

118TH CONGRESS  
2D SESSION

# S. 4082

To amend the Tariff Act of 1930 to increase accountability relating to articles receiving exemptions from duties for de minimis entries and to require regulations on enhanced data collection with respect to such entries, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 9, 2024

Mr. BRAUN (for himself and Ms. BALDWIN) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Tariff Act of 1930 to increase accountability relating to articles receiving exemptions from duties for de minimis entries and to require regulations on enhanced data collection with respect to such entries, 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 “Ensure Accountability  
5 in De Minimis Act of 2024”.

1 **SEC. 2. LIMITATION ON PERSONS AUTHORIZED TO ENTER**  
2 **ARTICLES ELIGIBLE FOR DE MINIMIS EXEMP-**  
3 **TION FROM DUTIES.**

4 (a) **IN GENERAL.**—Section 498 of the Tariff Act of  
5 1930 (19 U.S.C. 1498) is amended by adding at the end  
6 the following:

7 “(c) **IMPORTATION UNDER ADMINISTRATIVE EXEMP-**  
8 **TION ONLY BY CERTAIN PARTIES.**—Notwithstanding any  
9 other provision of this Act, an article is eligible for an ad-  
10 ministrative exemption under section 321(a)(2)(C) only if  
11 the article is entered—

12 “(1) as international mail; or

13 “(2) by—

14 “(A) the consignee, the owner, or the pur-  
15 chaser of the article; or

16 “(B) if designated by a person specified in  
17 subparagraph (A), a person holding a valid cus-  
18 toms broker’s license issued under section  
19 641(b).”.

20 (b) **APPLICABILITY.**—The amendments made by sub-  
21 section (a) shall apply with respect to articles entered, or  
22 withdrawn from warehouse for consumption, on or after  
23 the date that is 60 days after the date of the enactment  
24 of this Act.

1 **SEC. 3. MODIFICATION TO PENALTIES FOR FRAUD, GROSS**  
2 **NEGLIGENCE, AND NEGLIGENCE.**

3 (a) DIRECTING OR FACILITATING VIOLATIONS.—Sec-  
4 tion 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is  
5 amended—

6 (1) in subsection (a)(1)(B)—

7 (A) by striking “may aid or abet” and in-  
8 serting the following: “may—

9 “(i) aid or abet”;

10 (B) by striking the period at the end and  
11 inserting “; or”; and

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

13 “(ii) direct or facilitate a violation of  
14 subparagraph (A).”; and

15 (2) in subsection (b)(1)(A)(ii), by striking “or  
16 the aiding or procuring of the entry or introduction”  
17 and inserting “the aiding or procuring, or the direc-  
18 tion or facilitation of the entry or introduction or at-  
19 tempted entry or introduction”.

20 (b) RECURRING NEGLIGENT OR GROSSLY NEG-  
21 LIGENT VIOLATIONS RELATING TO DE MINIMIS EN-  
22 TRIES.—Section 592(c) of the Tariff Act of 1930 (19  
23 U.S.C. 1592(c)) is amended—

24 (1) by redesignating paragraphs (4) through  
25 (14) as paragraphs (5) through (15), respectively;  
26 and

1           (2) by inserting after paragraph (3) the fol-  
2           lowing:

3           “(4) RECURRING NEGLIGENT OR GROSSLY NEG-  
4           LIGENT VIOLATIONS RELATING TO DE MINIMIS EN-  
5           TRIES.—

6           “(A) IN GENERAL.—A recurring negligent  
7           or grossly negligent violation of subsection (a)  
8           that relates to entering articles for which an ad-  
9           ministrative exemption from duties under sec-  
10          tion 321(a)(2)(C) is sought is punishable by a  
11          civil penalty in—

12                   “(i) except as provided by clause (ii),  
13                   an amount not to exceed the greater of—

14                           “(I) 10 times the aggregate  
15                           amount of the lawful duties, taxes,  
16                           and fees of which the United States is  
17                           or may be deprived; or

18                           “(II) \$2,000; and

19                   “(ii) if the recurring violation did not  
20                   affect the assessment of duties, an amount  
21                   not to exceed the greater of—

22                           “(I) 200 percent of the aggregate  
23                           domestic value of the merchandise; or

24                           “(II) \$2,000.

25          “(B) RECURRING DEFINED.—

1           “(i) IN GENERAL.—In this paragraph,  
2           the term ‘recurring’, with respect to a vio-  
3           lation of subsection (a) by a person that  
4           relates to entering articles described in  
5           subparagraph (A), means that—

6                   “(I) the violation—

7                           “(aa) is a second or subse-  
8                           quent such violation by that per-  
9                           son; and

10                           “(bb) takes place not later  
11                           than 3 months after the person  
12                           received a penalty claim under  
13                           subsection (b)(2) for a prior such  
14                           violation and for which the per-  
15                           son had the opportunity seek re-  
16                           mission or mitigation; and

17                   “(II) the person has been found  
18                   to have repeatedly, over an aggregate  
19                   period of 3 months or more, com-  
20                   mitted violations of subsection (a)  
21                   that relate to entering articles de-  
22                   scribed in subparagraph (A).

