

118TH CONGRESS  
1ST SESSION

# S. 71

To extend the customs waters of the United States from 12 nautical miles to 24 nautical miles from the baselines of the United States, consistent with Presidential Proclamation 7219.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2023

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

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## A BILL

To extend the customs waters of the United States from 12 nautical miles to 24 nautical miles from the baselines of the United States, consistent with Presidential Proclamation 7219.

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 “Extending Limits of  
5 United States Customs Waters Act of 2023”.

6 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

7 (a) FINDINGS.—Congress makes the following find-  
8 ings:

1           (1) On December 27, 1988, Presidential Procla-  
2           mation 5928 extended the territorial sea of the  
3           United States from 3 nautical miles to 12 nautical  
4           miles from the baselines of the United States, deter-  
5           mined in accordance with international law.

6           (2) On August 2, 1999, Presidential Proclama-  
7           tion 7219 extended the contiguous zone of the  
8           United States from 12 nautical miles to 24 nautical  
9           miles from the baselines of the United States, deter-  
10          mined in accordance with international law, but in  
11          no case within the territorial sea of another country.

12          (3) Customary international law, in its current  
13          form, as provided for in the United Nations Conven-  
14          tion on the Law of the Sea and consistent with Pres-  
15          idential Proclamations 5928 and 7219, reflects  
16          that—

17                (A) every coastal State has the right to es-  
18                tablish the breadth of its territorial sea to a  
19                limit not exceeding 12 nautical miles, measured  
20                from its baselines;

21                (B) a coastal State's contiguous zone may  
22                not extend beyond 24 nautical miles from the  
23                baselines from which the breadth of the terri-  
24                torial sea is measured;

1 (C) a coastal State has exclusive jurisdic-  
2 tion over its flagged vessels within its territorial  
3 seas and upon the high seas; and

4 (D) in the contiguous zone of a coastal  
5 State, the State may—

6 (i) exercise the control necessary to  
7 prevent the infringement of its customs,  
8 fiscal, immigration, or sanitary laws and  
9 regulations within its territory or the terri-  
10 torial sea; and

11 (ii) punish the infringement of those  
12 laws and regulations committed within its  
13 territory or the territorial sea.

14 (4) Customary international law, in its current  
15 form, as provided for in the United Nations Conven-  
16 tion on the Law of the Sea, recognizes that outside  
17 the territorial waters of a coastal State, the vessels  
18 and aircraft of all countries enjoy the high seas free-  
19 doms of navigation and overflight. Pursuant to those  
20 freedoms and the requirements of international  
21 law—

22 (A) before boarding a vessel outside of the  
23 territorial waters of a coastal State, but within  
24 the contiguous zone of that State, authorities of  
25 the State are generally required to have reason-

1           able grounds to believe that the vessel is des-  
2           tined for the State or has violated or is at-  
3           tempting to violate the customs, fiscal, immi-  
4           gration, or sanitary laws and regulations of that  
5           State; and

6                   (B) the hot pursuit of a foreign vessel—

7                           (i) may be undertaken when com-  
8                           petent authorities of the State have good  
9                           reason to believe that the vessel or one of  
10                          its boats has violated the laws and regula-  
11                          tions of that State;

12                           (ii) is required to be commenced when  
13                           the foreign vessels or one of its boats is  
14                           within the internal waters, the territorial  
15                           sea, or the contiguous zone of the State,  
16                           and may be continued outside the terri-  
17                           torial sea or the contiguous zone only if  
18                           the pursuit has not been interrupted; and

19                           (iii) in a case in which the foreign ves-  
20                           sels is within the contiguous zone of the  
21                           State, may be undertaken only if there has  
22                           been a violation of the rights for the pro-  
23                           tection of which the contiguous zone was  
24                           established.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-  
2 gress that—

3 (1) it is necessary to extend the authority of  
4 U.S. Customs and Border Protection to conduct law  
5 enforcement activities in the customs waters of the  
6 United States from 12 nautical miles to 24 nautical  
7 miles because as modern technology continues to  
8 change and expand rapidly, the performance and  
9 speed of maritime vessels, including those used to  
10 violate the laws of the United States or evade  
11 United States law enforcement agents, improve, and  
12 the limit of 12 nautical miles no longer provides law  
13 enforcement agents with sufficient time to interdict  
14 such vessels; and

15 (2) the extension of the customs waters of the  
16 United States to the limits permitted by inter-  
17 national law will advance the law enforcement and  
18 public health interests of the United States.

19 **SEC. 3. EXTENSION OF CUSTOMS WATERS OF THE UNITED**  
20 **STATES.**

21 (a) TARIFF ACT OF 1930.—Section 401(j) of the  
22 Tariff Act of 1930 (19 U.S.C. 1401(j)) is amended—

23 (1) by striking “means, in the case” and insert-  
24 ing the following: “means—

25 “(1) in the case”;

1           (2) by striking “of the coast of the United  
2 States” and inserting “from the baselines of the  
3 United States (determined in accordance with inter-  
4 national law)”;

5           (3) by striking “and, in the case” and inserting  
6 the following: “; and

7           “(2) in the case”; and

8           (4) by striking “the waters within four leagues  
9 of the coast of the United States.” and inserting the  
10 following: “the waters within—

11           “(A) the territorial sea of the United  
12 States, to the limits permitted by international  
13 law in accordance with Presidential Proclama-  
14 tion 5928 of December 27, 1988; and

15           “(B) the contiguous zone of the United  
16 States, to the limits permitted by international  
17 law in accordance with Presidential Proclama-  
18 tion 7219 of September 2, 1999.”.

19           (b) ANTI-SMUGGLING ACT.—Section 401(c) of the  
20 Anti-Smuggling Act (19 U.S.C. 1709(c)) is amended—

21           (1) by striking “means, in the case” and insert-  
22 ing the following: “means—

23           “(1) in the case”;

24           (2) by striking “of the coast of the United  
25 States” and inserting “from the baselines of the

1 United States (determined in accordance with inter-  
2 national law)”;

3 (3) by striking “and, in the case” and inserting  
4 the following: “; and

5 “(2) in the case”; and

6 (4) by striking “the waters within four leagues  
7 of the coast of the United States.” and inserting the  
8 following: “the waters within—

9 “(A) the territorial sea of the United  
10 States, to the limits permitted by international  
11 law in accordance with Presidential Proclama-  
12 tion 5928 of December 27, 1988; and

13 “(B) the contiguous zone of the United  
14 States, to the limits permitted by international  
15 law in accordance with Presidential Proclama-  
16 tion 7219 of September 2, 1999.”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall take effect on the day after the date of  
19 the enactment of this Act.

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