

116TH CONGRESS  
1ST SESSION

# S. 899

To limit the authority of the President to modify duty rates for national security reasons and to limit the authority of the United States Trade Representative to impose certain duties or import restrictions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 27, 2019

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

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## A BILL

To limit the authority of the President to modify duty rates for national security reasons and to limit the authority of the United States Trade Representative to impose certain duties or import restrictions, 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 “Reclaiming Congres-  
5 sional Trade Authority Act of 2019”.

1 **SEC. 2. LIMITATION ON AUTHORITY OF PRESIDENT TO**  
2 **MODIFY DUTY RATES FOR NATIONAL SECU-**  
3 **RITY REASONS.**

4 (a) **AUTHORITY TO MODIFY DUTY RATES FOR NA-**  
5 **TIONAL SECURITY REASONS.**—Notwithstanding any other  
6 provision of law and except as provided in subsection (c),  
7 the President may proclaim a new or additional national  
8 security duty on an article imported into the United States  
9 only if—

10 (1) the President, not later than 30 calendar  
11 days after making the national security determina-  
12 tion that is the basis for the new or additional duty,  
13 submits to the International Trade Commission the  
14 duty proposal, including—

15 (A) a description of each article for which  
16 the President recommends a new or additional  
17 duty;

18 (B) the proposed new or additional duty  
19 rate; and

20 (C) the proposed duration of that rate;

21 (2) the President, not later than 15 calendar  
22 days after submitting the duty proposal under para-  
23 graph (1), submits to Congress a request for author-  
24 ization to modify duty rates in accordance with that  
25 duty proposal, including—

1 (A) a report by the Secretary of Defense  
2 explaining why the proposal is in the interest of  
3 national security; and

4 (B) a report by the International Trade  
5 Commission assessing the likely impact of the  
6 proposal on the economy of the United States  
7 as a whole and specific industry sectors;

8 (3) the President consults with the Committee  
9 on Finance and the Committee on Armed Services of  
10 the Senate and the Committee on Ways and Means  
11 and the Committee on Armed Services of the House  
12 of Representatives regarding the duty proposal  
13 under paragraph (1), including—

14 (A) the short-term and long-term goals of  
15 the proposal;

16 (B) an action plan to achieve those goals;  
17 and

18 (C) plans to consult with officials of coun-  
19 tries impacted by the proposal to resolve any  
20 issues relating to the proposal; and

21 (4) a joint resolution of approval under sub-  
22 section (b) is enacted.

23 (b) JOINT RESOLUTION OF APPROVAL.—

24 (1) JOINT RESOLUTION OF APPROVAL DE-  
25 FINED.—In this subsection, the term “joint resolu-

1       tion of approval” means a joint resolution the sole  
2       matter after the resolving clause of which is as fol-  
3       lows: “That Congress authorizes the President to  
4       proclaim duty rates as set forth in the request of the  
5       President on \_\_\_\_\_”, with the  
6       blank space being filled with the date of the request  
7       submitted under subsection (a)(2).

8               (2) INTRODUCTION.—A joint resolution of ap-  
9       proval may be introduced in either House of Con-  
10      gress by any Member during the 15-legislative day  
11      period beginning on the date on which the President  
12      submits to Congress the material set forth in sub-  
13      section (a)(2).

14              (3) EXPEDITED PROCEDURES.—The provisions  
15      of subsections (b) through (f) of section 152 of the  
16      Trade Act of 1974 (19 U.S.C. 2192) apply to a joint  
17      resolution of approval to the same extent that such  
18      subsections apply to joint resolutions under such  
19      section 152.

20              (4) RULES OF HOUSE OF REPRESENTATIVES  
21      AND SENATE.—This subsection is enacted by Con-  
22      gress—

23                      (A) as an exercise of the rulemaking power  
24                      of the Senate and the House of Representa-  
25                      tives, respectively, and as such is deemed a part

1 of the rules of each House, respectively, but ap-  
2 plicable only with respect to the procedure to be  
3 followed in that House in the case of a joint  
4 resolution of approval, and supersedes other  
5 rules only to the extent that it is inconsistent  
6 with such rules; and

7 (B) with full recognition of the constitu-  
8 tional right of either House to change the rules  
9 (so far as relating to the procedure of that  
10 House) at any time, in the same manner, and  
11 to the same extent as in the case of any other  
12 rule of that House.

