf of—

20 “(i) an industry (other than a core
21 seasonal industry), if—”;

22 (C) in subclause (II), as redesignated by
23 subparagraph (A), by striking the period at the
24 end and inserting “, or”; and

25 (D) by adding at the end the following:

1 “(ii) a core seasonal industry, if the
2 domestic producers or workers who sup-
3 port the petition account for at least 50
4 percent of the total production of the do-
5 mestic like product in any State or group
6 of States that accounts for at least 50 per-
7 cent of total production of the domestic
8 like product during the season or cyclical
9 period of time specified in the petition, de-
10 termined by averaging production over the
11 3 seasons or cyclical periods of time pre-
12 ceding the filing of the petition.”;

13 (2) in subparagraph (B)(i), by inserting “(dur-
14 ing the season or cyclical period of time specified in
15 the petition, if applicable)” after “their interests as
16 domestic producers”; and

17 (3) in subparagraph (D), in the matter pre-
18 ceding clause (i), by striking “support” and all that
19 follows through “domestic like product” and insert-
20 ing “industry support in accordance with subpara-
21 graph (A)”.

22 (b) SUSPENSION OF INVESTIGATIONS FOR EXTRAOR-
23 DINARY CIRCUMSTANCES.—Section 734(c)(2)(A)(i) of the
24 Tariff Act of 1930 (19 U.S.C. 1673c(c)(2)(A)(i)) is

1 amended by inserting “(as defined in section
2 771(4)(A)(i))” after “domestic industry”.

3 (c) EFFECT OF FINAL DETERMINATIONS.—Section
4 735(c)(1) of the Tariff Act of 1930 (19 U.S.C.
5 1673d(c)(1)) is amended—

6 (1) by redesignating subparagraph (C) as sub-
7 paragraph (D);

8 (2) in subparagraph (B)(ii), by striking “, and”
9 and inserting a comma; and

10 (3) by inserting after subparagraph (B) the fol-
11 lowing:

12 “(C) in cases involving dumping that af-
13 fects a core seasonal industry solely during a
14 specific season or cyclical period of time, the
15 administering authority shall limit the applica-
16 tion of any rate determined under subpara-
17 graph (B) to that season or cyclical period of
18 time, and”.

19 **SEC. 5. APPLICATION TO CANADA AND MEXICO.**

20 Pursuant to section 418 of the United States-Mexico-
21 Canada Agreement Implementation Act (19 U.S.C. 4588),
22 the amendments made by this Act apply with respect to
23 goods from Canada and Mexico.

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