

MOVING AMERICANS PRIVACY PROTECTION ACT

APRIL 16, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BRADY of Texas, from the Committee on Ways and Means, submitted the following

R E P O R T

[To accompany H.R. 4403]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4403) to amend the Tariff Act of 1930 to protect personally identifiable information, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
I. SUMMARY AND BACKGROUND	2
A. Purpose and Summary	2
B. Background and Need for Legislation	2
C. Legislative History	3
II. EXPLANATION OF THE BILL	3
Section 1: Short Title	3
Section 2: Protection of Personally Identifiable Information	3
III. VOTES OF THE COMMITTEE	4
IV. BUDGET EFFECTS OF THE BILL	5
A. Committee Estimate of Budgetary Effects	5
B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority	5
C. Cost Estimate Prepared by the Congressional Budget Office	5
V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE	6
A. Committee Oversight Findings and Recommendations	6
B. Statement of General Performance Goals and Objectives	6
C. Information Relating to Unfunded Mandates	6
D. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits	6
E. Duplication of Federal Programs	6
F. Disclosure of Directed Rule Makings	7

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED	7
A. Text of Existing Law Amended or Repealed by the Bill, as Reported	7
B. Changes in Existing Law Proposed by the Bill, as Reported	9

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Moving Americans Privacy Protection Act”.

SEC. 2. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Section 431(c)(2) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(2)) is amended to read as follows:

“(2)(A) The information listed in paragraph (1) shall not be available for public disclosure if—

 “(i) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

 “(ii) the information is exempt under the provisions of section 552(b)(1) of title 5, United States Code.

“(B) The Secretary shall ensure that any personally identifiable information, including Social Security account numbers and passport numbers, is removed from any manifest signed, produced, delivered, or electronically transmitted under this section before access to the manifest is provided to the public.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 30 days after the date of the enactment of this Act.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The Moving Americans Privacy Act protects personally identifiable information by amending the Tariff Act of 1930 to require U.S. Customs and Border Protection (CBP) to ensure that personally identifiable information, such as social security numbers and passport numbers, are removed from any manifest that is signed, produced, delivered, or transmitted before the manifest is disclosed to the public.

B. BACKGROUND AND NEED FOR LEGISLATION

CBP is responsible for ensuring cargo and passenger clearance, compliance of imports and exports with U.S. laws, collection of revenue, and prevention against the smuggling of contraband and the illegal entry of persons. As part of these functions, vessels are required to submit to CBP manifest documents for shipments into the United States either at or before the time of entry. Under current law, CBP is required to make certain information on the manifest available for public disclosure, including: the name and address of the importer or consignee; name and address of the shipper; a description of the cargo; the name of the vessel, aircraft, or carrier; the seaport or airport of loading; the seaport or airport of discharge; the country of origin of the shipment; and the trademarks appearing on the goods or packages in the shipments.

CBP is also required to have procedures providing for the adequate protection against the public disclosure of information that is not available for public disclosure from such manifests. While CBP maintains procedures for importers and consignees to request the confidential treatment of certain information, determinations to grant confidential treatment may take several months and often may not be granted until after the manifest data has already been

disclosed. Further, absent a request for confidential treatment, CBP does not independently screen manifests for personally identifiable information because there is no requirement to provide that information on the manifest.

As a result, personally identifiable information, such as social security numbers, passport numbers, and license information, has at times been inadvertently disclosed to the public, putting individuals at risk for identity theft, credit card fraud, and unwanted solicitations. While certain personally identifiable information should not be entered on a manifest in the first place, and while CBP has a process in place for individuals to seek confidential treatment if they have provided such information, the burden should not fall on individual consumers to ensure that the agency does not make such information available to the public. Legislation is needed to shift the burden from the individual consumer to the agency.

