

116TH CONGRESS
1ST SESSION

S. 577

To require the establishment of a process for excluding articles imported from the People’s Republic of China from certain duties imposed under section 301 of the Trade Act of 1974, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2019

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

A BILL

To require the establishment of a process for excluding articles imported from the People’s Republic of China from certain duties imposed under section 301 of the Trade Act of 1974, 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 “Import Tax Relief Act
5 of 2019”.

1 **SEC. 2. PROCESS FOR EXCLUDING ARTICLES IMPORTED**
2 **FROM THE PEOPLE'S REPUBLIC OF CHINA**
3 **FROM CERTAIN DUTIES IMPOSED UNDER**
4 **SECTION 301 OF THE TRADE ACT OF 1974.**

5 (a) ESTABLISHMENT OF EXCLUSION PROCESS.—
6 Notwithstanding any other provision of law, the President
7 shall establish, in consultation with the United States
8 International Trade Commission (in this section referred
9 to as the “Commission”), a process pursuant to which
10 United States entities and associations of such entities
11 may request the exclusion of articles imported from the
12 People’s Republic of China from duties described in sub-
13 section (b).

14 (b) DUTIES DESCRIBED.—The duties described in
15 this subsection are duties imposed on or after September
16 24, 2018, pursuant to the investigation—

17 (1) initiated under section 301 of the Trade Act
18 of 1974 (19 U.S.C. 2411) on August 18, 2017; and

19 (2) with respect to which notice was published
20 in the Federal Register on August 24, 2017 (82
21 Fed. Reg. 40213).

22 (c) IMPLEMENTATION OF EXCLUSION PROCESS.—In
23 implementing the process established under subsection (a),
24 the President shall exclude from the imposition of a duty
25 described subsection (b) an article imported from the Peo-
26 ple’s Republic of China if the President determines—

1 (1)(A) the article is not commercially available
2 (as defined by the Commission) outside of the Peo-
3 ple’s Republic of China, or is not produced outside
4 of the People’s Republic of China at a cost-competi-
5 tive price at commercial scale;

6 (B) the imposition of the duty on the article
7 would increase consumer prices for day-to-day items
8 consumed by low- or middle-income families in the
9 United States; or

10 (C) the article has not been found by a Federal
11 agency to have directly benefited from the non-mar-
12 ket-based policies of the People’s Republic of China,
13 including elements of the Made in China 2025 pol-
14 icy; and

15 (2) the exclusion of the article can likely be ad-
16 ministered by U.S. Customs and Border Protection.

17 (d) DETERMINATION OF INCREASED CONSUMER
18 PRICES.—The President shall determine under subsection
19 (c)(1)(B) that the imposition of a duty would increase con-
20 sumer prices for day-to-day items consumed by low- or
21 middle-income families in the United States if imposition
22 of the duty would cause an increase in—

23 (1) the cost of an article listed in Appendix 1
24 to chapter 17 of the Handbook of Methods of the

1 Bureau of Labor Statistics of the Department of
2 Labor, dated February 14, 2018; or

3 (2) the Consumer Price Index for All Urban
4 Consumers published by the Bureau of Labor Statis-
5 tics.

6 (e) COLLECTION OF DUTIES.—No duty described in
7 subsection (b) imposed on an article imported into the
8 United States from the People’s Republic of China on or
9 after the date of the enactment of this Act shall be col-
10 lected on an article until the President has established the
11 exclusion process required by subsection (a).

12 (f) RETROACTIVE APPLICATION FOR CERTAIN LIQ-
13 UIDATIONS AND RELIQUIDATIONS.—

14 (1) IN GENERAL.—Notwithstanding section 514
15 of the Tariff Act of 1930 (19 U.S.C. 1514) or any
16 other provision of law, any entry of an article im-
17 ported from the People’s Republic of China that
18 would have been subject to a lower rate of duty if
19 the entry had been made after the issuance of an ex-
20 clusion of the article from the imposition of a duty
21 described in subsection (b) pursuant to the exclusion
22 process established under subsection (a), that was
23 made—

1 (A) after the imposition of the duty de-
2 scribed in subsection (b) with respect to that
3 article; and

4 (B) before the issuance of the exclusion,
5 shall be liquidated or reliquidated as though the
6 entry occurred after the issuance of the exclusion.

7 (2) REQUESTS.—A liquidation or reliquidation
8 may be made under paragraph (1) with respect to
9 an entry of an article only if a request therefor is
10 filed with U.S. Customs and Border Protection not
11 later than 180 days after the issuance of an exclu-
12 sion described in paragraph (1) with respect to that
13 article that contains sufficient information to enable
14 U.S. Customs and Border Protection—

15 (A) to locate the entry; or

16 (B) to reconstruct the entry if it cannot be
17 located.

18 (3) PAYMENTS OF AMOUNTS OWED.—Any
19 amounts owed by the United States pursuant to the
20 liquidation or reliquidation of an entry of an article
21 under paragraph (1) shall be paid, without interest,
22 not later than 90 days after the date of the liquida-
23 tion or reliquidation (as the case may be).

1 (4) ENTRY DEFINED.—In this subsection, the
2 term “entry” includes a withdrawal from warehouse
3 for consumption.

4 (g) EXCLUSION PROCESS ESTABLISHED BY
5 USTR.—If the United States Trade Representative estab-
6 lishes an exclusion process as described under the heading
7 “SALARIES AND EXPENSES” under the heading “OFFICE
8 OF THE UNITED STATES TRADE REPRESENTATIVE” in
9 title IV of division C of the joint explanatory statement
10 of the committee of conference accompanying the Consoli-
11 dated Appropriations Act, 2019 (Public Law 116–9), the
12 Trade Representative shall establish that process in ac-
13 cordance with this section.

14 (h) UNITED STATES ENTITY DEFINED.—The term
15 “United States entity” means an entity organized under
16 the laws of the United States or any jurisdiction within
17 the United States.

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