

118TH CONGRESS
1ST SESSION

S. 3431

To amend the Tariff Act of 1930 to strengthen the authorities of U.S. Customs and Border Protection to enforce the customs and trade laws of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2023

Mr. CASSIDY (for himself and Mr. WHITEHOUSE) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Tariff Act of 1930 to strengthen the authorities of U.S. Customs and Border Protection to enforce the customs and trade laws of 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Customs Modernization Act of 2023”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED COLLECTION AND USE OF INFORMATION

- Sec. 101. Modification of requirements for filing of entry documentation.
- Sec. 102. Expansion of recordkeeping requirements relating to importation.
- Sec. 103. Expansion of authority of U.S. Customs and Border Protection to obtain information relating to importation and trade enforcement.
- Sec. 104. Use of mandatory advance electronic information for cargo.

TITLE II—STRENGTHENED ENFORCEMENT OF IMPORT AND EXPORT PROHIBITIONS

- Sec. 201. Examination and testing of merchandise that infringes intellectual property rights.
- Sec. 202. Seizure and forfeiture and disposition of, and expanded liability for, merchandise bearing a counterfeit mark or infringing a copyright.
- Sec. 203. Summary forfeiture of certain merchandise.

TITLE III—LIABILITY FOR VIOLATIONS OF CUSTOMS AND TRADE LAWS

- Sec. 301. Expansion of liability for certain violations of arrival, reporting, entry, and clearance requirements.
- Sec. 302. Modification of standards and penalties for fraud and negligence.
- Sec. 303. Expansion of liability for aiding unlawful importation and exportation.
- Sec. 304. Procedures for investigating claims of evasion of antidumping and countervailing duty orders.
- Sec. 305. Obstruction of investigations.
- Sec. 306. Modification of bonding requirements.
- Sec. 307. Treatment of importations involving suspended or debarred persons.

TITLE IV—ADMINISTRATIVE EXEMPTIONS FROM DUTIES

- Sec. 401. Collection and use of data relating to eligibility for administrative exemption to duties.
- Sec. 402. Streamlined disposition of merchandise subject to administrative exemptions.

TITLE V—OTHER MATTERS

- Sec. 501. Protests against decisions of U.S. Customs and Border Protection.
- Sec. 502. Reduction of administrative burdens.
- Sec. 503. Authority to conduct communications electronically.
- Sec. 504. Disclosure of vessel, aircraft, or vehicle manifest information.

1 **TITLE I—IMPROVED COLLEC-**
2 **TION AND USE OF INFORMA-**
3 **TION**

4 **SEC. 101. MODIFICATION OF REQUIREMENTS FOR FILING**
5 **OF ENTRY DOCUMENTATION.**

6 (a) ELECTRONIC FILING.—Section 484(a) of the
7 Tariff Act of 1930 (19 U.S.C. 1484(a)) is amended—

8 (1) in paragraph (1)—

9 (A) in the matter preceding subparagraph

10 (A)—

11 (i) by inserting “with respect to mer-

12 chandise” after “paragraph (2)(B)”; and

13 (ii) by inserting after “reasonable

14 care” the following: “make entry therefor

15 by filing with U.S. Customs and Border

16 Protection, pursuant to an authorized elec-

17 tronic data interchange system”;

18 (B) in subparagraph (A)—

19 (i) by striking “make entry” and all

20 that follows through “interchange system,

21 such” and inserting “such documentation

22 or”; and

23 (ii) by striking the semicolon and in-

24 serting “; and”; and

25 (C) in subparagraph (B)—

1 (i) by striking “complete the entry”
2 and all that follows through “with the Cus-
3 toms Service”; and

4 (ii) by striking “, pursuant to an elec-
5 tronic data interchange system, such
6 other”;

7 (2) in paragraph (2)—

8 (A) in subparagraph (A)—

9 (i) in the second sentence, by striking
10 “regulations shall provide” and inserting
11 “regulations may provide”; and

12 (ii) in the third sentence, by striking
13 “paragraph (1)(A)” and inserting “para-
14 graph (1)”; and

15 (B) in subparagraph (B), in the first sen-
16 tence, by striking “filed or electronically trans-
17 mitted” and inserting “electronically filed”; and

18 (3) by adding at the end the following:

19 “(3) EXEMPTIONS FROM ELECTRONIC FILING
20 REQUIREMENT.—The Secretary may, for such rea-
21 sons as the Secretary deems necessary, exempt the
22 filing of documentation or information required
23 under this section from the requirement that the
24 documentation or information be filed through an
25 authorized electronic data interchange system, in-

1 cluding by providing for temporary exemptions to
2 that requirement.”.

3 (b) PROVISION OF ADVANCE INFORMATION.—Section
4 484(a)(2) of the Tariff Act of 1930, as amended by sub-
5 section (a)(2), is further amended by adding at the end
6 the following:

7 “(D) PROVISION OF ADVANCE INFORMATION.—

8 “(i) IN GENERAL.—Upon request by a
9 party that would qualify as an importer of
10 record or an authorized agent of that party and
11 under such regulations as the Secretary may
12 prescribe, U.S. Customs and Border Protection
13 may—

14 “(I) permit the party or agent, or a
15 party other than the party or agent, to
16 provide to U.S. Customs and Border Pro-
17 tection documentation or information with
18 respect to merchandise in advance of entry
19 of the merchandise; and

20 “(II) permit the importer of record to,
21 using reasonable care, convert that docu-
22 mentation or information into a filing
23 under subparagraph (B), subject to the
24 certification requirement under subsection
25 (d).

1 “(ii) TYPE OF DOCUMENTATION OR INFOR-
2 MATION AND USAGE.—Documentation or infor-
3 mation with respect to merchandise provided to
4 U.S. Customs and Border Protection pursuant
5 to regulations prescribed by the Secretary
6 under clause (i) may be used by U.S. Customs
7 and Border Protection for any lawful purpose.

8 “(iii) ACCURACY OF DOCUMENTATION AND
9 INFORMATION.—

10 “(I) IN GENERAL.—A party providing
11 documentation or information under clause
12 (i)(I) shall ensure that the documentation
13 or information is true and correct to the
14 best of the knowledge and belief of the
15 party, subject to any penalties authorized
16 by law.

17 “(II) EXCEPTION.—The Secretary
18 shall, in the regulations prescribed under
19 clause (i), permit a party to provide to
20 U.S. Customs and Border Protection docu-
21 mentation or information under clause
22 (i)(I) on the basis of the reasonable belief
23 of the party that the documentation or in-
24 formation is true and correct if the party

1 is not reasonably able to verify the docu-
2 mentation or information.

3 “(iv) CIVIL PENALTY.—

4 “(I) IN GENERAL.—Any person who
5 violates the regulations prescribed under
6 this subparagraph is liable for a civil pen-
7 alty in an amount not to exceed—

8 “(aa) \$5,000 for the first viola-
9 tion; and

10 “(bb) \$10,000 for each subse-
11 quent violation.

12 “(II) ASSESSMENT PER UNIT.—A
13 penalty imposed under this clause shall be
14 assessed per item on the bill of lading.

15 “(III) ADDITIONAL PENALTIES.—A
16 penalty imposed under this clause may be
17 in addition to any other penalty provided
18 by law.

19 “(IV) REMISSION; MITIGATION.—A
20 penalty imposed under this clause may be
21 remitted or mitigated, as appropriate,
22 under section 618.

23 “(v) REGULATIONS.—Except with respect
24 to merchandise the importation of which into
25 the United States is prohibited or merchandise

1 subject to a presumption of inadmissibility by
2 operation of law, the Secretary, in promulgating
3 such regulations as may be necessary to carry
4 out the provisions of this subparagraph, shall
5 give due consideration, where appropriate, with
6 respect to the manner in which documentation
7 or information that is provided to U.S. Customs
8 and Border Protection prior to entry of the
9 merchandise to which the documentation or in-
10 formation relates, and pursuant to such regula-
11 tions, will support trade facilitation (as defined
12 in section 2 of the Trade Facilitation and
13 Trade Enforcement Act of 2015 (19 U.S.C.
14 4301)), including whether such documentation
15 or information would—

16 “(I) facilitate the priority processing
17 and expedited release of merchandise from
18 customs custody;

19 “(II) reduce redundancies in the trade
20 data that parties in a supply chain are re-
21 quired to provide; and

22 “(III) allow for the opportunity to re-
23 solve requests for additional information
24 prior to departure or arrival of the mer-
25 chandise.

1 “(vi) DEFINITION.—In this subparagraph,
2 the terms ‘provide’, ‘providing’, and ‘provision’,
3 with respect to documentation or information
4 provided to U.S. Customs and Border Protec-
5 tion, include—

6 “(I) the submission or transmission of
7 the documentation or information;

8 “(II) the provision of the documenta-
9 tion or information in a manner that is
10 progressive over time, as long as such pro-
11 vision concludes prior to conversion into an
12 entry filing under subparagraph (B), and
13 may include documentation or information
14 that is also provided to U.S. Customs and
15 Border Protection pursuant to other re-
16 quirements or authorities; and

17 “(III) otherwise making available to
18 U.S. Customs and Border Protection the
19 documentation or information in accord-
20 ance with such terms and conditions as the
21 Secretary may by regulation prescribe.”.