C. LEGISLATIVE HISTORY

Background

H.R. 4403, to amend the Tariff Act of 1930 to protect personally identifiable information, and for other purposes, was introduced on November 15, 2017, by Representative Jeff Denham and Ranking Member Bill Pascrell, Jr. and was referred to the Committee on Ways and Means.

Committee action

The Committee on Ways and Means marked up H.R. 4403, Moving Americans Privacy Protection Act, on April 11, 2018, and ordered the bill, as amended, favorably reported (with a quorum being present).

II. EXPLANATION OF THE BILL

SECTION 1: SHORT TITLE

Present law

No provision.

Explanation of provision

This Act may be cited as “Moving Americans Privacy Protection Act.”

Reason for change

The Committee believes that the short title accurately reflects the policy actions included in the legislation.

Effective date

The provision is effective 30 days after the date of the enactment of this Act.

SECTION 2: PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION

Present law

Section 431(c) of the Tariff Act of 1930 requires that certain information contained on manifests be available for public disclosure.

Such information includes the name and address of the importer or consignee; name and address of the shipper; a description of the cargo; the name of the vessel, aircraft, or carrier; the seaport or airport of loading; the seaport or airport of discharge; the country of origin of the shipment; and the trademarks appearing on the goods or packages in the shipments. It also requires that such information not be available for public disclosure if a determination is made that the disclosure is likely to pose a threat of personal injury or personal property or if the information is exempt under the Freedom of Information Act (section 552(b)(1) of title 5 of the United States Code). It further requires CBP to establish procedures to provide access to manifests, including provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.

Explanation of provision

Section 2(a) amends section 431(c) of the Tariff Act of 1930 by adding a requirement that CBP ensure that any personally identifiable information, including social security numbers and passport numbers, are removed from any manifest before making it available to the public.

Section 2(b) provides a 30-day effective date period to allow CBP time to program its systems to identify and remove any such personally identifiable information.

Reason for change

The Committee is concerned about the unauthorized disclosure of personally identifiable information in the public domain. CBP maintains a process for individuals to seek confidential treatment of their personally identifiable information. But such determinations may take several months and often may not be granted until after the manifest data has already been disclosed. In addition, individuals may be unaware that a carrier has placed their personal information on a manifest in the first instance. This has resulted in instances in which personally identifiable information has been inadvertently disclosed in the public domain, putting individuals at risk for identity theft, credit card fraud, and unwanted solicitations. This legislation would require CBP to ensure that personally identifiable information is not disclosed publicly, even in instances in which an individual has not filed a request for confidential treatment.

Effective date

The provision is effective 30 days after the date of the enactment of this Act.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 4403, Moving Americans Privacy Protection Act, on April 11, 2018.

The Chairman's amendment in the nature of a substitute was adopted by a voice vote (with a quorum being present).

The bill, H.R. 4403, was ordered favorably reported as amended by voice vote (with a quorum being present).

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 4403, as reported. The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO), which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the bill involves no new or increased tax expenditures.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 13, 2018.

Hon. KEVIN BRADY,
*Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office and the staff of the Joint Committee on Taxation (JCT) have reviewed the following bills that were ordered reported by the House Committee on Ways and Means on April 11, 2018:

- H.R. 4403, the Moving Americans Privacy Protection Act (the bill would require the Secretary of the Treasury to ensure any personally identifiable information is removed from tariff manifests before being disclosed to the public);
- H.R. 5438, a bill to amend the Internal Revenue Code of 1986 to allow officers and employees of the Department of Treasury to provide to taxpayers information regarding low-income taxpayer clinics (for JCT's description of the bill see: www.jct.gov/publications.html?func=startdown&id=5078);
- H.R. 5439, a bill to provide a single point of contact at the Internal Revenue Service for the taxpayers who are victims of tax-related identity theft (for JCT's description of the bill see: www.jct.gov/publications.html?func=startdown&id=5084); and
- H.R. 5440, a bill to require notice from the Secretary of the Treasury in the case of any closure of a Taxpayer Assistance Center (for JCT's description of the bill see: www.jct.gov/publications.html?func=startdown&id=5076).

