

117TH CONGRESS
1ST SESSION

S. 746

To amend section 232 of the Trade Expansion Act of 1962 to require the Secretary of Defense to initiate investigations and to provide for congressional disapproval of certain actions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2021

Mr. PORTMAN (for himself, Ms. SINEMA, Ms. ERNST, Mrs. FEINSTEIN, Mr. WICKER, and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend section 232 of the Trade Expansion Act of 1962 to require the Secretary of Defense to initiate investigations and to provide for congressional disapproval of certain actions, 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 “Trade Security Act
5 of 2021”.

1 **SEC. 2. INVESTIGATIONS TO DETERMINE EFFECTS ON NA-**
2 **TIONAL SECURITY OF IMPORTS OF ARTICLES**
3 **AND CONGRESSIONAL REVIEW OF PRESI-**
4 **DENTIAL ACTIONS.**

5 (a) INVESTIGATIONS AND DETERMINATIONS BY SEC-
6 RETARY OF DEFENSE.—Section 232 of the Trade Expans-
7 sion Act of 1962 (19 U.S.C. 1862) is amended—

8 (1) in subsection (b)—

9 (A) in paragraph (1)—

10 (i) in subparagraph (A), by striking
11 “Secretary of Commerce” and all that fol-
12 lows through “‘Secretary’” and inserting
13 “Secretary of Defense”; and

14 (ii) in subparagraph (B)—

15 (I) by striking “Secretary shall”
16 and inserting “Secretary of Defense
17 shall”; and

18 (II) by striking “Secretary of De-
19 fense of” and inserting “Secretary of
20 Commerce of”;

21 (B) in paragraph (2)—

22 (i) by striking subparagraph (B);

23 (ii) in the matter preceding clause

24 (i)—

25 (I) by striking “(A) In” and in-
26 sserting “In”; and

1 (II) by striking “Secretary” and
2 inserting “Secretary of Defense”; and
3 (iii) by striking clauses (i) through
4 (iii) and inserting the following:

5 “(A) consult with the Secretary of Commerce
6 regarding the methodological and policy questions
7 raised in any investigation initiated under paragraph
8 (1);

9 “(B) prepare an assessment of the defense re-
10 quirements and national security impact of any arti-
11 cle that is the subject of an investigation, which
12 shall focus on—

13 “(i) the impact of the importation of the
14 article on military readiness and critical infra-
15 structure; and

16 “(ii) the need for a reliable supply of the
17 article to protect national security;

18 “(C) seek information and advice from the Sec-
19 retary of Commerce;

20 “(D) consult with appropriate officers of the
21 United States;

22 “(E) consult with members of the Committee
23 on Finance of the Senate and members of the Com-
24 mittee on Ways and Means of the House of Rep-
25 resentatives; and

1 “(F) hold public hearings, co-chaired with the
2 Secretary of Commerce, or otherwise afford inter-
3 ested parties an opportunity to present information
4 and advice relevant to such investigation.”;

5 (C) by striking paragraph (3) and insert-
6 ing the following:

7 “(3)(A) Not later than 200 days after the date on
8 which the Secretary of Defense initiates an investigation
9 under paragraph (1) with respect to an article, the Sec-
10 retary of Defense shall submit to the President a report
11 on the findings of such investigation with respect to the
12 effect of the importation of such article in such quantities
13 or under such circumstances on the national security of
14 the United States.

15 “(B) If the report described in subparagraph (A) in-
16 cludes an affirmative finding that the importation of an
17 article in such quantities or under such circumstances
18 threatens to impair the national security, the President
19 may direct the Secretary of Commerce to devise rec-
20 ommendations to address such threat.

21 “(C) Not later than 100 days after receiving from
22 the President under subparagraph (B) a direction to de-
23 vise recommendations with respect to an article, the Sec-
24 retary of Commerce, in consultation with the United
25 States Trade Representative, the Secretary of Defense,

1 members of the Committee on Finance of the Senate, and
2 members of the Committee on Ways and Means of the
3 House of Representatives, shall submit to the President
4 a report that includes—

5 “(i) recommendations for action or inaction
6 under this section with respect to the article; and

7 “(ii) the findings of the Secretary of Commerce
8 with respect to the investigation by the Secretary of
9 Defense under paragraph (1).

10 “(D) Any portion of the report submitted by the Sec-
11 retary of Defense under subparagraph (A) or the report
12 submitted by the Secretary of Commerce under subpara-
13 graph (C) that does not contain classified information or
14 proprietary information shall be published in the Federal
15 Register.”; and

16 (D) in paragraph (4), by inserting “of De-
17 fense, in consultation with the Secretary of
18 Commerce,” after “The Secretary”;

19 (2) in subsection (c)(1), by striking subpara-
20 graph (A) and inserting the following:

21 “(A) Not later than 60 days after receiving rec-
22 ommendations submitted under subsection (b)(3)(C)(i)
23 with respect to an article, the President shall—

24 “(i) decide whether to take action based on
25 such recommendations; and

1 “(ii) if the President decides to take action
2 under clause (i), determine the nature and duration
3 of the action to be taken to adjust the imports of the
4 article and its derivatives so that such imports will
5 not threaten to impair the national security.”;

6 (3) by redesignating the second subsection (d)
7 as subsection (e);

8 (4) in subsection (d)—

9 (A) by striking “the Secretary and the
10 President” each place it appears and inserting
11 “the Secretary of Defense, the Secretary of
12 Commerce, and the President”; and

13 (B) by inserting “, the production of which
14 is needed for national defense requirements and
15 critical infrastructure in the United States”
16 after “welfare of individual domestic indus-
17 tries”; and

18 (5) in subsection (e)(1), as redesignated by
19 paragraph (3), by striking “Secretary” and inserting
20 “Secretary of Defense”.

21 (b) CONGRESSIONAL DISAPPROVAL OF PRESI-
22 DENTIAL ACTION.—

23 (1) IN GENERAL.—Section 232(f) of the Trade
24 Expansion Act of 1962 (19 U.S.C. 1862(f)) is
25 amended—

1 (A) in paragraph (1), by striking “of pe-
2 troleum, or petroleum products”; and

3 (B) in paragraph (2)(B)—

4 (i) by striking “petroleum imports”
5 and inserting “imports”; and

6 (ii) by striking “of petroleum or pe-
7 troleum products”.

8 (2) APPLICABILITY.—

9 (A) IN GENERAL.—Except as provided in
10 subparagraph (B), subsection (f) of section 232
11 of the Trade Expansion Act of 1962 (19 U.S.C.
12 1862), as amended by paragraph (1), shall
13 apply to adjustments of imports under that sec-
14 tion on or after July 1, 2018.

15 (B) EXCEPTION.—Subsection (f) of section
16 232 of the Trade Expansion Act of 1962 (19
17 U.S.C. 1862), as amended by paragraph (1),
18 shall not apply to the presidential actions taken
19 under that section on March 8, 2018, relating
20 to the adjustment of imports of steel and alu-
21 minum, or any subsequent actions (including
22 proclamations, Executive orders, or other Exec-
23 utive acts) relating to those presidential actions.

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