22 (c) RELEASE OF MERCHANDISE.—Section 484(c) of
23 the Tariff Act of 1930 is amended to read as follows:

24 “(c) RELEASE OF MERCHANDISE.—

1 “(1) IN GENERAL.—U.S. Customs and Border
2 Protection may permit the entry and release of mer-
3 chandise from customs custody in accordance with
4 such regulations as the Secretary may prescribe.

5 “(2) LIABILITY OF CUSTOMS OFFICERS.—No
6 employee of U.S. Customs and Border Protection
7 shall be liable to any person with respect to the de-
8 livery of merchandise released from customs custody
9 in accordance with regulations prescribed under
10 paragraph (1).”.

11 (d) CERTIFICATION OF ENTRY FILINGS.—Section
12 484(d) of the Tariff Act of 1930 is amended—

13 (1) in the subsection heading, by striking
14 “SIGNING” and inserting “CERTIFICATION”;

15 (2) in paragraph (1)—

16 (A) by striking “Entries shall be” and all
17 that follows through “transmission of data”
18 and inserting “Each filing under subsection
19 (a)(2)(B)”;

20 (B) by striking “his agent” and inserting
21 “an agent of the importer of record”;

22 (C) by striking “his knowledge and belief”
23 and inserting “the knowledge and belief of the
24 importer of record or agent”; and

1 (D) by striking “The entry shall” and in-
2 serting “If exempt from electronic filing, the
3 entry shall be signed by the importer of record
4 or agent. The entry shall”; and

5 (3) in paragraph (2)—

6 (A) by striking “imported merchandise
7 bears” and inserting the following: “imported
8 merchandise—

9 “(A) bears”;

10 (B) by striking the period at the end and
11 inserting “; or”; and

12 (C) by adding at the end the following:

13 “(B) infringes a copyright in violation of sec-
14 tion 602 of title 17, United States Code.”.

15 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

16 Section 484 of the Tariff Act of 1930, as amended by this
17 section, is further amended—

18 (1) in subsection (b)(1), in the third sentence,
19 by striking “subsection (a)(1)(B)” and inserting
20 “subsection (a)(1)”;

21 (2) by striking “the Bureau of Customs and
22 Border Protection” each place it appears and insert-
23 ing “U.S. Customs and Border Protection”; and

1 U.S. Customs and Border Protection or U.S.
2 Immigration and Customs Enforcement; or”;

3 (4) by inserting after paragraph (3) the fol-
4 lowing:

5 “(4) owner or operator of a commercial or mar-
6 keting platform or marketplace, including an elec-
7 tronic commerce platform or marketplace, through
8 which merchandise that is imported into the United
9 States is offered for sale or purchase within the
10 United States;”; and

11 (5) in the flush text following paragraph (4), as
12 so inserted, by striking subparagraph (A) and insert-
13 ing the following:

14 “(A) pertain to—

15 “(i) any such activity;

16 “(ii) the role of the party in a transaction
17 resulting in the sale or purchase of imported
18 merchandise within the United States; or

19 “(iii) the information contained in the
20 records required by the customs and trade laws
21 of the United States in connection with any
22 such activity or transaction; and”.

1 **SEC. 103. EXPANSION OF AUTHORITY OF U.S. CUSTOMS AND**
2 **BORDER PROTECTION TO OBTAIN INFORMA-**
3 **TION RELATING TO IMPORTATION AND**
4 **TRADE ENFORCEMENT.**

5 (a) IN GENERAL.—Section 509(a) of the Tariff Act
6 of 1930 (19 U.S.C. 1509(a)) is amended—

7 (1) in the matter preceding paragraph (1), by
8 striking “insuring” and all that follows through
9 “charge)” and inserting the following: “ensuring
10 compliance with the customs and trade laws of the
11 United States (as defined in section 2 of the Trade
12 Facilitation and Trade Enforcement Act of 2015 (19
13 U.S.C. 4301)) administered by U.S. Customs and
14 Border Protection or U.S. Immigration and Customs
15 Enforcement, the Secretary (but no delegate of the
16 Secretary below the rank of port director, director of
17 a Center of Excellence and Expertise, field director
18 of regulatory audit, or special agent in charge)”;

19 (2) in paragraph (1)—

20 (A) in the matter preceding subparagraph
21 (A), by striking “except that” and inserting
22 “and”;

23 (B) in subparagraph (A), by striking “by
24 law” and all that follows through “Customs
25 Service within” and inserting the following: “to
26 be kept under section 508, the record shall be

1 provided to the agency demanding the record
2 within”; and

3 (C) in subparagraph (B), by striking “the
4 demand” and all that follows and inserting the
5 following: “the demand—

6 “(i) the person may be subject to pen-
7 alty under subsection (g); and

8 “(ii) if U.S. Customs and Border Pro-
9 tection determines that the person has
10 failed to make reasonable efforts to comply
11 with the demand, U.S. Customs and Bor-
12 der Protection may use, in selecting from
13 among the facts otherwise available, an in-
14 ference that is adverse to the interests of
15 the person in—

16 “(I) ascertaining the correctness
17 of any entry; and

18 “(II) determining the liability of
19 any person for—

20 “(aa) fines and penalties;
21 and

22 “(bb) duty, fees, and taxes
23 that may be due to the United
24 States.”; and

25 (3) in paragraph (2)—

1 (A) in subparagraph (A)—

2 (i) by redesignating clauses (ii), (iii),
3 and (iv) as clauses (iii), (iv), and (v), re-
4 spectively, and by moving such clauses, as
5 so redesignated, 2 ems to the left;

6 (ii) by striking “(A) the person who—
7 ” and all that follows through “Act),” and
8 inserting the following:

9 “(A)(i) a person that imported, or know-
10 ingly caused to be imported, merchandise into
11 the customs territory of the United States, or
12 participated in, facilitated, or was otherwise
13 knowingly connected or related to the importa-
14 tion of merchandise;

15 “(ii) a vehicle producer whose good is sub-
16 ject to a claim of preferential tariff treatment
17 under the USMCA (as defined in section 3 of
18 the United States-Mexico-Canada Agreement
19 Implementation Act (19 U.S.C. 4502)),”;

20 (iii) in clause (iii), as redesignated by
21 clause (i), by inserting “a person that” be-
22 fore “exported merchandise”;

23 (iv) in clause (iv), as so redesign-
24 nated—

1 (I) by inserting “a person that”
2 before “transported”; and

3 (II) by striking “storage, or” and
4 inserting “storage,”;

5 (v) in clause (v), as so redesignated—

6 (I) by inserting “a person that”
7 before “filed”; and

8 (II) by striking “the Customs
9 Service;” and inserting the following:
10 “U.S. Customs and Border Protec-
11 tion, or submitted, transmitted, or
12 otherwise made available or visible to
13 U.S. Customs and Border Protection
14 documentation or information under
15 the customs and trade laws of the
16 United States (as defined in section 2
17 of the Trade Facilitation and Trade
18 Enforcement Act of 2015 (19 U.S.C.
19 4301)) administered by U.S. Customs
20 and Border Protection or U.S. Immi-
21 gration and Customs Enforcement,
22 or”; and
23 (vi) by adding at the end the fol-
24 lowing:

1 “(v) an owner or operator of a commercial
2 or marketing platform or marketplace through
3 which merchandise that is imported into the
4 United States is offered for sale or purchase
5 within the United States;” and

6 (B) in the flush text following subpara-
7 graph (D), by striking “records, as defined in
8 subsection (d)(1)(A)” and inserting “records,
9 which may include records defined in subsection
10 (d)(1)(A)”.

11 (b) DEFINITION OF RECORDS.—Section
12 509(d)(1)(A) of the Tariff Act of 1930 (19 U.S.C.
13 1509(d)(1)(A)) is amended—

14 (1) in clause (i), by striking “; or” and insert-
15 ing a semicolon;

16 (2) in clause (ii), by striking the period at the
17 end and inserting “; or”; and

18 (3) by adding at the end the following:

19 “(iii) that pertain to nonpayment of
20 all or a portion of any lawful duties, taxes,
21 or fees that may be due to the United
22 States.”.

23 (c) IDENTIFICATION OF RECORDS AND INFORMA-
24 TION.—Section 509(e) of the Tariff Act of 1930 (19
25 U.S.C. 1509(e)) is amended to read as follows:

1 “(e) IDENTIFICATION OF RECORDS AND INFORMA-
2 TION.—The Commissioner of U.S. Customs and Border
3 Protection shall prescribe regulations identifying the
4 records and information required to be maintained and
5 produced under subsection (a)(1)(A).”.

6 (d) TECHNICAL AMENDMENTS.—Section 509 of the
7 Tariff Act of 1930, as amended by this section, is further
8 amended by striking “the Customs Service” each place it
9 appears and inserting “U.S. Customs and Border Protec-
10 tion”.

