

107TH CONGRESS
1ST SESSION

S. 402

To make an exception to the United States embargo on trade with Cuba for the export of agricultural commodities, medicines, medical supplies, medical instruments, or medical equipment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2001

Mr. BAUCUS (for himself, Mr. ROBERTS, and Mrs. LINCOLN) introduced the following bill, which was read twice and referred to the Committee on Finance

A BILL

To make an exception to the United States embargo on trade with Cuba for the export of agricultural commodities, medicines, medical supplies, medical instruments, or medical equipment, 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 “Cuban Humanitarian
5 Trade Act of 2001”.

1 **SEC. 2. AMENDMENT TO EMBARGO AUTHORITY IN THE**
2 **FOREIGN ASSISTANCE ACT OF 1961.**

3 Section 620(a)(1) of the Foreign Assistance Act of
4 1961 (22 U.S.C. 2370(a)(1)) is amended by inserting
5 striking the period at the end of the second sentence and
6 inserting the following: “, except that any such embargo
7 shall not apply with respect to the export of any agricul-
8 tural commodity, medicines, medical supplies, medical in-
9 struments, or medical equipment, or with respect to travel
10 incident to the delivery of agricultural commodities, medi-
11 cines, medical supplies, medical instruments, or medical
12 equipment. As used in this paragraph, the terms ‘agricul-
13 tural commodity’ and ‘medicine’ have the meanings given
14 those terms in section 9 of the Cuban Humanitarian
15 Trade Act of 2001.”.

16 **SEC. 3. LIMITATION ON EXISTING RESTRICTIONS ON**
17 **TRADE WITH CUBA.**

18 Upon the enactment of this Act, any regulation, proc-
19 lamation, or provision of law, including Presidential Proc-
20 lamation 3447 of February 3, 1962, the Export Adminis-
21 tration Regulations (15 C.F.R. 730 and following), and
22 the Cuban Assets Control Regulations (31 C.F.R. 515),
23 that prohibits exports to Cuba or transactions involving
24 exports to Cuba and that is in effect on the date of the
25 enactment of this Act, shall not apply with respect to the
26 export to Cuba of agricultural commodities, medicines,

1 medical supplies, medical instruments, or medical equip-
2 ment, or with respect to travel incident to the delivery of
3 agricultural commodities, medicines, medical supplies,
4 medical instruments, or medical equipment.

5 **SEC. 4. LIMITATION ON THE FUTURE EXERCISE OF AU-**
6 **THORITY.**

7 After the enactment of this Act, the President may
8 not restrict the exportation to Cuba of agricultural com-
9 modities, medicines, medical supplies, medical instru-
10 ments, or medical equipment—

11 (1) under the Export Administration Act of
12 1979, except to the extent such restrictions would be
13 permitted under section 5 of that Act for goods con-
14 taining parts or components on which export con-
15 trols are in effect under that section; or

16 (2) under section 203 of the International
17 Emergency Economic Powers Act, except to the ex-
18 tent the authorities under that section are exercised
19 to restrict the export of medical instruments or med-
20 ical equipment to deal with a threat to the national
21 security of the United States by virtue of the tech-
22 nology incorporated in such instruments or equip-
23 ment.

1 **SEC. 5. OTHER PROVISIONS OF LAW; CONFORMING AMEND-**
 2 **MENTS.**

3 (a) TRADE SANCTIONS REFORM AND EXPORT EN-
 4 HANCEMENT ACT OF 2000.—

5 (1) INAPPLICABILITY.—The Trade Sanctions
 6 Reform and Export Enhancement Act of 2000 (title
 7 IX of H.R. 5426, as enacted into law by section 1(a)
 8 of Public Law 106–387, and as contained in the ap-
 9 pendix of such Public Law) shall not apply with re-
 10 spect to exports to Cuba of agricultural commodities,
 11 medicines, medical supplies, medical instruments, or
 12 medical equipment.

