

END CHINA’S DE MINIMIS ABUSE ACT

DECEMBER 24, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Missouri, from the Committee on Ways and Means,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 7979]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 7979) to amend section 321 of the Tariff Act of 1930 to modify the administrative exemptions under that Act, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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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 “End China’s De Minimis Abuse Act”.

#### SEC. 2. MODIFICATION OF ADMINISTRATIVE EXEMPTIONS UNDER THE TARIFF ACT OF 1930.

(a) IN GENERAL.—Section 321 of the Tariff Act of 1930 (19 U.S.C. 1321) is amended—

(1) in subsection (a)(2)—

(A) in the matter preceding subparagraph (A), by striking “admit articles” and inserting “subject to subsection (b)(1), admit articles”;

(B) in subparagraph (C)—

(i) by striking “\$800” and inserting “subject to subsection (b)(2), \$800”; and

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

(C) in the matter following subparagraph (C), by striking “The privilege” and all that follows through “; and”;

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

“(b)(1) The privilege of subparagraph (A), (B), or (C) of subsection (a)(2) shall not be granted in any case in which merchandise covered by a single order or contract is forwarded in separate lots to secure the benefit of such subsection.

“(2) The privilege of subparagraph (C) of subsection (a)(2) shall not be granted with respect to any article that is subject to duties or other import restrictions under any of the following provisions of law:

“(A) Subtitle A or B of title VII of this Act.

“(B) Section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

“(C) Section 301 of the Trade Act of 1974 (19 U.S.C. 2411).

“(D) Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862).

“(3)(A) No covered article may receive the privilege of subparagraph (C) of subsection (a)(2) unless the 10-digit classification of the article under the Harmonized Tariff Schedule of the United States is provided to U.S. Customs and Border Protection, pursuant to an authorized electronic data interchange system, as part of the entry filing in accordance with section 498 of this Act, in addition to any other information required by law.

“(B) In this paragraph, the term ‘covered article’ means an article the origin of which is a country with any goods subject to duties or other import restrictions under section 301 of the Trade Act of 1974 (19 U.S.C. 2411).

“(c) Any person who enters, introduces, or attempts to introduce an article in violation of this section is liable for a civil penalty of \$5,000 for the first violation; and \$10,000 for each subsequent violation. A penalty imposed under this subsection is in addition to any other penalty authorized by law.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 30th day after the date of the enactment of this Act.

## I. SUMMARY AND BACKGROUND

### A. PURPOSE AND SUMMARY

H.R. 7979, the *End China’s De Minimis Abuse Act*, as ordered reported by the Committee on Ways and Means on April 17, 2024, amends section 321 of the Tariff Act of 1930 to modify the administrative exemptions under that Act.

### B. BACKGROUND AND NEED FOR LEGISLATION

H.R. 7979 modifies the administrative exemption under the Tariff Act of 1930 to deny the *de minimis* privilege for any product

subject to duties or other import restrictions under the following trade enforcement laws: Section 201 of the Trade Act of 1974 (19 U.S.C. 2251); Section 301 of the Trade Act of 1974 (19 U.S.C. 2411) (“Section 301”); and Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862). Additionally, the legislation confirms the existing prohibition against using the privilege for imports subject to antidumping or countervailing duty orders under Subtitle A or B of title VII of the Tariff Act of 1930 (19 U.S.C. 1671).

The *de minimis* privilege has allowed various firms to avoid paying trade enforcement tariffs imposed by President Trump on imports from China since 2018. This bill will end the *de minimis* privilege for all products subject to such tariffs and also add a new requirement to provide the correct 10-digit Harmonized Tariff System classification for any future *de minimis* entries from countries subject to Section 301 tariffs. This will aid law enforcement efforts to address other unfair and illegal trade practices, like the importation of fentanyl precursors and items made in whole or in part using forced labor. Additionally, for any person who violates U.S. *de minimis* law, this bill imposes new civil penalties of \$5,000 for the first violation and \$10,000 for each subsequent offense. Under current law, generally, the penalty for abusing *de minimis* is mere forfeiture of the shipment (often valued at \$55 or less), providing inadequate deterrence to bad actors.