11 **SEC. 104. USE OF MANDATORY ADVANCE ELECTRONIC IN-**
12 **FORMATION FOR CARGO.**

13 Section 343 of the Customs Border Security Act of
14 2002 (19 U.S.C. 1415) is amended—

15 (1) in subsection (a)—

16 (A) in paragraph (2), in the first sentence,
17 by striking “cargo safety” and all that follows
18 through “Customs Service” and inserting “com-
19 pliance with customs and trade laws of the
20 United States (as defined in section 2 of the
21 Trade Facilitation and Trade Enforcement Act
22 of 2015 (19 U.S.C. 4301)) administered by
23 U.S. Customs and Border Protection”; and

24 (B) in paragraph (3), by striking subpara-
25 graph (F) and inserting the following:

1 “(F)(i) Except as provided by clause (ii),
 2 the information collected pursuant to the regu-
 3 lations may be used for any lawful purpose or
 4 reason, as determined by the Secretary.

5 “(ii) All information collected pursuant to
 6 the regulations may be shared only in accord-
 7 ance with the law, including section 628 of the
 8 Tariff Act of 1930 (19 U.S.C. 1628) and regu-
 9 lations prescribed under that section.”; and

10 (2) by striking “the Customs Service” each
 11 place it appears and inserting “U.S. Customs and
 12 Border Protection”.

13 **TITLE II—STRENGTHENED EN-**
 14 **FORCEMENT OF IMPORT AND**
 15 **EXPORT PROHIBITIONS**

16 **SEC. 201. EXAMINATION AND TESTING OF MERCHANDISE**
 17 **THAT INFRINGES INTELLECTUAL PROPERTY**
 18 **RIGHTS.**

19 (a) EXPANSION OF INFORMATION THAT MAY BE
 20 PROVIDED.—Section 628A of the Tariff Act of 1930 (19
 21 U.S.C. 1628a) is amended—

22 (1) in the section heading, by striking “**EX-**
 23 **CHANGE OF INFORMATION RELATED TO TRADE**
 24 **ENFORCEMENT**” and inserting “**EXAMINATION**

1 **AND TESTING OF MERCHANDISE THAT IN-**
2 **FRINGES INTELLECTUAL PROPERTY RIGHTS”;**

3 (2) in subsection (a)—

4 (A) in the matter preceding paragraph

5 (1)—

6 (i) by striking “suspects” and insert-
7 ing “has a reasonable suspicion”; and

8 (ii) by inserting after “and testing”
9 the following: “, may provide to the per-
10 son”;

11 (B) in paragraph (1)—

12 (i) by striking “shall provide to the
13 person”; and

14 (ii) by striking “; and” and inserting
15 a semicolon;

16 (C) in paragraph (2)—

17 (i) by striking “may” and all that fol-
18 lows through “the person” and inserting
19 “subject to any applicable bonding require-
20 ments,”; and

21 (ii) by striking the period at the end
22 and inserting “; and”; and

23 (D) by adding at the end the following:

24 “(3) subject to subsection (e), nonpublic infor-
25 mation that has been provided to, or shared with,

1 U.S. Customs and Border Protection about the mer-
2 chandise generated by an online marketplace or
3 other similar market platform, an express consign-
4 ment operator, a freight forwarder, or any other en-
5 tity that plays a role in the sale or importation, or
6 facilitation of the sale or importation, of merchan-
7 dise into the United States.”; and

8 (3) by adding at the end the following:

9 “(e) NOTIFICATION.—If U.S. Customs and Border
10 Protection provides under subsection (a)(3) nonpublic in-
11 formation to a person described in subsection (b), U.S.
12 Customs and Border Protection shall provide to that per-
13 son notification of the information so provided, in accord-
14 ance with such regulations as the Secretary may pre-
15 scribe.”.

16 (b) SHARING OF IMPORTATION DATA RELATED TO
17 TRADE ENFORCEMENT.—The Tariff Act of 1930 (19
18 U.S.C. 1304 et seq.) is amended by inserting after section
19 628A the following:

20 **“SEC. 628B. EXCHANGE OF SHIPMENT INFORMATION RE-**
21 **LATED TO TRADE ENFORCEMENT.**

22 “(a) IN GENERAL.—Subject to subsection (d), and
23 pursuant to regulations prescribed by the Secretary of the
24 Treasury, the Commissioner of U.S. Customs and Border
25 Protection may provide information about a shipment to

1 a person described in subsection (b) if the Commissioner
2 determines that—

3 “(1) the shipment is being imported into the
4 United States in violation of section 526(e) of this
5 Act or section 602, 1201(a)(2), or 1201(b)(1) of
6 title 17, United States Code; or

7 “(2) subject to subsection (d), sharing of infor-
8 mation with respect to the shipment with a person
9 described in subsection (b) would promote compli-
10 ance with the customs and trade laws of the United
11 States (as defined in section 2 of the Trade Facilita-
12 tion and Trade Enforcement Act of 2015 (19 U.S.C.
13 4301)).

14 “(b) PERSON DESCRIBED.—A person described in
15 this subsection, with respect to a shipment described in
16 subsection (a), is—

17 “(1) a person described in section 628A(b);

18 “(2) an online marketplace or other similar
19 market platform that facilitates the importation of
20 merchandise into the United States or the sale of
21 imported merchandise in the United States;

22 “(3) an express consignment operator;

23 “(4) a freight forwarder; or

1 “(5) any other entity that plays a role in the
2 sale or importation, or facilitation of the sale or im-
3 portation, of merchandise into the United States.

4 “(c) NOTIFICATION.—If U.S. Customs and Border
5 Protection provides under subsection (a)(2) information to
6 a person described in subsection (b), U.S. Customs and
7 Border Protection shall provide to that person notification
8 of the information so provided, in accordance with such
9 regulations as the Secretary may prescribe.

10 “(d) EXCEPTION.—The Commissioner may not pro-
11 vide information under subsection (a) to a person de-
12 scribed in subsection (b) if providing that information
13 would compromise an ongoing law enforcement investiga-
14 tion or national security.”.

15 **SEC. 202. SEIZURE AND FORFEITURE AND DISPOSITION OF,**
16 **AND EXPANDED LIABILITY FOR, MERCHAN-**
17 **DISE BEARING A COUNTERFEIT MARK OR IN-**
18 **FRINGING A COPYRIGHT.**

19 (a) SEIZURE AND FORFEITURE AND DISPOSITION.—
20 Section 526(e) of the Tariff Act of 1930 (19 U.S.C.
21 1526(e)) is amended to read as follows:

22 “(e) SEIZURE AND FORFEITURE AND DISPOSITION
23 OF MERCHANDISE BEARING A COUNTERFEIT MARK OR
24 INFRINGEMENT A COPYRIGHT.—

1 “(1) IN GENERAL.—Merchandise described in
2 paragraph (2) shall—

3 “(A) be seized or otherwise interdicted
4 pursuant to such regulations as the Secretary
5 shall prescribe; and

6 “(B) in the absence of the written consent
7 of the owner of the mark or copyright being in-
8 fringed, be forfeited for violations of the cus-
9 toms laws.

10 “(2) MERCHANDISE DESCRIBED.—Merchandise
11 described in this paragraph is—

12 “(A) merchandise bearing a counterfeit
13 mark that is—

14 “(i) imported into the United States
15 in violation of the provisions of section 42
16 of the Lanham Act (15 U.S.C. 1124); or

17 “(ii) exported or sent from the United
18 States or attempted to be exported or sent
19 from the United States; or

20 “(B) merchandise that is imported into or
21 exported from the United States in violation of
22 section 602 of title 17, United States Code.

23 “(3) SUMMARY FORFEITURE.—

24 “(A) IN GENERAL.—In the case of mer-
25 chandise described in subparagraph (B)—

1 “(i) such merchandise may be sum-
2 marily forfeited for violations of the cus-
3 toms laws; and

4 “(ii) title to such merchandise shall
5 vest immediately in the United States.

6 “(B) MERCHANDISE DESCRIBED.—Mer-
7 chandise is described in this subparagraph if—

8 “(i) the merchandise is merchandise
9 described in paragraph (2); and

10 “(ii)(I) in the case of merchandise
11 being imported or attempted to be im-
12 ported, an administrative exemption under
13 section 321(a)(2)(C) is claimed with re-
14 spect to the merchandise; or

15 “(II) in the case of merchandise being
16 exported or sent or attempted to be ex-
17 ported or sent from the United States, the
18 aggregate value of the shipment of the
19 merchandise at the time the merchandise
20 is exported or sent from the United States
21 or attempted to be exported or sent from
22 the United States is equal to or less than
23 \$800.

24 “(C) NOTICE.—Upon seizure of merchan-
25 dise described in subparagraph (B), the Sec-

1 retary shall notify the owner of the mark or
2 copyright being infringed in such form and
3 manner as the Secretary shall prescribe by reg-
4 ulation, which may include communication
5 through an authorized electronic data inter-
6 change system.

7 “(4) DISPOSITION OF MERCHANDISE.—After
8 forfeiture of merchandise under paragraph (1)—

9 “(A) the Secretary shall destroy the mer-
10 chandise; or

11 “(B) if the merchandise is not unsafe or a
12 hazard to health, and the Secretary has the
13 consent of the owner of the mark or copyright
14 being infringed, the Secretary may obliterate
15 the mark where feasible and dispose of the mer-
16 chandise—

17 “(i) by delivery to such Federal,
18 State, and local government agencies as in
19 the opinion of the Secretary have a need
20 for such merchandise;

21 “(ii) by gift to such eleemosynary in-
22 stitutions as in the opinion of the Sec-
23 retary have a need for such merchandise;
24 or

1 “(iii) more than 90 days after the
2 date of forfeiture, by sale by U.S. Customs
3 and Border Protection at public auction
4 under such regulations as the Secretary
5 prescribes, except that before making any
6 such sale the Secretary shall determine
7 that no Federal, State, or local government
8 agency or eleemosynary institution has es-
9 tablished a need for such merchandise
10 under clause (i) or (ii).

