

112TH CONGRESS  
2D SESSION

# S. 3292

To require the United States International Trade Commission to recommend temporary duty suspensions and reductions to Congress, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 13, 2012

Mrs. McCASKILL (for herself, Mr. PORTMAN, Mr. McCONNELL, Mr. KYL, Mr. HOEVEN, Mr. RISCH, Mr. ROBERTS, Mr. COATS, Mr. DEMINT, Mr. VITTER, Mr. ENZI, Mr. WICKER, Mr. COCHRAN, Mr. ISAKSON, Mr. TOOMEY, Mr. JOHNSON of Wisconsin, Mr. GRAHAM, Mrs. HUTCHISON, Mr. SESSIONS, Mr. COBURN, and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To require the United States International Trade Commission to recommend temporary duty suspensions and reductions to Congress, 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 “Temporary Duty Sus-  
5 pension Process Act of 2012”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
 2           TEES.—The term “appropriate congressional com-  
 3           mittees” means the Committee on Finance of the  
 4           Senate and the Committee on Ways and Means of  
 5           the House of Representatives.

6           (2) COMMISSION.—The term “Commission”  
 7           means the United States International Trade Com-  
 8           mission.

9           (3) DUTY SUSPENSION OR REDUCTION.—The  
 10          term “duty suspension or reduction” means an  
 11          amendment to subchapter II of chapter 99 of the  
 12          Harmonized Tariff Schedule of the United States—

13                 (A) extending an existing temporary sus-  
 14                 pension or reduction of duty on an article under  
 15                 that subchapter; or

16                 (B) providing for a new temporary suspen-  
 17                 sion or reduction of duty on an article under  
 18                 that subchapter.

19 **SEC. 3. RECOMMENDATIONS BY UNITED STATES INTER-**  
 20 **NATIONAL TRADE COMMISSION FOR DUTY**  
 21 **SUSPENSIONS AND REDUCTIONS.**

22          (a) ESTABLISHMENT OF REVIEW PROCESS.—Not  
 23          later than 30 days after the date of the enactment of this  
 24          Act, the Commission shall complete all actions necessary

1 to establish a process pursuant to which the Commission  
2 will—

3 (1) review each article with respect to which a  
4 duty suspension or reduction may be made—

5 (A) at the initiative of the Commission; or

6 (B) pursuant to a petition submitted or re-  
7 ferred to the Commission under subsection (b);

8 and

9 (2) submit a draft bill to the appropriate con-  
10 gressional committees under subsection (d).

11 (b) PETITIONS.—

12 (1) IN GENERAL.—As part of the process estab-  
13 lished under subsection (a), the Commission shall es-  
14 tablish procedures under which a petition requesting  
15 the Commission to review a duty suspension or re-  
16 duction pursuant to that process may be—

17 (A) submitted to the Commission by a  
18 member of the public; or

19 (B) referred to the Commission by a Mem-  
20 ber of Congress.

21 (2) REQUIREMENTS.—A petition submitted or  
22 referred to the Commission under paragraph (1)  
23 shall be submitted or referred at such time and in  
24 such manner and shall include such information as  
25 the Commission may require.

1           (3) NO PREFERENTIAL TREATMENT FOR MEM-  
2           BERS OF CONGRESS.—A petition referred to the  
3           Commission by a Member of Congress under sub-  
4           paragraph (B) of paragraph (1) shall receive treat-  
5           ment no more favorable than the treatment received  
6           by a petition submitted to the Commission by a  
7           member of the public under subparagraph (A) of  
8           that paragraph.

9           (c) PUBLIC COMMENTS.—As part of the process es-  
10          tablished under subsection (a), the Commission shall es-  
11          tablish procedures for—

12                 (1) notifying the public when the Commission  
13                 initiates the process of reviewing articles with re-  
14                 spect to which duty suspensions or reductions may  
15                 be made and distributing information about the  
16                 process, including by—

17                         (A) posting information about the process  
18                         on the website of the Commission; and

19                         (B) providing that information to trade as-  
20                         sociations and other appropriate organizations;

21                 (2) not later than 45 days before submitting a  
22                 draft bill to the appropriate congressional commit-  
23                 tees under subsection (d), notifying the public of the  
24                 duty suspensions and reductions the Commission is  
25                 considering including in the draft bill; and

1           (3) providing the public with an opportunity to  
2 submit comments with respect to any of those duty  
3 suspensions or reductions.

