

112TH CONGRESS  
1ST SESSION

# S. 1581

To improve the importer of record program and the collection of fees and duties in connection with the importation of merchandise into the United States, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2011

Mrs. McCASKILL introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To improve the importer of record program and the collection of fees and duties in connection with the importation of merchandise into the United States, 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 “Fighting for American  
5 Industry’s Right to Enforcement Against Duty Evasion  
6 Act” or the “FAIR Enforcement Against Duty Evasion  
7 Act of 2011”.

1 **SEC. 2. TERMINATION OF AVAILABILITY OF BONDS FOR**  
2 **NEW SHIPPERS.**

3 Section 751(a)(2)(B) of the Tariff Act of 1930 (19  
4 U.S.C. 1675(a)(2)(B)) is amended—

5 (1) by striking clause (iii); and

6 (2) by redesignating clause (iv) as clause (iii).

7 **SEC. 3. COLLECTION OF IDENTIFICATION RELATING TO IM-**  
8 **PORTERS.**

9 (a) **IN GENERAL.**—Section 641 of the Tariff Act of  
10 1930 (19 U.S.C. 1641) is amended by adding at the end  
11 the following:

12 “(i) **IDENTIFICATION OF CUSTOMERS.**—

13 “(1) **IN GENERAL.**—Subject to the require-  
14 ments of this subsection, the Secretary shall pre-  
15 scribe regulations setting forth the minimum stand-  
16 ards for customs brokers and their customers re-  
17 garding the identity of the customer that shall apply  
18 in connection with the importation of merchandise  
19 into the United States.

20 “(2) **MINIMUM REQUIREMENTS.**—The regula-  
21 tions shall, at a minimum, require customs brokers  
22 to implement, and customers (after being given ade-  
23 quate notice) to comply with, reasonable procedures  
24 for—

1           “(A) collecting the identity of any person  
2           seeking to import merchandise into the United  
3           States to the extent reasonable and practicable;

4           “(B) collecting the identity of any non-  
5           United States person seeking to import mer-  
6           chandise into the United States to the extent  
7           reasonable and practicable; and

8           “(C) maintaining records of the informa-  
9           tion used to substantiate a person’s identity, in-  
10          cluding name, address, and other identifying in-  
11          formation.

12          “(3) PENALTIES.—Any customs broker who  
13          fails to collect information required under the regu-  
14          lations prescribed under this subsection shall be lia-  
15          ble to the United States, at the discretion of the  
16          Secretary, for a monetary penalty not to exceed  
17          \$10,000 for each violation of those regulations and  
18          to revocation or suspension of license or permit pur-  
19          suant to the procedures set forth in subsection (d).

20          “(4) ESTABLISHMENT OF SAFE HARBORS.—Not  
21          later than 60 days after the date of the enactment  
22          of this subsection, the Secretary shall publish a no-  
23          tice in the Federal Register soliciting proposals,  
24          which shall be accepted during a 60-day period, for  
25          the specification of practices for which penalties will

1 not be imposed under this subsection. After consid-  
2 ering the proposals so submitted, the Secretary,  
3 shall publish in the Federal Register, including a 60-  
4 day period for comment, proposed specified practices  
5 for which such penalties will not be imposed. After  
6 considering any public comments received during  
7 such period, the Secretary shall issue final regula-  
8 tions specifying such practices.

9 “(5) EFFECTIVE DATE.—Final regulations pre-  
10 scribed under this subsection shall take effect before  
11 the end of the 1-year period beginning on the date  
12 of the enactment of this subsection.”.

13 (b) STUDY AND REPORT REQUIRED.—Not later than  
14 180 days after the date of the enactment of this Act, the  
15 Secretary, in consultation with relevant Federal regulators  
16 shall submit a report to the Congress containing rec-  
17 ommendations for—

18 (1) determining the most timely and effective  
19 way to require foreign nationals to provide customs  
20 brokers and agencies with appropriate and accurate  
21 information, comparable to that which is required of  
22 United States nationals, concerning the identity, ad-  
23 dress, and other related information about such for-  
24 eign nationals necessary to enable customs brokers  
25 and agencies to comply with the requirements of sec-

1       tion 641(i) of the Tariff Act of 1930 (as added by  
2       subsection (a)); and

3               (2) establishing a system for customs brokers  
4       and agencies to review information maintained by  
5       relevant Government agencies for purposes of  
6       verifying the identities of foreign nationals and  
7       United States nationals seeking to import merchan-  
8       dise into the United States.

9       **SEC. 4. IMPORTER OF RECORD DATABASE.**

10       (a) IMPROVEMENT OF IMPORTER OF RECORD DATA-  
11       BASE.—Not later than 180 days after the date of the en-  
12       actment of this Act, the Secretary of Homeland Security  
13       shall implement the following improvements to the im-  
14       porter of record database:

15               (1) Include a history of importer of record  
16       numbers associated with each importer of record.

17               (2) Provide a system to evaluate the accuracy  
18       of the database maintained with respect to each im-  
19       porter of record.

20               (3) Establish a system that ensures that dupli-  
21       cate importer of record numbers are not issued.

22               (4) Establish a system for updating the data-  
23       base described in this subsection on a regular basis,  
24       but not less frequently than once a year.

1           (5) Establish a system that enables customs  
2           brokers to verify the information required under sec-  
3           tion 641(i) of the Tariff Act of 1930 (as added by  
4           section 3(a) of this Act).

5           (b) REPORT.—Not later than 1 year after the date  
6           of the enactment of this Act, the Secretary of Homeland  
7           Security shall submit to the Committee on Finance of the  
8           Senate and the Committee on Ways and Means of the  
9           House of Representatives a report on the improvements  
10          made to the importer of record program pursuant to this  
11          section.

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