### C. LEGISLATIVE HISTORY

#### *Background*

H.R. 7979 was introduced on April 15, 2024, by Representative Gregory Murphy and was referred to the Committee on Ways and Means.

#### *Committee Hearing*

On May 9, 2023, the Committee held a hearing entitled “Trade in America: Securing Supply Chains and Protecting the American Worker—Staten Island.”

#### *Committee Action*

The Committee on Ways and Means marked up H.R. 7979, the “End China’s De Minimis Abuse Act,” on April 17, 2024, and ordered the bill, as amended, favorably reported (with a quorum being present).

### D. DESIGNATED HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop and consider H.R. 7979:

On May 9, 2023, the Committee held a hearing entitled “Trade in America: Securing Supply Chains and Protecting the American Worker—Staten Island.”

## II. EXPLANATION OF THE BILL

### PRESENT LAW

Section 321 of the Tariff Act of 1930 generally allows shipments bound for American businesses and consumers valued under \$800 to enter the U.S. free of duties and taxes.

## REASON FOR CHANGE

The original purpose of the *de minimis* privilege is to avoid expense disproportionate to the amount of duty that would otherwise be collected from the import. However, as a result of the explosion of global e-commerce, *de minimis* trade has surged to become a major source of imports to the United States and has become a major focus of the business model used by certain companies.

However, Members supporting this legislation do not believe importers should continue to be able to use the *de minimis* privilege to evade trade enforcement tariffs. Moreover, this change aligns with current practice for other trade enforcement tariffs—importers already cannot use the *de minimis* privilege to evade antidumping and countervailing duty tariffs.

## EXPLANATION OF PROVISIONS

*Section 1. Short Title*

The short title of this Act is the “End China’s De Minimis Abuse Act.”

*Section 2. Modification of Administrative Exemptions under the Tariff Act of 1930*

This section amends Section 321 of the Tariff Act of 1930 (19 U.S.C. 1321) to deny the *de minimis* privilege for any product subject to duties or other import restrictions under the following trade enforcement laws:

- Global safeguards under Section 201 of the Trade Act of 1974 (19 U.S.C. 2251);
- Enforcement tariffs to address unfair or unreasonable actions by trading partners under Section 301 of the Trade Act of 1974 (19 U.S.C. 2411); and
- National security actions under Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862).

Additionally, this section confirms the existing prohibition against using the *de minimis* privilege for imports subject to antidumping or countervailing duty orders under Subtitle A or B of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 and following).

This section requires all *de minimis* entries from countries subject to Section 301 tariffs to include the correct 10-digit Harmonized Tariff System (HTS) classification code. As previously stated, this section precludes the *de minimis* privileges for products subject to Section 301 tariffs. Therefore, this HTS requirement applies only to products that are not subject to Section 301 tariffs.

This section also imposes a civil penalty for any person who violates U.S. *de minimis* law of \$5,000 for the first violation and \$10,000 for each subsequent violation.

## EFFECTIVE DATE

The provision is effective on or after the 30th day after the date of enactment of this Act.

**III. VOTE OF THE COMMITTEE**

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Com-

mittee on Ways and Means during the markup consideration of H.R. 7979, “End China’s De Minimis Abuse Act,” on April 17, 2024.