4 (d) SUBMISSION OF DRAFT BILL.—

5           (1) IN GENERAL.—The Commission shall sub-  
6 mit to the appropriate congressional committees a  
7 draft bill that contains each duty suspension or re-  
8 duction that the Commission determines, pursuant  
9 to the process established under subsection (a) and  
10 after conducting the consultations required by sub-  
11 section (e), meets the requirements described in sub-  
12 section (f), not later than—

13                   (A) the date that is 120 days after the  
14 date of the enactment of this Act;

15                   (B) January 1, 2015; and

16                   (C) January 1, 2018.

17           (2) EFFECTIVE PERIOD OF DUTY SUSPENSIONS  
18 AND REDUCTIONS.—Duty suspensions and reduc-  
19 tions included in a draft bill submitted under para-  
20 graph (1) shall be effective for a period of not less  
21 than 3 years.

22           (3) SPECIAL RULE FOR FIRST SUBMISSION.—In  
23 the draft bill required to be submitted under para-  
24 graph (1) not later than the date that is 120 days  
25 after the date of the enactment of this Act, the

1 Commission shall be required to include only duty  
2 suspensions and reductions with respect to which the  
3 Commission has sufficient time to make a deter-  
4 mination under that paragraph before the draft bill  
5 is required to be submitted.

6 (e) CONSULTATIONS.—In determining whether a  
7 duty suspension or reduction meets the requirements de-  
8 scribed in subsection (f), the Commission shall, not later  
9 than 30 days before submitting a draft bill to the appro-  
10 priate congressional committees under subsection (d), con-  
11 duct consultations with the Commissioner responsible for  
12 U.S. Customs and Border Protection, the Secretary of  
13 Commerce, the United States Trade Representative, and  
14 the heads of other relevant Federal agencies.

15 (f) REQUIREMENTS FOR DUTY SUSPENSIONS AND  
16 REDUCTIONS.—

17 (1) IN GENERAL.—A duty suspension or reduc-  
18 tion meets the requirements described in this sub-  
19 section if—

20 (A) the duty suspension or reduction can  
21 be administered by U.S. Customs and Border  
22 Protection;

23 (B) the estimated loss in revenue to the  
24 United States from the duty suspension or re-  
25 duction does not exceed the dollar amount spec-

1           ified in paragraph (2) in a calendar year during  
2           which the duty suspension or reduction would  
3           be in effect; and

4           (C) on the date on which the Commission  
5           submits a draft bill to the appropriate congress-  
6           sional committees under subsection (d) that in-  
7           cludes the duty suspension or reduction, the ar-  
8           ticle to which the duty suspension or reduction  
9           would apply is not produced in the United  
10          States and is not expected to be produced in  
11          the United States during the subsequent 12-  
12          month period.

13          (2) DOLLAR AMOUNT SPECIFIED.—

14           (A) IN GENERAL.—The dollar amount  
15           specified in this paragraph is—

16                   (i) for calendar year 2013, \$500,000;

17                   and

18                   (ii) for any calendar year after cal-  
19                   endar year 2013, an amount equal to  
20                   \$500,000 increased or decreased by an  
21                   amount equal to—

22                           (I) \$500,000, multiplied by

23                           (II) the percentage (if any) of the  
24                           increase or decrease (as the case may  
25                           be) in the Consumer Price Index for

1 the preceding calendar year compared  
2 to the Consumer Price Index for cal-  
3 endar year 2012.

4 (B) ROUNDING.—Any increase or decrease  
5 under subparagraph (A) of the dollar amount  
6 specified in this paragraph shall be rounded to  
7 the nearest dollar.