13 (c) EXCEPTION FOR URGENT ACTION.—Notwith-  
14 standing the requirements of subsection (a), the President  
15 may proclaim a new or additional national security duty  
16 for one period of 120 calendar days if the President deter-  
17 mines that urgent action is necessary—

18 (1) to address a national emergency;

19 (2) for the prevention or mitigation of, or to re-  
20 spond to, loss of life or property;

21 (3) to address an imminent threat to health or  
22 safety;

23 (4) for the enforcement of criminal laws; or

24 (5) for national security.

1 (d) NATIONAL SECURITY DUTY DEFINED.—In this  
 2 section, the term “national security duty” means the fol-  
 3 lowing:

4 (1) A duty proclaimed pursuant to—

5 (A) section 232 of the Trade Expansion  
 6 Act of 1962 (19 U.S.C. 1862);

7 (B) the Trading with the Enemy Act (50  
 8 U.S.C. 4301 et seq.); or

9 (C) the International Emergency Economic  
 10 Powers Act (50 U.S.C. 1701 et seq.).

11 (2) A duty proclaimed pursuant to any other  
 12 provision of law if in reports or other public state-  
 13 ments regarding the duty the President or another  
 14 cabinet-level official identifies national security as a  
 15 significant reason for proclaiming the duty.

16 **SEC. 3. CONDITIONS ON USE OF AUTHORITY BY UNITED**  
 17 **STATES TRADE REPRESENTATIVE TO IMPOSE**  
 18 **DUTIES OR OTHER IMPORT RESTRICTIONS.**

19 (a) IN GENERAL.—Section 301(c) of the Trade Act  
 20 of 1974 (19 U.S.C. 2411(c)) is amended by adding at the  
 21 end the following:

22 “(7)(A) The Trade Representative may take ac-  
 23 tion pursuant to paragraph (1)(B) only if—

24 “(i) the Trade Representative submits to  
 25 the International Trade Commission a proposal

1 for duties or other import restrictions under  
2 that paragraph, including—

3 “(I) a description of each article cov-  
4 ered by that proposal;

5 “(II) the proposed new or additional  
6 duty rate; and

7 “(III) the proposed duration of that  
8 rate;

9 “(ii) the Trade Representative submits to  
10 Congress a notification of intent to impose du-  
11 ties or import restrictions under that para-  
12 graph, including—

13 “(I) the proposal submitted under  
14 clause (i); and

15 “(II) a report by the International  
16 Trade Commission assessing the likely im-  
17 pact of the proposal on the economy of the  
18 United States as a whole and specific in-  
19 dustry sectors;

20 “(iii) after submitting the notification  
21 under clause (ii), the Trade Representative  
22 consults with the Committee on Finance of the  
23 Senate and the Committee on Ways and Means  
24 of the House of Representatives and, if the pro-  
25 posal affects agricultural products, the Com-

1           mittee on Agriculture, Nutrition, and Forestry  
2           of the Senate and the Committee on Agri-  
3           culture of the House of Representatives;

4           “(iv) a period of 60 calendar days, begin-  
5           ning on the date on which the Trade Represent-  
6           ative has completed consultations under clause  
7           (iii), has passed; and

8           “(v) no disapproval resolution under sub-  
9           paragraph (B) is passed during the period de-  
10          scribed in clause (iv).

11          “(B)(i) In this subparagraph, the term ‘dis-  
12          approval resolution’ means a joint resolution the sole  
13          matter after the resolving clause of which is as fol-  
14          lows: ‘That implementation of the proposal by the  
15          Trade Representative to impose duties or other im-  
16          port restrictions submitted to Congress on  
17          \_\_\_\_\_ is not in the  
18          interest of the United States.’, with the blank space  
19          being filled with the date on which the Trade Rep-  
20          resentative submitted to Congress the material de-  
21          scribed in subsection (A)(ii).

22          “(ii) Paragraph (2) of section 106(b) of the Bi-  
23          partisan Congressional Trade Priorities and Ac-  
24          countability Act of 2015 (19 U.S.C. 4205(b)) applies  
25          to a disapproval resolution under this subparagraph



1 to the same extent that such paragraph applies to  
2 a procedural disapproval resolution under such sec-  
3 tion 106(b).”.

4 (b) CONFORMING AMENDMENT.—Paragraph (1)(B)  
5 of such section is amended by inserting “subject to para-  
6 graph (7),” before “impose duties”.

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