11 “(5) DEFINITION.—In this subsection:

12 “(A) COUNTERFEIT MARK.—The term
13 ‘counterfeit mark’ means a mark that is coun-
14 terfeit within the meaning of section 45 of the
15 Lanham Act (15 U.S.C. 1127).

16 “(B) LANHAM ACT.—The term ‘Lanham
17 Act’ means the Act entitled ‘An Act to provide
18 for the registration and protection of trade-
19 marks used in commerce, to carry out the pro-
20 visions of certain international conventions, and
21 for other purposes’, approved July 5, 1946
22 (commonly known as the ‘Trademark Act of
23 1946’ or the ‘Lanham Act’) (15 U.S.C. 1051 et
24 seq.).

1 “(C) MARK.—The term ‘mark’ has the
2 meaning given that term in section 45 of the
3 Lanham Act (15 U.S.C. 1127).”.

4 (b) EXPANSION OF LIABILITY FOR IMPORTING MER-
5 CHANDISE BEARING A COUNTERFEIT MARK OR INFRING-
6 ING A COPYRIGHT.—Section 526(f) of the Tariff Act of
7 1930 (19 U.S.C. 1526(f)) is amended—

8 (1) in paragraph (1)—

9 (A) by striking “assists” and inserting “or
10 assists,”; and

11 (B) by striking “the importation” and all
12 that follows through “subsection (e)” and in-
13 serting “any importation or exportation of mer-
14 chandise in violation of subsection (e)”;

15 (2) in paragraph (2), by inserting “or for the
16 first interdiction of such merchandise for which no-
17 tice has been provided pursuant to such regulations
18 as the Secretary shall prescribe,” after “such sei-
19 zure,”;

20 (3) in paragraph (3), by inserting “or for the
21 second interdiction and thereafter of such merchan-
22 dise for which notice has been provided pursuant to
23 such regulations as the Secretary shall prescribe,”
24 after “thereafter,”; and

1 (4) in paragraph (4), by striking “the Customs
2 Service” and inserting “U.S. Customs and Border
3 Protection”.

4 (c) CONFORMING AMENDMENT.—Section 526 of the
5 Tariff Act of 1930 (19 U.S.C. 1526) is amended, in the
6 section heading, by inserting “**OR PROTECTED COPY-**
7 **RIGHTED WORK**” after “**TRADE-MARK**”.

8 **SEC. 203. SUMMARY FORFEITURE OF CERTAIN MERCHAN-**
9 **DISE.**

10 (a) MERCHANDISE IMPORTED OR EXPORTED CON-
11 TRARY TO LAW.—Section 596 of the Tariff Act of 1930
12 (19 U.S.C. 1595a) is amended—

13 (1) by adding at the end the following:

14 “(e) SUMMARY FORFEITURE.—

15 “(1) IN GENERAL.—Merchandise described in
16 paragraph (2) may be summarily forfeited to the
17 United States and title shall vest immediately in the
18 United States.

19 “(2) MERCHANDISE DESCRIBED.—Merchandise
20 is described in this paragraph if—

21 “(A)(i) in the case of merchandise being
22 imported or attempted to be imported, an ad-
23 ministrative exemption under section
24 321(a)(2)(C) is claimed with respect to the
25 merchandise; or

1 “(ii) in the case of merchandise being ex-
2 ported or sent or attempted to be exported or
3 sent from the United States, the aggregate
4 value of the shipment of the merchandise at the
5 time the merchandise is exported or sent from
6 the United States or attempted to be exported
7 or sent from the United States is equal to or
8 less than \$800; and

9 “(B) the merchandise is—

10 “(i) a controlled substance, as defined
11 in section 102 of the Controlled Sub-
12 stances Act (21 U.S.C. 802), in schedule
13 III, IV, or V under section 202 of that Act
14 (21 U.S.C. 812), imported or exported con-
15 trary to law and seized under subsection
16 (c)(1)(B) or (d);

17 “(ii) merchandise—

18 “(I) that is—

19 “(aa) subject to any restric-
20 tion or prohibition on its impor-
21 tation under section 536 or 801
22 of the Federal Food, Drug, and
23 Cosmetic Act (21 U.S.C. 360mm
24 and 381); and

1 “(bb) is not in compliance,
2 as applicable, with the Federal
3 Food and Drug Cosmetic Act (21
4 U.S.C. 301 et seq.) or section
5 351 or 361 of the Public Health
6 Service Act (42 U.S.C. 262 and
7 264); and

8 “(II) seized under subsection
9 (c)(2)(A) or (d); or

10 “(iii) merchandise that—

11 “(I)(aa) bears a counterfeit mark
12 or otherwise infringes a copyright; or

13 “(bb) is capable of circumventing
14 technological measures for protection
15 of a copyright; and

16 “(II) is seized under subpara-
17 graph (C) or (G) of subsection (c)(2)
18 or subsection (d).

19 “(3) NOTICE.—In any case in which merchan-
20 dise is summarily forfeited pursuant to this sub-
21 section, U.S. Customs and Border Protection shall
22 notify the carrier of the merchandise in such form
23 and manner as the Secretary shall prescribe by regu-
24 lation, which may include communication through an
25 authorized electronic data interchange system.

1 “(4) **RULE OF CONSTRUCTION.**—Nothing in
2 this subsection may be construed to affect the dis-
3 cretion of the Commissioner to impose a penalty as
4 provided by law instead of using the authority pro-
5 vided by paragraph (1).”; and

6 (2) in the section heading, by inserting “**AND**
7 **EXPORTATION**” after “**IMPORTATION**”.

8 (b) **VESSELS, VEHICLES, AND AIRCRAFT USED TO**
9 **TRANSPORT MERCHANDISE ILLEGALLY.**—Section 607 of
10 the Tariff Act of 1930 (19 U.S.C. 1607) is amended—

11 (1) in subsection (a), in the flush text following
12 paragraph (4), by inserting “subject to subsection
13 (d),” before “the appropriate customs officer”; and

14 (2) by adding at the end the following:

15 “(d) **SUMMARY FORFEITURE.**—In the case of mer-
16 chandise seized under section 526(e) or subject to sum-
17 mary forfeiture under section 596(e)—

18 “(1) the provisions of subsection (a) shall not
19 apply; and

20 “(2) the merchandise may be summarily for-
21 feited and title shall vest immediately in the United
22 States pursuant to such regulations as the Secretary
23 shall prescribe.”.

1 **TITLE III—LIABILITY FOR VIOLA-**
2 **TIONS OF CUSTOMS AND**
3 **TRADE LAWS**

4 **SEC. 301. EXPANSION OF LIABILITY FOR CERTAIN VIOLA-**
5 **TIONS OF ARRIVAL, REPORTING, ENTRY, AND**
6 **CLEARANCE REQUIREMENTS.**

7 Section 436 of the Tariff Act of 1930 (19 U.S.C.
8 1436) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (2), by striking “the Cus-
11 toms Service” and inserting “U.S. Customs and
12 Border Protection”; and

13 (B) by striking “section 4197 of the Re-
14 vised Statutes of the United States (46 U.S.C.
15 App. 91)” each place it appears and inserting
16 “section 60105 of title 46, United States
17 Code”;

18 (2) in subsection (b)—

19 (A) by striking “Any master” and insert-
20 ing the following:

21 “(1) IN GENERAL.—Any master”;

22 (B) by striking “or aircraft pilot” and in-
23 serting “aircraft pilot, or other person”; and

24 (C) by adding at the end the following:

1 “(2) PROVISION OF INCORRECT INFORMA-
2 TION.—Any person who knowingly provides incorrect
3 information, or provides incorrect information in de-
4 liberate or reckless ignorance of the truth or falsity
5 of the information, to a person described in para-
6 graph (1) who is required to present or transmit
7 that information to U.S. Customs and Border Pro-
8 tection pursuant to section 431, 433, or 434 of this
9 Act or section 60105 of title 46, United States Code,
10 is liable for a civil penalty of \$5,000 for the first vio-
11 lation, and \$10,000 for each subsequent violation.”;
12 and

13 (3) in subsection (d)—

14 (A) in the first sentence, by striking “or
15 aircraft pilot” and inserting “aircraft pilot, or
16 other person described in subsection (b)(1)”;
17 and

18 (B) in the second sentence—

19 (i) by striking “or pilot shall” and in-
20 serting “aircraft pilot, or other person de-
21 scribed in subsection (b)(1) may”; and

22 (ii) by striking “liable to” and insert-
23 ing “liable for”.