13 (2) CONFORMING AMENDMENTS.—The Trade
 14 Sanctions Reform and Export Enhancement Act of
 15 2000 is amended—

16 (A) in section 906(a)(1)—

17 (i) by striking “to Cuba or”; and

18 (ii) by inserting “(other than Cuba)”

19 after “to the government of a country”;

20 (B) in section 908—

21 (i) by striking subsection (b);

22 (ii) in subsection (a)—

23 (I) by striking “PROHIBITION”

24 and all that follows through “(1) IN

25 GENERAL.—” and inserting “IN GEN-

26 ERAL.—”;

1 (II) by striking “for exports to
2 Cuba or”;

3 (III) by striking paragraph (2);
4 and

5 (IV) by redesignating paragraph
6 (3) as subsection (b) (and conforming
7 the margin accordingly); and

8 (iii) in subsection (b) (as redesign-
9 nated), by striking “paragraph (1)” and
10 inserting “subsection (a)”;

11 (C) by striking section 910; and

12 (D) by redesignating section 911 as section
13 910.

14 (b) SANCTIONS UNDER CUBAN DEMOCRACY ACT OF
15 1992.—

16 (1) INAPPLICABILITY.—Section 1706(b) of the
17 Cuban Democracy Act of 1992 (22 U.S.C. 6005(b);
18 prohibiting certain vessels from entering United
19 States ports) shall not apply with respect to vessels
20 that transport agricultural commodities, medicines,
21 medical supplies, medical instruments, or medical
22 equipment to Cuba, or that transport persons whose
23 travel is incident to the delivery of agricultural com-
24 modities, medicines, medical supplies, medical in-
25 struments, or medical equipment to Cuba.

1 (2) CONFORMING AMENDMENTS.—(A) Section
 2 1705 of the Cuban Democracy Act of 1992 (22
 3 U.S.C. 6004) is amended—

4 (i) in subsection (b)—

5 (I) in the subsection caption by strik-
 6 ing “, DONATIONS” and inserting “, EX-
 7 PORTS”; and

8 (II) by striking “donations of food to
 9 nongovernmental organizations or individ-
 10 uals in Cuba” and inserting “exports of
 11 agricultural commodities to Cuba”;

12 (ii) by amending subsection (c) to read as
 13 follows:

14 “(c) EXPORTS OF MEDICINES AND MEDICAL SUP-
 15 PLIES TO CUBA.—Exports of medicines, medical supplies,
 16 medical instruments, or medical equipment to Cuba shall
 17 not be restricted—

18 “(1) except to the extent such restrictions
 19 would be permitted—

20 “(A) under section 5 of the Export Admin-
 21 istration Act of 1979 for goods containing parts
 22 or components on which export controls are in
 23 effect under that section; or

1 “(B) under clause (A), (B), or (C) of sec-
2 tion 203(b)(2) of the International Emergency
3 Economic Powers Act;

4 “(2) except in a case in which there is a reason-
5 able likelihood that the item to be exported will be
6 used for purposes of torture or other human rights
7 abuses;

8 “(3) except in a case in which there is a reason-
9 able likelihood that the item to be exported will be
10 reexported; and

11 “(4) except in a case in which the item to be
12 exported could be used in the production of any bio-
13 technological product.

14 Before imposing restrictions under this subsection, the
15 President shall submit to the Congress a report describing
16 the restrictions to be imposed and the reasons for the re-
17 strictions.”; and

18 (iii) by striking subsection (d) and redesign-
19 ating subsections (e), (f), and (g) as sub-
20 sections (d), (e), and (f), respectively.

21 (B) Section 1704(b)(2)(C)(i) of the Cuban De-
22 mocracy Act of 1992 (22 U.S.C. 6003(b)(2)(C)(i)) is
23 amended to read as follows:

24 “(i) exports of agricultural commod-
25 ities to Cuba; or”.