8 (C) CONSUMER PRICE INDEX FOR ANY  
9 CALENDAR YEAR.—For purposes of this para-  
10 graph, the Consumer Price Index for any cal-  
11 endar year is the average of the Consumer  
12 Price Index as of the close of the 12-month pe-  
13 riod ending on September 30 of that calendar  
14 year.

15 (D) CONSUMER PRICE INDEX DEFINED.—  
16 For purposes of this paragraph, the term “Con-  
17 sumer Price Index” means the Consumer Price  
18 Index for All Urban Consumers published by  
19 the Bureau of Labor Statistics of the Depart-  
20 ment of Labor.

21 (3) CONSIDERATION OF RELEVANT INFORMA-  
22 TION.—In determining whether a duty suspension or  
23 reduction meets the requirements described in para-  
24 graph (1), the Commission may consider any infor-



1       mation the Commission considers relevant to the de-  
2       termination.

3               (4) JUDICIAL REVIEW PRECLUDED.—A deter-  
4       mination of the Commission with respect to whether  
5       or not a duty suspension or reduction meets the re-  
6       quirements described in paragraph (1) shall not be  
7       subject to judicial review.

8       (g) REPORTS REQUIRED.—

9               (1) IN GENERAL.—Each time the Commission  
10      submits a draft bill under subsection (d), the Com-  
11      mission shall submit to the appropriate congress-  
12      sional committees a report on the duty suspensions  
13      and reductions contained in the draft bill that in-  
14      cludes—

15              (A) the views of the head of each agency  
16      consulted under subsection (e); and

17              (B) any objections received by the Com-  
18      mission during consultations conducted under  
19      subsection (e) or through public comments sub-  
20      mitted under subsection (c), including—

21              (i) objections with respect to duty sus-  
22      pensions or reductions the Commission in-  
23      cluded in the draft bill; and

1 (ii) objections that led to the Commis-  
2 sion to determine not to include a duty  
3 suspension or reduction in the draft bill.

4 (2) INITIAL REPORT ON PROCESS.—Not later  
5 than 300 days after the date of the enactment of  
6 this Act, the Commission shall submit to the appro-  
7 priate congressional committees a report that in-  
8 cludes—

9 (A) an assessment of the effectiveness of  
10 the process established under subsection (a)  
11 and the requirements of this section;

12 (B) to the extent practicable, a description  
13 of the effects of duty suspensions and reduc-  
14 tions recommended pursuant to that process on  
15 the United States economy that includes—

16 (i) a broad assessment of the eco-  
17 nomic effects of such duty suspensions and  
18 reductions on producers, purchasers, and  
19 consumers in the United States; and

20 (ii) case studies describing such ef-  
21 fects by industry or by type of articles, as  
22 available data permits;

23 (C) a comparison of the actual loss in rev-  
24 enue to the United States resulting from duty  
25 suspensions and reductions recommended pur-

1           suant to that process to the loss in such rev-  
2           enue estimated during that process;

3           (D) to the extent practicable, information  
4           on how broadly or narrowly duty suspensions  
5           and reductions recommended pursuant to that  
6           process were used by importers; and

7           (E) any recommendations of the Commis-  
8           sion for improving that process and the require-  
9           ments of this section.

10          (h) **FORM OF DRAFT BILL AND REPORTS.**—Each  
11          draft bill submitted under subsection (d) and each report  
12          required by subsection (g) shall be—

13               (1) submitted to the appropriate congressional  
14               committees in electronic form; and

15               (2) made available to the public on the website  
16               of the Commission.

17          **SEC. 4. REPORTS ON BENEFITS OF DUTY SUSPENSIONS OR**  
18                               **REDUCTIONS TO SECTORS OF THE UNITED**  
19                               **STATES ECONOMY.**

20          Not later than January 1, 2014, and annually there-  
21          after, the Commission shall submit to the appropriate con-  
22          gressional committees a report that—

23               (1) makes recommendations with respect to sec-  
24               tors of the United States economy that could benefit

1 from duty suspensions or reductions without causing  
2 harm to other domestic interests; and

3 (2) assesses the feasibility and advisability of  
4 suspending or reducing duties on a sectoral basis  
5 rather than on individual articles.

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