1 **SEC. 302. MODIFICATION OF STANDARDS AND PENALTIES**
2 **FOR FRAUD AND NEGLIGENCE.**

3 (a) STANDARDS FOR FRAUD AND NEGLIGENCE.—
4 Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592)
5 is amended—

6 (1) in the section heading, by striking “,
7 **GROSS NEGLIGENCE,**”; and

8 (2) in subsection (a)—

9 (A) in paragraph (1)—

10 (i) in the matter preceding subpara-
11 graph (A), by striking “, gross neg-
12 ligence,”;

13 (ii) in subparagraph (A)(ii), by strik-
14 ing “, or” and inserting a semicolon;

15 (iii) in subparagraph (B), by striking
16 the period at the end and inserting “; or”;
17 and

18 (iv) by adding at the end the fol-
19 lowing:

20 “(C) may direct or facilitate the entry or
21 introduction of merchandise in violation of sub-
22 paragraph (A).”;

23 (B) by adding at the end the following:

24 “(3) STANDARDS FOR FRAUD AND NEG-
25 LIGENCE.—

1 “(A) FRAUD.—A violation of paragraph
2 (1) is by fraud if the violation results from an
3 act (including the transmission of a statement
4 or document to U.S. Customs and Border Pro-
5 tection) or omission, done knowingly or with de-
6 liberate ignorance or reckless disregard of the
7 offender’s obligations to act in accordance with
8 applicable provisions of law.

9 “(B) NEGLIGENCE.—A violation of para-
10 graph (1) is by negligence if the violation re-
11 sults from an act (including the transmission of
12 a statement or document to U.S. Customs and
13 Border Protection) or omission done through
14 the failure to exercise the degree of reasonable
15 care—

16 “(i) to ensure that statements made
17 and information provided in connection
18 with the importation of merchandise are
19 complete and accurate; or

20 “(ii) to perform any material act re-
21 quired by the customs and trade laws of
22 the United States (as defined in section 2
23 of the Trade Facilitation and Trade En-
24 forcement Act of 2015 (19 U.S.C. 4301))

1 or any regulation prescribed pursuant to
2 such laws.”;

3 (3) in subsection (c)—

4 (A) by striking paragraph (2); and

5 (B) in paragraph (4)(B), by striking “or
6 gross negligence”;

7 (4) in subsection (e)—

8 (A) in the matter preceding paragraph (1),
9 by inserting after “this section” the following:
10 “, without regard to whether U.S. Customs and
11 Border Protection asserts that the violation to
12 which the penalty relates was done by fraud or
13 negligence”;

14 (B) by striking paragraph (3); and

15 (C) by redesignating paragraph (4) as
16 paragraph (3); and

17 (5) in subsections (f) through (l), by striking “,
18 gross negligence,” each place it appears.

19 (b) PENALTY PROCEDURES.—Section 592(b) of the
20 Tariff Act of 1930 (19 U.S.C. 1592(b)) is amended—

21 (1) in paragraph (1)—

22 (A) in subparagraph (A)—

23 (i) in clause (ii)—

24 (I) by striking “, or” and insert-
25 ing a comma; and

1 (II) by inserting before the semi-
2 colon the following: “, or the direction
3 or facilitation of the entry or intro-
4 duction”;

5 (ii) in clause (v), by striking “wheth-
6 er” and all that follows through “or neg-
7 ligence” and inserting “the alleged level of
8 culpability”; and

9 (B) by amending subparagraph (B) to read
10 as follows:

11 “(B) EXCEPTIONS.—U.S. Customs and
12 Border Protection is not required to issue a no-
13 tice under subparagraph (A) if—

14 “(i) the importation with respect to
15 which the violation of subsection (a) occurs
16 is noncommercial in nature, or

17 “(ii) the amount of the penalty in the
18 penalty claim issued under paragraph (2)
19 is less than an amount established by the
20 Secretary by regulation.”;

21 (2) by amending paragraph (2) to read as fol-
22 lows:

23 “(2) PENALTY CLAIM.—

24 “(A) DETERMINATION OF VIOLATIONS.—
25 U.S. Customs and Border Protection shall de-

1 termine whether any violation of subsection (a)
2 has occurred after considering representations,
3 if any, made by the person concerned.

4 “(B) EFFECT OF NEGATIVE DETERMINA-
5 TION.—If U.S. Customs and Border Protection
6 determines under subparagraph (A) that a per-
7 son described in that subparagraph did not vio-
8 late subsection (a), U.S. Customs and Border
9 Protection shall promptly issue a written state-
10 ment of the determination to that person.

11 “(C) EFFECT OF AFFIRMATIVE DETER-
12 MINATION.—

13 “(i) ISSUANCE OF PENALTY CLAIM.—
14 If U.S. Customs and Border Protection de-
15 termines under subparagraph (A) that a
16 person described in that subparagraph vio-
17 lated subsection (a), U.S. Customs and
18 Border Protection shall issue a written
19 penalty claim to that person.

20 “(ii) CONTENTS.—A written penalty
21 claim issued under clause (i) with respect
22 to a violation of subsection (a) shall speci-
23 fy—

1 “(I) the information described in
2 clauses (i) through (vi) of paragraph
3 (1)(A); and

4 “(II) if a notice was issued under
5 paragraph (1)(A) with respect to the
6 violation, any changes to the informa-
7 tion described in clauses (i) through
8 (vi) of that paragraph.

9 “(D) OPPORTUNITY TO MAKE REPRESENTATIONS.—
10 TATIONS.—

11 “(i) IN GENERAL.—Except as pro-
12 vided by clause (iii), a person to which
13 U.S. Customs and Border Protection
14 issues a penalty claim under subparagraph
15 (C) shall have a reasonable opportunity
16 under section 618 to make representations,
17 both oral and written, seeking remission or
18 mitigation of the monetary penalty.

19 “(ii) FINAL DETERMINATION.—At the
20 conclusion of any proceeding under section
21 618 described in clause (i), U.S. Customs
22 and Border Protection shall provide to the
23 person to which U.S. Customs and Border
24 Protection issued a penalty claim a written
25 statement (which may be issued electroni-

1 cally) that sets forth the final determina-
2 tion and the findings of fact and conclu-
3 sions of law on which that determination is
4 based.

5 “(iii) VIOLATIONS BY FRAUD.—A pen-
6 alty for a violation of subsection (a) by
7 fraud may be enforced in the United
8 States Court of International Trade with-
9 out the issuance of a notice under para-
10 graph (1)(A) or an administrative pro-
11 ceeding under section 618.”.

12 (e) COURT OF INTERNATIONAL TRADE PRO-
13 CEEDINGS.—Section 592(e) of the Tariff Act of 1930 (19
14 U.S.C. 1592(e)) is amended—

15 (1) in the matter preceding paragraph (1), by
16 inserting after “under this section” the following:
17 “(without regard to the level of culpability asserted
18 by U.S. Customs and Border Protection in any pro-
19 ceeding under subsection (b))”;

20 (2) in paragraph (2), by striking the semicolon
21 and inserting “; and”;

22 (3) by striking paragraph (3); and

23 (4) by redesignating paragraph (4) as para-
24 graph (3).

1 (d) TECHNICAL AMENDMENT.—Section 592 of the
 2 Tariff Act of 1930 (19 U.S.C. 1592), as amended by this
 3 section, is further amended by striking “the Customs
 4 Service” each place it appears and inserting “U.S. Cus-
 5 toms and Border Protection”.

6 **SEC. 303. EXPANSION OF LIABILITY FOR AIDING UNLAW-**
 7 **FUL IMPORTATION AND EXPORTATION.**

8 Section 596 of the Tariff Act of 1930 (19 U.S.C.
 9 1595a) is amended—

10 (1) by amending subsection (b) to read as fol-
 11 lows:

12 “(b) PENALTY.—

13 “(1) IN GENERAL.—A person is liable for a
 14 penalty not to exceed the domestic value of an arti-
 15 cle or articles introduced or attempted to be intro-
 16 duced into the United States contrary to law if the
 17 person directs, assists financially or otherwise, or is
 18 in any way concerned in—

19 “(A) the importation, introduction, bring-
 20 ing in, unlading, landing, removal, concealing,
 21 harboring, or subsequent transportation of the
 22 article or articles; or

23 “(B) the attempted importation, introduc-
 24 tion, bringing in, unlading, landing, removal,

1 concealing, harboring, or subsequent transpor-
2 tation of the article or articles.

3 “(2) SEIZURE NOT REQUIRED.—The penalty
4 specified in paragraph (1) applies with respect to a
5 person described in that paragraph without regard
6 to whether the article or articles described in that
7 paragraph were seized.”;

8 (2) in subsection (d)—

9 (A) by striking “Merchandise exported”
10 and inserting the following: “MERCHANDISE
11 EXPORTED CONTRARY TO LAW.—

12 “(1) IN GENERAL.—Merchandise exported”;

13 (B) by striking “shall” and inserting
14 “may”; and

15 (C) by adding at the end the following:

16 “(2) PENALTY.—

17 “(A) IN GENERAL.—A person that directs,
18 assists financially or otherwise, or is in any way
19 concerned in, the exportation or sending from
20 the United States or the attempted exportation
21 or sending from the United States of merchan-
22 dise contrary to law is liable for a penalty not
23 to exceed the export value of the merchandise.

