

118TH CONGRESS
2D SESSION

S. 5435

To prohibit certain entities from entering articles under the administrative exemption from duties for de minimis entries of articles.

IN THE SENATE OF THE UNITED STATES

DECEMBER 5, 2024

Mrs. BLACKBURN (for herself and Mr. OSSOFF) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To prohibit certain entities from entering articles under the administrative exemption from duties for de minimis entries of articles.

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 “Detection and Exclu-
5 sion of Negligent, Illicit, and Extralegal Deliveries Act”
6 or the “DENIED Act”.

1 **SEC. 2. PROHIBITION ON CERTAIN ENTITIES ENTERING AR-**
 2 **TICLES BENEFITTING FROM DE MINIMIS AD-**
 3 **MINISTRATIVE EXEMPTION.**

4 Section 321 of Tariff Act of 1930 (19 U.S.C. 1321)
 5 is amended by adding at the end the following:

6 “(c) PROHIBITION OF EXEMPTION FOR CERTAIN EN-
 7 TITIES.—

8 “(1) IN GENERAL.—The Commissioner of U.S.
 9 Customs and Border Protection may not admit an
 10 article free of duty or tax under subsection (a)(2)(C)
 11 if a covered entity is listed on the manifest or ship-
 12 per declaration of the shipment of the article.

13 “(2) PUBLICATION REQUIREMENT.—Not later
 14 than 270 days after the date of the enactment of the
 15 Detection and Exclusion of Negligent, Illicit, and
 16 Extralegal Deliveries Act, and every 90 days there-
 17 after, the Secretary shall publish a list of covered
 18 entities, which shall include, for each such entity, a
 19 description of the violations of law that justify inclu-
 20 sion on the list.

21 “(3) REMOVAL FROM LIST.—

22 “(A) IN GENERAL.—The Commissioner of
 23 U.S. Customs and Border Protection shall de-
 24 velop regulations establishing procedures under
 25 which a covered entity included on the list re-

1 required by paragraph (2) may petition for re-
2 moval from that list.

3 “(B) REQUIREMENT.—Under the regula-
4 tions established under subparagraph (A), a
5 covered entity may request removal from the
6 list required by paragraph (2) by filing a peti-
7 tion pursuant to subparagraph (C) in which the
8 entity demonstrates that it is no longer engag-
9 ing in the violations of law that justify inclusion
10 on the list.

11 “(C) PROCEDURE.—

12 “(i) ADMINISTRATIVE REVIEW.—Not
13 earlier than one year after the date on
14 which a covered entity is included on the
15 list required by paragraph (2), the covered
16 entity may file with the Commissioner of
17 U.S. Customs and Border Protection a pe-
18 tition described in subparagraph (B).

19 “(ii) JUDICIAL REVIEW.—If the Com-
20 missioner denies the petition filed under
21 clause (i), the covered entity may seek ju-
22 dicial review in the United States Court of
23 International Trade.

24 “(D) EFFECT OF REMOVAL.—Upon re-
25 moval of a covered entity under subparagraph

1 (A) from the list required by paragraph (2),
 2 that covered entity is no longer subject to the
 3 prohibition under subsection (a)(2)(C).

4 “(4) REFERRAL TO THE FORCED LABOR EN-
 5 FORCEMENT TASK FORCE.—The Commissioner of
 6 U.S. Customs and Border Protection shall refer any
 7 covered entity included on the list required by para-
 8 graph (2) for activity described in paragraph
 9 (6)(C)(ii)(I) to the Forced Labor Enforcement Task
 10 Force for possible inclusion on a list maintained
 11 under clause (i), (ii), (iv), or (v) of section
 12 2(d)(2)(B) of the Act entitled ‘An Act to ensure that
 13 goods made with forced labor in the Xinjiang Auton-
 14 omous Region of the People’s Republic of China do
 15 not enter the United States market, and for other
 16 purposes’, approved December 23, 2021 (Public Law
 17 117–78; 22 U.S.C. 6901 note) (commonly referred
 18 to as the ‘Uyghur Forced Labor Prevention Act’).

19 “(5) PENALTIES.—

20 “(A) CIVIL PENALTY.—Any person that
 21 violates this subsection or the regulations pre-
 22 scribed under this subsection is liable for a civil
 23 penalty in an amount not to exceed—

24 “(i) \$1,000 for the first violation; and

1 “(ii) \$5,000 for each subsequent viola-
 2 tion.

3 “(B) ADDITIONAL PENALTIES.—A penalty
 4 imposed under this paragraph shall be in addi-
 5 tion to any other penalty provided by law.

6 “(6) COVERED ENTITY DEFINED.—

7 “(A) IN GENERAL.—In this section, the
 8 term ‘covered entity’ means an entity that—

9 “(i) is listed on the manifest or ship-
 10 per declaration of a shipment to a common
 11 carrier, foreign postal operator, or freight
 12 forwarder for exportation to the United
 13 States to be entered under subsection
 14 (a)(2)(C); and

15 “(ii) has been assessed a penalty de-
 16 scribed in subparagraph (B) on more than
 17 2 occasions in a one-year period.