23           “(ii) EFFECT OF INTERVENING COM-  
24           PLIANT ENTRIES.—For purposes of clause  
25           (i), if, between negligent or grossly neg-

1           ligent violations of subsection (a) by a per-  
2           son that relate to entering articles de-  
3           scribed in subparagraph (A), that person  
4           submits entry documentation with respect  
5           to a shipment of articles described in sub-  
6           paragraph (A) accurately and in compli-  
7           ance with the law, the submission of such  
8           entry documentation shall not prevent the  
9           negligent or grossly negligent violations  
10          from being considered recurring.”.

11          (c) DEFINITIONS OF NEGLIGENT AND GROSSLY  
12 NEGLIGENT.—Section 592(a) of the Tariff Act of 1930  
13 (19 U.S.C. 1592(a)) is amended by adding at the end the  
14 following:

15           “(3) DEFINITIONS.—In this section:

16           “(A) GROSSLY NEGLIGENT.—The term  
17           ‘grossly negligent’, with respect to a violation of  
18           paragraph (1) by a person, means that the per-  
19           son committed the violation with—

20                   “(i) actual knowledge of or wanton  
21                   disregard for the relevant facts; and

22                   “(ii) indifference or disregard to  
23                   whether the person was violating para-  
24                   graph (1).

1           “(B) NEGLIGENT.—The term ‘negligent’,  
 2           with respect to a violation of paragraph (1) by  
 3           a person, means that the person failed to exer-  
 4           cise reasonable care and competence—

5                   “(i) to ensure that documents, data,  
 6                   and information provided by the person in  
 7                   connection with the entry of merchandise  
 8                   are complete and accurate; or

9                   “(ii) to perform any material act re-  
 10                  quired by law.”.

11           (d) TECHNICAL AMENDMENT.—Section 592 of the  
 12           Tariff Act of 1930 (19 U.S.C. 1592), as amended by this  
 13           section, is further amended by striking “the Customs  
 14           Service” each place it appears and inserting “U.S. Cus-  
 15           toms and Border Protection”.

16           **SEC. 4. DEADLINE FOR INFORMATION SHARING AGREE-**  
 17                   **MENTS WITH FEDERAL AGENCIES PARTICI-**  
 18                   **PATING IN INTERNATIONAL TRADE DATA**  
 19                   **SYSTEM.**

20           Section 411(d)(4)(A)(ii) of the Tariff Act of 1930 (19  
 21           U.S.C. 1411(d)(4)(A)(ii)) is amended by striking “enters  
 22           into” inserting “not later than 18 months after the date  
 23           of the enactment of the Ensure Accountability in De Mini-  
 24           mis Act of 2024, enters into”.

1 **SEC. 5. REGULATIONS ON ENHANCED DATA COLLECTION**  
2 **WITH RESPECT TO DE MINIMIS ENTRIES.**

3 (a) REQUIREMENT FOR REGULATIONS.—

4 (1) IN GENERAL.—Not later than 18 months  
5 after the date of the enactment of this Act, the Sec-  
6 retary of the Treasury, in consultation with the  
7 Commissioner of U.S. Customs and Border Protec-  
8 tion and pursuant to subsections (b) and (c), shall  
9 prescribe regulations requiring enhanced data collec-  
10 tion with respect to articles for which an administra-  
11 tive exemption from duties under section  
12 321(a)(2)(C) of the Tariff Act of 1930 (19 U.S.C.  
13 1321(a)(2)(C)) is sought, including obtaining infor-  
14 mation with respect to the origin of materials used  
15 in the production of such articles, in order to ensure  
16 that the articles for which the exemption is sought  
17 are not articles described in paragraph (2) or arti-  
18 cles that are otherwise prohibited from entering the  
19 United States.

20 (2) ARTICLES DESCRIBED.—An article is de-  
21 scribed in this paragraph if the article—

22 (A) is produced with forced labor (as de-  
23 fined in section 307 of the Tariff Act of 1930  
24 (19 U.S.C. 1307));

25 (B) bears a counterfeit mark (within the  
26 meaning of section 45 of the Act entitled “An



1 Act to provide for the registration and protec-  
2 tion of trademarks used in commerce, to carry  
3 out the provisions of certain international con-  
4 ventions, and for other purposes”, approved  
5 July 5, 1946 (commonly known as the “Trade-  
6 mark Act of 1946” or the “Lanham Act”) (15  
7 U.S.C. 1127)); or

8 (C) is a controlled substance (as defined in  
9 section 102 of the Controlled Substances Act  
10 (21 U.S.C. 802)) that is not imported in ac-  
11 cordance with applicable law.