CBO estimates that implementing each of those bills would have no significant discretionary cost. In addition, CBO and JCT esti-

mate that enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO and JCT estimate that enacting these bills would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

CBO and JCT have reviewed the bills and determined that they contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL,
Director.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

E. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published

pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

F. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (115th Congress), the following statement is made concerning directed rule makings: The Committee advises that the bill requires no directed rulemakings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be repealed by the bill, as reported, is shown below:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TARIFF ACT OF 1930

* * * * *

TITLE IV—ADMINISTRATIVE PROVISIONS

* * * * *

Part II—Report, Entry, and Unlading of Vessels and Vehicles

SEC. 431. MANIFEST—REQUIREMENT, FORM, AND CONTENTS.

(a) IN GENERAL.—Every vessel required to make entry under section 434 or obtain clearance under section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91) shall have a manifest that complies with the requirements prescribed under subsection (d).

(b) PRODUCTION OF MANIFEST.—Any manifest required by the Customs Service shall be signed, produced, delivered or electronically transmitted by the master or person in charge of the vessel, aircraft, or vehicle, or by any other authorized agent of the owner or operator of the vessel, aircraft, or vehicle in accordance with the requirements prescribed under subsection (d). A manifest may be supplemented by bill of lading data supplied by the issuer of such bill. If any irregularity of omission or commission occurs in any way in respect to any manifest or bill of lading data, the owner or operator of the vessel, aircraft or vehicle, or any party responsible for such irregularity, shall be liable for any fine or penalty pre-

scribed by law with respect to such irregularity. The Customs Service may take appropriate action against any of the parties.

(c)(1) Except as provided in subparagraph (2), the following information, when contained in such vessel or aircraft manifest, shall be available for public disclosure:

(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

(B) The general character of the cargo.

(C) The number of packages and gross weight.

(D) The name of the vessel, aircraft, or carrier.

(E) The seaport or airport of loading.

(F) The seaport or airport of discharge.

(G) The country of origin of the shipment.

(H) The trademarks appearing on the goods or packages.

[(2) The information listed in paragraph (1) shall not be available for public disclosure if—

[(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

[(B) the information is exempt under the provisions of section 552(b)(1) of title 5 of the United States Code.]

(2)(A) *The information listed in paragraph (1) shall not be available for public disclosure if—*

(i) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

(ii) the information is exempt under the provisions of section 552(b)(1) of title 5, United States Code.

(B) *The Secretary shall ensure that any personally identifiable information, including Social Security account numbers and passport numbers, is removed from any manifest signed, produced, delivered, or electronically transmitted under this section before access to the manifest is provided to the public.*

(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.

(d) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall by regulation—

(A) specify the form for, and the information and data that must be contained in, the manifest required by subsection (a);

(B) allow, at the option of the individual producing the manifest and subject to paragraph (2), letters and documents shipments to be accounted for by summary manifesting procedures;

(C) prescribe the manner of production for, and the delivery or electronic transmittal of the manifest required by subsection (a); and

(D) prescribe the manner for supplementing manifests with bill of lading data under subsection (b).

(2) LETTERS AND DOCUMENTS SHIPMENTS.—For purposes of paragraph (1)(B)—

(A) the Customs Service may require with respect to letters and documents shipments—

(i) that they be segregated by country of origin, and

(ii) additional examination procedures that are not necessary for individually manifested shipments;

(B) standard letter envelopes and standard document packs shall be segregated from larger document shipments for purposes of customs inspections; and

(C) the term “letters and documents” means—

(i) data described in General Headnote 4(c) of the Harmonized Tariff Schedule of the United States,

(ii) securities and similar evidences of value described in heading 4907 of such Schedule, but not monetary instruments defined pursuant to chapter 53 of title 31, United States Code, and

(iii) personal correspondence, whether on paper, cards, photographs, tapes, or other media.

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B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):