

118TH CONGRESS
1ST SESSION

H. R. 3778

To provide for the entry of infant formula and infant formula base powder free of duty and free of quantitative limitation.

IN THE HOUSE OF REPRESENTATIVES

MAY 31, 2023

Mr. SMITH of Nebraska (for himself and Mr. BEYER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide for the entry of infant formula and infant formula base powder free of duty and free of quantitative limitation.

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 “Formula 3.0 Act”.

5 **SEC. 2. DUTY-FREE ENTRY OF INFANT FORMULA; TERMI-**

6 **NATION OF TARIFF-RATE QUOTA ON INFANT**

7 **FORMULA.**

8 (a) IN GENERAL.—Chapter 19 of the Harmonized
9 Tariff Schedule of the United States is amended as fol-
10 lows:

1 (1) By striking Additional U.S. Note 2.

2 (2) By inserting after Additional U.S. Note 3
3 the following:

4 “4. For purposes of subheading 1901.90.57, the term
5 ‘infant formula base powder’ means a dry mixture of pro-
6 tein, fat, and carbohydrates that requires only the addition
7 of vitamins and minerals in order to meet the definition
8 of the term ‘infant formula’ in section 201(z) of the Fed-
9 eral Food, Drug, and Cosmetic Act (21 U.S.C. 321(z))
10 and that is—

11 “(a) imported by a party that—

12 “(1) has been determined by the Food and
13 Drug Administration to be authorized to law-
14 fully market infant formula in the United
15 States; or

16 “(2) has received a letter of enforcement
17 discretion for the Food and Drug Administra-
18 tion relating to the marketing of its infant for-
19 mula in the United States; and

20 “(b) intended to be used in manufacturing in-
21 fant formula in the United States.”.

22 (3) By striking subheadings 1901.10.11 and
23 1901.10.16 and the superior text to such sub-
24 headings and inserting the following, with the article

1 description having the same degree of indentation as
 2 the article description for subheading 1901.10.62:

“

| | | | |
|------------|--|------|-----------------------|
| 1901.10.12 | Infant formula containing oligosaccharides | Free | \$1.217/ kg+ 17.5% |
|------------|--|------|-----------------------|

 ”.

3 (4) By striking subheadings 1901.10.26 and
 4 1901.10.29 and inserting the following, with the ar-
 5 ticle description for subheading 1901.10.23 having
 6 the same degree of indentation as the article descrip-
 7 tion for subheading 1901.10.21:

“

| | | | |
|------------|----------------------|-----------------------|-----------------------|
| 1901.10.23 | Infant formula | Free | \$1.217/kg + 17.5% |
| 1901.10.24 | Other | \$1.035/kg + 14.9% | \$1.217/kg + 17.5% |
| Other: | | | |
| 1901.10.25 | Infant formula | Free | 35% |
| 1901.10.28 | Other | 14.9% | 35% |

 ”.

8 (5) By striking subheadings 1901.10.33 and
 9 1901.10.36 and the superior text to such sub-
 10 headings and inserting the following, with the article
 11 description having the same degree of indentation as
 12 the article description for subheading 1901.10.62:

“

| | | | |
|------------|--|------|-----------------------|
| 1901.10.34 | Infant formula containing oligosaccharides | Free | \$1.217/ kg+ 17.5% |
|------------|--|------|-----------------------|

 ”.

13 (6) By redesignating subheadings 1901.90.60
 14 and 1901.90.61 as subheadings 1901.90.55 and
 15 1901.90.56, respectively.

16 (7) By striking subheading 1901.90.62 and in-
 17 sserting the following, with the article description
 18 having the same degree of indentation as the article

1 description for subheading 1901.10.56, as redesignig-
 2 nated by paragraph (6):

| | | | | | | |
|---|------------|--|-------------------|---|------------------|----|
| “ | 1901.90.57 | Infant formula base powder, as defined in additional U.S. note 4 to this chapter | Free | | \$1.127/kg + 16% | ”. |
| | 1901.90.58 | Other | \$1.035/kg +13.6% | Free (BH, CL, JO, KR, MA, OM, PE, SG) 20.7¢/kg + 2.7% (P, PA) See 9822.04.25 (AU) See 9823.08.01-9823.08.38 (S+) See 9915.04.30, 9915.04.50, 9915.04.74 (P+) See 9918.04.60-9918.04.80 (CO) | | |

3 (b) CONFORMING AMENDMENTS.—Additional U.S.
 4 Note 10 to chapter 4 of the Harmonized Tariff Schedule
 5 of the United States is amended by striking “1901.90.61”
 6 and inserting “1901.90.56”.

7 (c) EFFECTIVE DATE.—The amendments made by
 8 this section apply with respect to articles entered, or with-
 9 drawn for warehouse for consumption, on or after the date
 10 that is 120 days after the date of the enactment of this
 11 Act.