24 “(B) SEIZURE NOT REQUIRED.—The pen-
25 alty specified in subparagraph (A) applies with

1 respect to a person described in that subpara-
 2 graph without regard to whether the merchan-
 3 dise exported or sent or attempted to be ex-
 4 ported or sent from the United States contrary
 5 to law was seized.”; and

6 (3) by adding at the end the following:

7 “(e) DISCRETION OF SECRETARY TO IMPOSE PEN-
 8 ALTIES.—For any violation for which merchandise may be
 9 seized and forfeited under this section, the Secretary re-
 10 tains discretion to assess a penalty as provided by law,
 11 including a penalty pursuant to subsection (b) or (d), as
 12 appropriate, instead of seizure and forfeiture.”.

13 **SEC. 304. PROCEDURES FOR INVESTIGATING CLAIMS OF**
 14 **EVASION OF ANTIDUMPING AND COUNTER-**
 15 **VAILING DUTY ORDERS.**

16 (a) IN GENERAL.—Section 517(b) of the Tariff Act
 17 of 1930 (19 U.S.C. 1517(b)) is amended—

18 (1) in paragraph (2), in the matter preceding
 19 subparagraph (A), by striking “a person has entered
 20 covered merchandise” and inserting “covered mer-
 21 chandise has been entered”; and

22 (2) by adding at the end the following:

23 “(8) IDENTIFICATION OF IMPORTER.—If the
 24 Commissioner determines under subsection (e) that
 25 there is a reasonable suspicion that covered mer-

1 chandise was entered into the customs territory of
2 the United States through evasion, the identity of
3 the importer of the covered merchandise shall not be
4 considered confidential information that is protected
5 from public disclosure, regardless of whether the al-
6 legation described in paragraph (2) identifies the im-
7 porter.

8 “(9) ADDITION OF IMPORTERS TO INVESTIGA-
9 TIONS.—The Commissioner may, at any time while
10 conducting an investigation under paragraph (1), ex-
11 pand the investigation to include an additional im-
12 porter if the Commissioner determines that there is
13 reasonable suspicion that the additional importer is
14 engaged in the same or similar conduct as an im-
15 porter previously subject to the investigation.”.

16 (b) TECHNICAL CORRECTION.—Section
17 517(d)(1)(B)(ii) of the Tariff Act of 1930 (19 U.S.C.
18 1517(d)(1)(B)(ii)) is amended by striking “subsection
19 (e)(1)” and inserting “subsection (e)(2)”.

20 **SEC. 305. OBSTRUCTION OF INVESTIGATIONS.**

21 Section 592 of the Tariff Act of 1930 (19 U.S.C.
22 1592), as amended by section 302, is further amended by
23 adding at the end the following:

24 “(m) OBSTRUCTION OF INVESTIGATIONS.—

1 “(1) IN GENERAL.—No person, with the intent
2 of avoiding payment of a duty, tax, fee, or penalty
3 owed or obstructing or influencing the investigation
4 or proper administration of any investigation by
5 U.S. Customs and Border Protection into the pay-
6 ment of a duty, tax, fee, or penalty owed, may alter,
7 destroy, mutilate, conceal, cover up, falsify, or make
8 a false entry in any record, document, or tangible
9 object, or transfer, or otherwise conceal or disguise
10 funds or assets.

11 “(2) PENALTY.—

12 “(A) IN GENERAL.—A person that violates
13 paragraph (1) is liable for a civil penalty in an
14 amount not to exceed the greater of—

15 “(i) the value of any concealed funds
16 or altered assets; or

17 “(ii) an amount that is 3 times the
18 amount of the duty, tax, fee, or penalty de-
19 scribed in paragraph (1).

20 “(B) ADVERSE INFERENCE.—The Com-
21 missioner of U.S. Customs and Border Protec-
22 tion may make an inference that is adverse to
23 the interests of a person that violates para-
24 graph (1) in any investigation into the payment

1 of a duty, tax, fee, or penalty described in that
2 paragraph.

3 “(3) STANDARD OF PROOF AT COURT OF
4 INTERNATIONAL TRADE.—In any action at the
5 United States Court of International Trade relating
6 to a violation of paragraph (1), the United States
7 shall have the burden of proof to establish the act
8 or omission constituting the violation by clear and
9 convincing evidence.”.

10 **SEC. 306. MODIFICATION OF BONDING REQUIREMENTS.**

11 (a) IN GENERAL.—Section 623 of the Tariff Act of
12 1930 (19 U.S.C. 1623) is amended—

13 (1) in subsection (b)—

14 (A) in paragraph (1)—

15 (i) by striking “of penalty thereof”
16 and inserting “of the bond”;

17 (ii) by striking “paragraph 4” and in-
18 serting “paragraph (4)”; and

19 (iii) by striking “penalty of such
20 bond” and inserting “amount of such
21 bond”; and

22 (B) in paragraph (2), by inserting before
23 the end period the following: “, and make rules
24 and regulations for the disclosure of informa-
25 tion or records to, and the collection of informa-

1 tion or records from, sureties approved under
2 this paragraph, without regard to any other
3 provision of statute or regulation, including sec-
4 tion 1905 of title 18, United States Code, and
5 section 552a of title 5, United States Code
6 (commonly known as the ‘Privacy Act of
7 1974’);

8 (2) by adding at the end the following:

9 “(f) INTEREST DUE TO DEFAULT ON BOND.—If any
10 amount due to the United States under a bond is not paid
11 in full by the date the amount is due, the unpaid balance
12 under the bond shall bear interest until the full balance
13 under the bond is paid, in accordance with such regula-
14 tions and at such rate as the Secretary of the Treasury
15 may prescribe. Interest charged under this subsection
16 shall be without regard to the limit of liability of the bond
17 and shall not be charged against the bond.

18 “(g) NOTICE TO PERSON FROM WHOM A BOND IS
19 REQUIRED.—

20 “(1) IN GENERAL.—U.S. Customs and Border
21 Protection shall give notice to a person from which
22 a bond is required under this section of the condi-
23 tions, form, manner of filing or transmission,
24 amount, and reason for the amount of the bond in

1 accordance with regulations prescribed by the Sec-
2 retary of the Treasury.

3 “(2) FORM OF NOTICE.—U.S. Customs and
4 Border Protection may provide notice under para-
5 graph (1) by publishing the notice to the public in-
6 stead of providing the notice directly to a person de-
7 scribed in paragraph (1).

8 “(h) REVIEW OF BOND REQUIREMENTS.—

9 “(1) ADMINISTRATIVE REVIEW.—

10 “(A) APPEAL.—A person from which a
11 bond is required under this section may, not
12 later than 30 days after the later of the date
13 on which notice is provided under subsection (g)
14 or the date on which the bond is required, ap-
15 peal the bond requirement in accordance with
16 regulations prescribed by the Secretary of the
17 Treasury.

18 “(B) NOTICE.—The Secretary shall pro-
19 vide notice to a person that filed an appeal
20 under subparagraph (A)—

21 “(i) of the decision with respect to the
22 appeal in the form and manner prescribed
23 by the Secretary; and

24 “(ii) if the appeal is denied, including
25 a statement of the reasons for the denial.

1 “(2) REVIEW BY THE COURT OF INTER-
2 NATIONAL TRADE.—

3 “(A) IN GENERAL.—In the case of an ap-
4 peal filed under paragraph (1) that is denied in
5 whole or in part, the person that filed the ap-
6 peal may file a civil action in the Court of
7 International Trade to contest the denial.

8 “(B) REVIEW BY COURT.—The Court
9 shall—

10 “(i) review the action on the basis of
11 the record before the official deciding the
12 appeal at the time the appeal was decided;
13 and

14 “(ii) set aside and remand a decision
15 with respect to an appeal filed under para-
16 graph (1) that the Court finds to be an
17 abuse of discretion.”; and

18 (3) by striking “the Customs Service” each
19 place it appears and inserting “U.S. Customs and
20 Border Protection”.

21 (b) EXCLUSIVE JURISDICTION OF COURT OF INTER-
22 NATIONAL TRADE.—Section 1581 of title 28, United
23 States Code, is amended by adding at the end of the fol-
24 lowing:

1 “(k) The Court of International Trade shall have ex-
2 clusive jurisdiction of any civil action commenced under
3 section 623 of the Tariff Act of 1930 (19 U.S.C. 1623).”.

4 (c) SCOPE AND STANDARD OF REVIEW BY COURT OF
5 INTERNATIONAL TRADE.—Section 2640 of title 28,
6 United States Code, is amended—

7 (1) by redesignating subsection (e) as sub-
8 section (f); and

9 (2) by inserting after subsection (d) the fol-
10 lowing:

11 “(e) In any civil action commenced in the Court of
12 International Trade under section 623 of the Tariff Act
13 of 1930 (19 U.S.C. 1623), the court shall review the mat-
14 ter as specified in subsection (h) of such section.”.