18 “(B) PENALTY DESCRIBED.—

19 “(i) IN GENERAL.—A penalty is de-
 20 scribed in this subparagraph if the penalty
 21 is assessed under any of the following and
 22 relates to an article described in clause (ii):

23 “(I) section 592(c)(1);

24 “(II) section 592(c)(2);

25 “(III) section 596(b); or

1 “(IV) section 526(f).

2 “(ii) ARTICLES DESCRIBED.—An arti-
3 cle is described in this clause if the arti-
4 cle—

5 “(I) is produced with forced labor
6 (as defined in section 307);

7 “(II) bears a counterfeit mark
8 (within the meaning of section 45 of
9 the Act entitled ‘An Act to provide for
10 the registration and protection of
11 trademarks used in commerce, to
12 carry out the provisions of certain
13 international conventions, and for
14 other purposes’, approved July 5,
15 1946 (commonly known as the
16 ‘Trademark Act of 1946’ or the
17 ‘Lanham Act’) (15 U.S.C. 1127)); or

18 “(III) is a controlled substance
19 (as defined in section 102 of the Con-
20 trolled Substances Act (21 U.S.C.
21 802)) that is not imported in accord-
22 ance with applicable law.

23 “(d) DETERMINATION OF APPLICATION OF EXEMP-
24 TION.—

1 “(1) IN GENERAL.—The Commissioner of U.S.
 2 Customs and Border Protection shall determine
 3 whether a shipment is eligible to be entered under
 4 subsection (a)(2)(C) based on information provided
 5 by the shipper during the entry process.

6 “(2) TECHNOLOGY.—The Commissioner may
 7 identify, test, obtain, and deploy any technology nec-
 8 essary to carry out paragraph (1).”.

9 **SEC. 3. REGULATIONS ON ENHANCED DATA COLLECTION**
 10 **FOR IDENTIFICATION OF PROHIBITED ARTI-**
 11 **CLES.**

12 (a) REQUIREMENT FOR REGULATIONS.—Not later
 13 than 180 days after the date of the enactment of this Act,
 14 the Secretary of the Treasury shall prescribe regulations
 15 requiring the provision of documentation or information
 16 necessary for U.S. Customs and Border Protection to de-
 17 termine whether the articles for which an administrative
 18 exemption from duties under subsection (a)(2)(C) of sec-
 19 tion 321 of the Tariff Act of 1930 (19 U.S.C. 1321) is
 20 sought are articles described in subsection (c)(1) of that
 21 section (as added by section 2 of this Act) or are otherwise
 22 prohibited from entering the United States.

23 (b) DEVELOPMENT OF REGULATIONS.—In devel-
 24 oping the regulations required by subsection (a), the Sec-
 25 retary of the Treasury shall—

1 (1) ensure the protection of the privacy of pro-
2 proprietary information (within the meaning of section
3 777(b) of the Tariff Act of 1930 (19 U.S.C.
4 1677f(b))), except for information shared through
5 the International Trade Data System established
6 pursuant to section 411(d) of the Tariff Act of 1930
7 (19 U.S.C. 1411(d)), with Federal agencies partici-
8 pating in that system; and

9 (2) adhere to the parameters described in sub-
10 paragraphs (A) through (E) and (H) through (J) of
11 section 343(a)(3) of the Trade Act of 2002 (19
12 U.S.C. 1415(a)(3)).

13 (c) INTERNATIONAL MAIL SHIPMENTS.—To the ex-
14 tent feasible and consistent with international law, the
15 Postmaster General shall provide to the Secretary of the
16 Treasury any information, requested by the Secretary in
17 regulations prescribed under subsection (a), necessary to
18 determine whether articles in international mail shipments
19 for which an administrative exemption from duties under
20 section 321(a)(2)(C) of the Tariff Act of 1930 (19 U.S.C.
21 1321(a)(2)(C)) is sought are articles described in sub-
22 section (c)(1) of that section (as added by section 2 of
23 this Act) or are otherwise prohibited from entering the
24 United States.

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. 4. MODIFICATION TO THE JURISDICTION OF THE**
 11 **COURT OF INTERNATIONAL TRADE.**

12 (a) IN GENERAL.—Section 1581 of title 28, United
 13 States Code, is amended by adding at the end the fol-
 14 lowing:

15 “(k) The Court of International Trade shall have ex-
 16 clusive jurisdiction of any civil action commenced under
 17 section 321(c)(3) of the Tariff Act of 1930 (19 U.S.C.
 18 1321(c)(3)).”.

19 (b) CONFORMING AMENDMENTS.—Section
 20 1581(i)(1) of title 28, United States Code, is amended—

21 (1) in the matter preceding subparagraph (A),
 22 by striking “subsections (a)–(h) and” and inserting
 23 “subsections (a)–(h) and subsection (k) and”; and

1 (2) in subparagraph (D), by striking “sub-
2 sections (a)–(h)” and inserting “subsections (a)–(h)
3 and subsection (k)”.

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