12 (b) DEVELOPMENT OF REGULATIONS.—In devel-  
13 oping the regulations required by subsection (a), the Sec-  
14 retary shall—

15 (1) solicit comments from and consult with a  
16 broad range of parties that are likely to be affected  
17 by the regulations, including importers, exporters,  
18 carriers, customs brokers, and freight forwarders,  
19 among other interested parties;

20 (2) ensure the protection of the privacy of pro-  
21 prietary information (within the meaning of section  
22 777(b) of the Tariff Act of 1930 (19 U.S.C.  
23 1677f(b))), except for information shared, through  
24 the International Trade Data System established  
25 pursuant to section 411(d) of the Tariff Act of 1930

1 (19 U.S.C. 1411(d)), with Federal agencies partici-  
2 pating in that system;

3 (3) to the extent practicable, avoid imposing re-  
4 quirements pursuant to those regulations that are  
5 redundant with each other or that are redundant  
6 with requirements under other provisions of law; and

7 (4) include regulations that request the Post-  
8 master General to transmit to the Secretary the in-  
9 formation described in subsection (a)(1), to the ex-  
10 tent feasible and consistent with international law,  
11 with respect to the country of origin of materials  
12 used in the production of articles in international  
13 mail shipments for which an administrative exemp-  
14 tion from duties under section 321(a)(2)(C) of the  
15 Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(C)) is  
16 sought.

17 (c) NOTICE OF PROPOSED RULEMAKING AND COM-  
18 MENT PERIOD.—The Secretary, in consultation with the  
19 Commissioner, shall—

20 (1) publish a notice of proposed rulemaking in  
21 the Federal Register; and

22 (2) provide for a period of not less than 60  
23 days for public comment on the proposed rule-  
24 making.

25 (d) CIVIL PENALTY.—

1           (1) IN GENERAL.—The Secretary shall impose  
2           a civil penalty on any person that violates the regu-  
3           lations prescribed under subsection (a) of not more  
4           than—

5                     (A) \$2,000 for the first violation; and

6                     (B) \$5,000 for each subsequent violation.

7           (2) ADDITIONAL PENALTIES.—A penalty im-  
8           posed under this subsection may be in addition to  
9           any other penalty authorized by law.

10 **SEC. 6. REPORTS.**

11           (a) REPORT ON ILLEGALLY ENTERED ARTICLES FOR  
12 WHICH DE MINIMIS EXEMPTIONS SOUGHT.—Not later  
13 than one year after the date on which the regulations re-  
14 quired by section 5 are finalized, and annually thereafter,  
15 the Commissioner of U.S. Customs and Border Protection,  
16 in consultation with the Secretary of the Treasury, shall  
17 submit to the appropriate congressional committees a re-  
18 port setting forth, for the year preceding submission of  
19 the report—

20                     (1) the total number of articles—

21                             (A) with respect to which an administra-  
22                             tive exemption from duties under section  
23                             321(a)(2)(C) of the Tariff Act of 1930 (19  
24                             U.S.C. 1321(a)(2)(C)) was sought; and

1 (B) that were seized by U.S. Customs and  
2 Border Protection at ports of entry for entering  
3 the United States illegally;

4 (2) a description of such articles;

5 (3) the country of origin of such articles, to the  
6 extent feasible; and

7 (4) the aggregate fair retail value of such arti-  
8 cles in the country of shipment.

9 (b) GOVERNMENT ACCOUNTABILITY OFFICE ASSESS-  
10 MENT OF SHORTCOMINGS IN INFORMATION SHARING.—

11 (1) IN GENERAL.—Not later than one year  
12 after the date of the enactment of this Act, the  
13 Comptroller General of the United States shall sub-  
14 mit to Congress a report assessing—

15 (A) shortcomings in information shared  
16 through the International Trade Data System  
17 established pursuant to section 411(d) of the  
18 Tariff Act of 1930 (19 U.S.C. 1411(d)) among  
19 Federal agencies participating in that system;

20 (B) implications of those shortcomings  
21 with respect to the enforcement of regulations;  
22 and

23 (C) the establishment of memoranda of un-  
24 derstanding by the Secretary of the Treasury  
25 with Federal agencies participating in the Inter-

1 national Trade Data System pursuant to sec-  
2 tion 411(d)(4)(A)(ii) of the Tariff Act of 1930,  
3 as amended by section 4.

4 (2) FORM.—The report required by paragraph  
5 (1) shall be submitted in unclassified form, but may  
6 include a classified annex.

7 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-  
8 FINED.—In this section, the term “appropriate congres-  
9 sional committees” means—

10 (1) the Committee on Finance and the Com-  
11 mittee on Homeland Security and Governmental Af-  
12 fairs of the Senate; and

13 (2) the Committee on Ways and Means and the  
14 Committee on Homeland Security of the House of  
15 Representatives.

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