15 **SEC. 307. TREATMENT OF IMPORTATIONS INVOLVING SUS-**
16 **PENDED OR DEBARRED PERSONS.**

17 (a) IMPORTER OF RECORD PROGRAM.—Section
18 114(b) of the Trade Facilitation and Trade Enforcement
19 Act of 2015 (19 U.S.C. 4320(b)) is amended—

20 (1) in paragraph (4), by striking “; and” and
21 inserting a semicolon;

22 (2) in paragraph (5), by striking the period at
23 the end and inserting “; and”; and

24 (3) by adding at the end the following:

1 “(6) takes measures to protect the integrity of
2 the program, including by—

3 “(A) assessing the role and circumstances
4 of importers that are identified with active ex-
5 clusion records in the System for Award Man-
6 agement Exclusions (as defined in section
7 180.945 of title 2, Code of Federal Regulations
8 (or any corresponding similar regulation)) or
9 any successor system;

10 “(B) facilitating cross-referencing of im-
11 porter of record numbers with active exclusion
12 records in the System for Award Management
13 Exclusions or any successor system; and

14 “(C) providing an opportunity for import-
15 ers described in subparagraph (A) to dem-
16 onstrate to the satisfaction of U.S. Customs
17 and Border Protection, in accordance with such
18 regulations as the Secretary may prescribe, that
19 they are sufficiently responsible to act as im-
20 porters of record.”.

21 (b) ENTRY UNDER REGULATIONS.—Section
22 498(a)(1) of the Tariff Act of 1930 (19U.S.C. 1498(a)(1))
23 is amended—

24 (1) in subparagraph (A), by striking “; or” and
25 inserting a semicolon;

1 (2) in subparagraph (B), by striking the semi-
2 colon and inserting “; or”; and

3 (3) by adding at the end the following:

4 “(C) the importation is caused or facili-
5 tated by a person identified with an active ex-
6 clusion record in the System for Award Man-
7 agement Exclusions (as defined in section
8 180.945 of title 2, Code of Federal Regulations
9 (or any corresponding similar regulation)) or
10 any successor system;”.

11 **TITLE IV—ADMINISTRATIVE**
12 **EXEMPTIONS FROM DUTIES**

13 **SEC. 401. COLLECTION AND USE OF DATA RELATING TO**
14 **ELIGIBILITY FOR ADMINISTRATIVE EXEMP-**
15 **TION TO DUTIES.**

16 (a) IN GENERAL.—Section 321 of the Tariff Act of
17 1930 (19 U.S.C. 1321) is amended by adding at the end
18 the following:

19 “(c) SUBMISSION OF DOCUMENTATION AND INFOR-
20 MATION.—

21 “(1) IN GENERAL.—The Secretary may pre-
22 scribe regulations for the provision to U.S. Customs
23 and Border Protection, separate from any entry fil-
24 ing, of such documentation or information as the
25 Secretary determines to be reasonably necessary for

1 U.S. Customs and Border Protection to determine
2 the eligibility of an article for an administrative ex-
3 emption under subsection (a)(2).

4 “(2) TYPE OF DOCUMENTATION OR INFORMA-
5 TION.—Documentation or information with respect
6 to an article provided to U.S. Customs and Border
7 Protection pursuant to regulations prescribed by the
8 Secretary under paragraph (1) may include docu-
9 mentation or information related to an offer for sale
10 or purchase or subsequent sale, purchase, transpor-
11 tation, importation, or warehousing of the article, in-
12 cluding documentation or information related to the
13 offering of the article for sale or purchase within the
14 United States through a commercial or marketing
15 platform (including an electronic commerce platform
16 or marketplace).

17 “(3) PARTIES PROVIDING INFORMATION.—The
18 Secretary may provide, in the regulations prescribed
19 under paragraph (1), for the provision of informa-
20 tion or documentation with respect to an article by
21 a party other than a party qualified to make entry
22 of the article pursuant to regulations prescribed
23 under section 498.

24 “(4) ACCURACY OF DOCUMENTATION AND IN-
25 FORMATION.—

1 “(A) IN GENERAL.—A party providing doc-
2 umentation or information under paragraph (1)
3 shall ensure that the documentation or informa-
4 tion is true and correct to the best of the
5 knowledge and belief of the party, subject to
6 any penalties authorized by law.

7 “(B) EXCEPTION.—The Secretary shall, in
8 the regulations prescribed under paragraph (1),
9 permit a party to provide to U.S. Customs and
10 Border Protection documentation or informa-
11 tion under paragraph (1) on the basis of the
12 reasonable belief of the party that the docu-
13 mentation or information is true and correct if
14 the party is not reasonably able to verify the
15 documentation or information.

16 “(5) USE OF DOCUMENTATION AND INFORMA-
17 TION.—Documentation or information with respect
18 to an article provided to U.S. Customs and Border
19 Protection pursuant to regulations prescribed by the
20 Secretary under paragraph (1) may be used by U.S.
21 Customs and Border Protection for any lawful pur-
22 pose.

23 “(6) CIVIL PENALTY.—

24 “(A) IN GENERAL.—Any person who vio-
25 lates the regulations prescribed under para-

1 graph (1) with respect to an article is liable for
2 a civil penalty in an amount not to exceed the
3 amount that is 3 times the amount of the duty
4 applicable to the article.

5 “(B) ASSESSMENT OF PENALTIES.—A
6 penalty imposed under this subsection shall be
7 assessed per person, per article, per entry, and
8 per day.

9 “(C) ADDITIONAL PENALTIES.—A penalty
10 imposed under this subsection may be in addi-
11 tion to any other penalty provided by law.

12 “(D) REMISSION; MITIGATION.—A penalty
13 imposed under this subsection may be remitted
14 or mitigated, as appropriate, under section 618.

15 “(7) DEFINITION.—In this subsection, the
16 terms ‘provide’, ‘providing’, and ‘provision’, with re-
17 spect to documentation or information provided to
18 U.S. Customs and Border Protection, include—

19 “(A) the submission or transmission of the
20 documentation or information; and

21 “(B) otherwise making available to U.S.
22 Customs and Border Protection the documenta-
23 tion or information in accordance with such
24 terms and conditions as the Secretary may by
25 regulation prescribe.”.

1 (b) REGULATIONS.—Section 498 of the Tariff Act of
2 1930 (19 U.S.C. 1498)—

3 (1) in subsection (a), by striking paragraph
4 (12) and inserting the following:

5 “(12) Subject to subsection (c), articles eligible
6 for an administrative exemption under section
7 321(a)(2)(C).”; and

8 (2) by adding at the end the following:

9 “(c) REQUIREMENTS WITH RESPECT TO ARTICLES
10 ELIGIBLE FOR ADMINISTRATIVE EXEMPTIONS.—In pre-
11 scribing rules and regulations under subsection (a)(12)
12 with respect to articles eligible for an administrative ex-
13 emption under section 321(a)(2)(C), the Secretary shall
14 require that, when such an article is entered, the required
15 documentation or information be filed or electronically
16 transmitted by—

17 “(1) one of the parties qualifying to make
18 entry, as specified by the Secretary by regulation; or

19 “(2) a customs broker (as defined in section
20 641(a)) designated by a party described in subpara-
21 graph (A).”.

1 **SEC. 402. STREAMLINED DISPOSITION OF MERCHANDISE**
2 **SUBJECT TO ADMINISTRATIVE EXEMPTIONS.**

3 (a) IN GENERAL.—Section 499 of the Tariff Act of
4 1930 (19 U.S.C. 1499) is amended by adding at the end
5 the following:

6 “(d) SPECIAL RULES FOR MERCHANDISE SUBJECT
7 TO ADMINISTRATIVE EXEMPTIONS.—

8 “(1) IN GENERAL.—In the case of detained
9 merchandise subject to an administrative exemption
10 under section 321(a)(2)(C), the following shall
11 apply:

12 “(A) U.S. Customs and Border Protection
13 shall provide notice under subsection (c)(2) to
14 the importer and each other party that appears
15 to have an interest in the merchandise, based
16 on information reasonably available to U.S.
17 Customs and Border Protection, in such form
18 and manner as the Secretary shall by regulation
19 prescribe.

20 “(B) The notice required under subsection
21 (c)(2) shall include, in addition to the informa-
22 tion required by subparagraphs (A) through (E)
23 of that subsection, notice that the party may
24 voluntarily abandon the merchandise.

25 “(C) If U.S. Customs and Border Protec-
26 tion does not receive a response to the notice

1 under subsection (e)(2) from a party by the
2 date that is 15 days after the date of the no-
3 tice—

4 “(i) the merchandise shall be deemed
5 abandoned;

6 “(ii) title to the merchandise shall be
7 vested in the United States; and

8 “(iii) the merchandise shall be dis-
9 posed of in accordance with law.

10 “(2) NONAPPLICABILITY OF PROVISION RELAT-
11 ING TO FAILURE TO MAKE DETERMINATION.—Sub-
12 section (e)(5) does not apply with respect to de-
13 tained merchandise subject to an administrative ex-
14 emption under section 321(a)(2)(C).”.

15 (b) TECHNICAL AMENDMENTS.—Section 499 of the
16 Tariff Act of 1930 (19 U.S.C. 1499) is amended—

17 (1) in subsection (b)—

18 (A) in paragraph (1), by striking “Cus-
19 toms Service laboratories” and inserting “lab-
20 oratories of U.S. Customs and Border Protec-
21 tion”;

22 (B) in paragraph (3), by striking “a Cus-
23 toms Service laboratory” and inserting “a lab-
24 oratory of U.S. Customs and Border Protec-
25 tion”;

1 (2) by striking “The Customs Service” each
 2 place it appears and inserting “U.S. Customs and
 3 Border Protection”; and

4 (3) by striking “the Customs Service” each
 5 place it appears and inserting “U.S. Customs and
 6 Border Protection”.