1 (C) Section 1704 of the Cuban Democracy Act
 2 of 1992 (22 U.S.C. 6003) is amended by adding at
 3 the end the following:

4 “(c) DEFINITIONS.—As used in this section and sec-
 5 tion 1705, the terms ‘agricultural commodity’ and ‘medi-
 6 cine’ have the meanings given those terms in section 9
 7 of the Cuban Humanitarian Trade Act of 2001.”

8 **SEC. 6. APPLICATION OF DENIAL OF FOREIGN TAX CREDIT**
 9 **WITH RESPECT TO CUBA.**

10 Subparagraph (A) of section 901(j)(2) of the Internal
 11 Revenue Code of 1986 (relating to denial of foreign tax
 12 credit, etc., with respect to certain foreign countries) is
 13 amended by adding at the end thereof the following new
 14 flush sentence:

15 “Notwithstanding the preceding sentence, this
 16 subsection shall not apply to Cuba with respect
 17 to income, war profits, or excess profits taxes
 18 paid to Cuba that are attributable to activities
 19 with respect to articles permitted to be exported
 20 to Cuba, or travel incident thereto that is per-
 21 mitted, by virtue of the enactment of the Cuban
 22 Humanitarian Trade Act of 2001. The pre-
 23 ceding sentence shall apply after the date which
 24 is 60 days after the date of the enactment of
 25 this sentence.”

1 **SEC. 7. PROHIBITION ON LIMITING ANNUAL REMITTANCES.**

2 (a) IN GENERAL.—Except as provided in subsection
3 (b), the Secretary of the Treasury may not limit the
4 amount of remittances to Cuba that may be made by any
5 person who is subject to the jurisdiction of the United
6 States, and the Secretary shall rescind all regulations in
7 effect on the date of enactment of this Act that so limit
8 the amount of those remittances.

9 (b) STATUTORY CONSTRUCTION.—Nothing in sub-
10 section (a) may be construed to prohibit the prosecution
11 or conviction of any person committing an offense de-
12 scribed in section 1956 of title 18, United States Code
13 (relating to the laundering of monetary instruments) or
14 section 1957 of such title (relating to engaging in mone-
15 tary transactions in property derived from specific unlaw-
16 ful activity).

17 **SEC. 8. INAPPLICABILITY OF OTHER RESTRICTIONS.**

18 This Act and the amendments made by this Act apply
19 notwithstanding section 102(h) of the Cuban Liberty and
20 Democratic Solidarity (LIBERTAD) Act of 1996 (22
21 U.S.C. 6032(h)).

22 **SEC. 9. REPORT TO CONGRESS.**

23 Not later than 6 months after the date of the enact-
24 ment of this Act, the President shall transmit to the Con-
25 gress a report that sets forth—

1 (1) the extent (expressed in volume and dollar
2 amounts) of sales to Cuba of agricultural commod-
3 ities, medicines, medical supplies, medical instru-
4 ments, and medical equipment, since the enactment
5 of this Act;

6 (2) a description of the types and end users of
7 the goods so exported; and

8 (3) whether there has been any indication that
9 any medicines, medical supplies, medical instru-
10 ments, or medical equipment exported to Cuba since
11 the enactment of this Act—

12 (A) have been used for purposes of torture
13 or other human rights abuses;

14 (B) were reexported; or

15 (C) were used in the production of any bio-
16 technological product.

17 **SEC. 10. DEFINITIONS.**

18 In this Act:

19 (1) **AGRICULTURAL COMMODITY.**—The term
20 “agricultural commodity”—

21 (A) has the meaning given the term in sec-
22 tion 102 of the Agricultural Trade Act of 1978
23 (7 U.S.C. 5602); and

24 (B) includes fertilizer.

1 (2) MEDICINE.—The term “medicine” has the
2 meaning given the term “drug” in section 201 of the
3 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
4 7321).

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