7 **TITLE V—OTHER MATTERS**

8 **SEC. 501. PROTESTS AGAINST DECISIONS OF U.S. CUSTOMS**
 9 **AND BORDER PROTECTION.**

10 (a) CERTAIN DETERMINATIONS OF U.S. CUSTOMS
 11 AND BORDER PROTECTION NOT SUBJECT TO ADMINIS-
 12 TRATIVE PROTEST.—

13 (1) IN GENERAL.—Section 514 of the Tariff
 14 Act of 1930 (19 U.S.C. 1514) is amended—

15 (A) in subsection (a)(4), by striking “ex-
 16 cept a determination appealable under section
 17 337 of this Act” and inserting “except any ex-
 18 clusion of merchandise from entry or delivery or
 19 a demand for redelivery to customs custody on
 20 the basis of an order of the United States
 21 International Trade Commission issued under
 22 section 337 of this Act”; and

23 (B) by amending subsection (b) to read as
 24 follows:

1 “(b) FINALITY UNLESS APPEALED TO COURT OF
2 INTERNATIONAL TRADE.—With respect to determinations
3 made under section 303 or title VII that are reviewable
4 under section 516A, or determinations made under section
5 517 that are reviewable under section 517(g), determina-
6 tions of U.S. Customs and Border Protection are final and
7 conclusive upon all persons (including the United States
8 and any officer thereof) unless a civil action contesting
9 a determination listed in section 516A(a) or made under
10 section 517 is commenced in the United States Court of
11 International Trade, or review by a binational panel of a
12 determination to which section 516A(g)(2) applies is com-
13 menced pursuant to section 516A(g).”

14 (2) CONFORMING AMENDMENTS.—Section
15 517(h) of the Tariff Act of 1930 (19 U.S.C.
16 1517(h)) is amended—

17 (A) by striking “No determination” and
18 inserting the following:

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), no determination”; and

21 (B) by adding at the end the following:

22 “(2) EXCEPTION.—Any liquidation or reliquida-
23 tion of an entry in accordance with a determination
24 under subsection (c) or review under subsection (f),

1 if applicable, is not subject to protest under section
2 514.”.

3 (b) ELECTRONIC NOTIFICATION.—Section 514(c)(3)
4 of the Tariff Act of 1930 (19 U.S.C. 1514(c)(3)) is
5 amended, in the flush text following subparagraph (B), by
6 inserting “or electronic transmission” after “mailing”.

7 (c) TECHNICAL AMENDMENTS.—Section 514 of the
8 Tariff Act of 1930 (19 U.S.C. 1514) is amended—

9 (1) in the section heading, by striking “**THE**
10 **CUSTOMS SERVICE**” and inserting “**U.S. CUS-**
11 **TOMS AND BORDER PROTECTION**”; and

12 (2) by striking “the Customs Service” each
13 place it appears and inserting “U.S. Customs and
14 Border Protection”.

15 **SEC. 502. REDUCTION OF ADMINISTRATIVE BURDENS.**

16 (a) SUBMISSION OF REQUESTS FOR ACCELERATED
17 DISPOSITION OF PROTESTS.—Section 515(b) of the Tariff
18 Act of 1930 (19 U.S.C. 1515(b)) is amended—

19 (1) in the first sentence, by inserting after
20 “mailed by certified or registered mail to the appro-
21 priate customs officer” the following: “, or trans-
22 mitted electronically pursuant to an electronic data
23 interchange system, in accordance with regulations
24 prescribed by the Secretary,”; and

25 (2) in the second sentence—

1 (A) by inserting after “the date of mailing
2 by certified or registered mail” the following:
3 “or the date of transmission pursuant to an
4 electronic interchange system”; and

5 (B) by inserting “or transmission” after
6 “following mailing”.

7 (b) MODIFICATION OF REQUIREMENTS FOR FILING
8 OF OFFICIAL DOCUMENTS IN ACTIONS BEFORE COURT
9 OF INTERNATIONAL TRADE.—

10 (1) IN GENERAL.—Section 2635 of title 28,
11 United States Code, is amended—

12 (A) by striking subsection (a); and

13 (B) by redesignating subsections (b), (c),
14 and (d), as subsections (a), (b), and (c), respec-
15 tively.

16 (2) CONFORMING AMENDMENT.—Section
17 641(e)(1) of the Tariff Act of 1930 (19 U.S.C.
18 1641(e)(1)) is amended by striking “section
19 2635(d)” and inserting “section 2635(c)”.

20 (c) PUBLICATION OF DECISIONS OF COURT OF
21 INTERNATIONAL TRADE.—

22 (1) IN GENERAL.—Section 257 of title 28,
23 United States Code, is amended—

24 (A) in the section heading, by striking
25 “**Publication of decisions**” and inserting

1 **“Preservation and sharing of deci-**
2 **sions”**; and

3 (B) by striking the third sentence.

4 (2) CLERICAL AMENDMENT.—The table of sec-
5 tions at the beginning of chapter 11 of title 28,
6 United States Code, is amended by striking the item
7 relating to section 257 and inserting the following:
 “257. Preservation and sharing of decisions.”.

8 **SEC. 503. AUTHORITY TO CONDUCT COMMUNICATIONS**
9 **ELECTRONICALLY.**

10 Section 624 of the Tariff Act of 1930 (19 U.S.C.
11 624) is amended—

12 (1) by striking “authorized to make” and in-
13 serting the following: “authorized—

14 “(1) to make”;

15 (2) by striking the period at the end and insert-
16 ing “; and”; and

17 (3) by adding at the end the following:

18 “(2) notwithstanding any other provision of
19 law, to provide any notice or communication re-
20 quired by this Act by electronic transmission instead
21 of any other means.”.

1 **SEC. 504. DISCLOSURE OF VESSEL, AIRCRAFT, OR VEHICLE**
2 **MANIFEST INFORMATION.**

3 (a) EXPANSION AND CLARIFICATION OF DISCLOSURE
4 REQUIREMENT.—Section 431 of the Tariff Act of 1930
5 (19 U.S.C. 1431) is amended—

6 (1) in subsection (a), by striking “section 4197
7 of the Revised Statutes of the United States (46
8 U.S.C. App. 91)” and inserting “section 60105 of
9 title 46, United States Code, and every aircraft or
10 vehicle arriving in the United States for which a
11 manifest is required by U.S. Customs and Border
12 Protection,”; and

13 (2) in subsection (c)(1)—

14 (A) in the matter preceding subparagraph
15 (A), by striking “subparagraph (2)” and all
16 that follows through “shall be available” and
17 inserting “paragraph (2), the following informa-
18 tion, when contained in a vessel, aircraft, or ve-
19 hicle manifest, shall be available”;

20 (B) in subparagraph (B), by inserting be-
21 fore the end period the following: “and the sub-
22 headings of the Harmonized Tariff Schedule of
23 the United States under which the cargo is
24 classifiable”; and

25 (C) by striking subparagraph (G) and in-
26 serting the following:

1 “(G) The country in which the cargo was pro-
2 duced and the last country through which the cargo
3 was transported.”.

4 (b) PROTECTION OF PERSONALLY IDENTIFIABLE IN-
5 FORMATION.—Section 431(c) of the Tariff Act of 1930
6 (19 U.S.C. 1431(c)) is amended—

7 (1) in paragraph (2)—

8 (A) by redesignating subparagraphs (A)
9 and (B) as clauses (i) and (ii), respectively;

10 (B) by inserting “(A)” after “(2)”; and

11 (C) by adding at the end the following:

12 “(B) The Secretary shall ensure that the fol-
13 lowing information is removed from any manifest
14 signed, produced, delivered, or electronically trans-
15 mitted under this section before access to the mani-
16 fest is provided to the public:

17 “(i) Social Security numbers.

18 “(ii) Passport numbers.

19 “(iii) Dates of birth.

20 “(iv) Personal phone numbers.

21 “(v) Personal email addresses.

22 “(vi) Driver’s license and State identifica-
23 tion numbers.

1 “(vii) Residential addresses that are not
2 the primary address of the trade or business
3 (excluding ZIP Codes).

4 “(viii) Names of individuals who are end-
5 consumers.

6 “(C) Nothing in this paragraph may be con-
7 strued to permit the removal from a manifest
8 signed, produced, delivered, or electronically trans-
9 mitted under this section of the name, address, or
10 identification number of a business, except as pro-
11 vided by section 103.31(d) of title 19, Code of Fed-
12 eral Regulations (or a successor regulation).”; and

13 (2) by adding at the end the following:

14 “(4) Each manifest signed, produced, delivered, or
15 electronically transmitted under this section shall include
16 a checkbox to indicate whether the shipment is going to
17 a private individual or a business.”.

18 (c) TECHNICAL AMENDMENTS.—Section 431 of the
19 Tariff Act of 1930, as amended by this section, is further
20 amended—

21 (1) in subsection (b), in the fourth sentence, by
22 striking “The Customs Service” and inserting “U.S.
23 Customs and Border Protection”; and

1 (2) by striking “the Customs Service” each
2 place it appears and inserting “U.S. Customs and
3 Border Protection”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on the date that is 30 days
6 after the date of the enactment of this Act.

○