H.R. 7979 was ordered favorably reported to the House of Representatives as amended by a roll call vote of 24 yeas to 18 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO) .....	X	.....	.....	Mr. Neal .....	.....	X	.....
Mr. Buchanan .....	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Smith (NE) .....	X	.....	.....	Mr. Thompson .....	.....	X	.....
Mr. Kelly .....	X	.....	.....	Mr. Larson .....	.....	X	.....
Mr. Schweikert .....	X	.....	.....	Mr. Blumenauer .....	.....	X	.....
Mr. LaHood .....	X	.....	.....	Mr. Pascrell .....	.....	X	.....
Dr. Wenstrup .....	X	.....	.....	Mr. Davis .....	.....	X	.....
Mr. Arrington .....	X	.....	.....	Ms. Sánchez .....	.....	X	.....
Dr. Ferguson .....	X	.....	.....	Ms. Sewell .....	.....	X	.....
Mr. Estes .....	X	.....	.....	Ms. DelBene .....	.....	X	.....
Mr. Smucker .....	X	.....	.....	Ms. Chu .....	.....	X	.....
Mr. Hern .....	X	.....	.....	Ms. Moore .....	.....	X	.....
Ms. Miller .....	X	.....	.....	Mr. Kildee .....	.....	X	.....
Dr. Murphy .....	X	.....	.....	Mr. Beyer .....	.....	X	.....
Mr. Kustoff .....	.....	.....	.....	Mr. Evans .....	.....	X	.....
Mr. Fitzpatrick .....	X	.....	.....	Mr. Schneider .....	.....	X	.....
Mr. Steube .....	X	.....	.....	Mr. Panetta .....	.....	X	.....
Ms. Tenney .....	X	.....	.....	Mr. Gomez .....	.....	X	.....
Mrs. Fischbach .....	X	.....	.....				
Mr. Moore .....	X	.....	.....				
Mrs. Steel .....	X	.....	.....				
Ms. Van Dyne .....	X	.....	.....				
Mr. Feenstra .....	X	.....	.....				
Ms. Malliotakis .....	X	.....	.....				
Mr. Carey .....	X	.....	.....				

#### 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. 7979, as reported. The estimate prepared by the Congressional Budget Office (CBO) 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.

#### V. 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.

At a Glance			
H.R. 7979, End China's De Minimis Abuse Act			
As ordered reported by the House Committee on Ways and Means on April 17, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	0	-48	-72
Revenues	0	10,013	23,526
Increase or Decrease (-) in the Deficit	0	-10,061	-23,598
Spending Subject to Appropriation (Outlays)	0	15	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold

The bill would:

- Revoke de minimis eligibility—the option to import certain goods worth less than \$800 without paying customs duties
- Require importers to report the 10-digit Harmonized Tariff Schedule code for any goods imported from China
- Create new civil penalties for using the de minimis exception to import goods that would be ineligible under the bill
- Impose private-sector mandates on importers

Estimated budgetary effects would mainly stem from:

- Additional collections of customs revenues and customs user fees
- Administrative costs for Customs and Border Protection

Areas of significant uncertainty include:

- Projecting the volume of goods that would be subject to customs duties and customs user fees under the bill

Bill summary: H.R. 7979 would revoke de minimis eligibility; that is, the ability to import certain goods worth less than \$800 without paying customs duties. Specifically, any imports of goods that are subject to tariffs under section 201, section 232, or section 301 of the Trade Act of 1974 would no longer be eligible. Currently, goods subject to those tariffs include certain products from China, solar panels, and steel and aluminum products, with some exceptions for specific countries and goods. In addition, the bill would codify current practice by revoking de minimis eligibility for goods that are subject to antidumping and countervailing duties and would revoke eligibility for importers who split a single order into multiple shipments to avoid the \$800 threshold.

The bill also would require importers to report the 10-digit Harmonized Tariff Schedule code for any products imported from China, regardless of their de minimis eligibility. Finally, the bill would establish a new civil penalty for any person who uses or attempts to use the de minimis exception for a product that would no longer be eligible under this bill.

Estimated Federal cost: The estimated budgetary effect of H.R. 7979 is shown in Table 1. The costs of the legislation fall within budget function 750 (administration of justice).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 7979

	By fiscal year, millions of dollars—												
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2024– 2029	2024– 2034
	DECREASES IN DIRECT SPENDING												
Estimated Budget Authority .....	0	–5	–8	–11	–12	–12	–12	–12	0	0	0	–48	–72
Estimated Outlays .....	0	–5	–8	–11	–12	–12	–12	–12	0	0	0	–48	–72
	INCREASES IN REVENUES												
Estimated Revenues .....	0	1,028	1,763	2,248	2,459	2,515	2,577	2,639	2,701	2,767	2,829	10,013	23,526
	NET DECREASE IN THE DEFICIT												
	FROM CHANGES IN DIRECT SPENDING AND REVENUES												
Effect on the Deficit .....	0	–1,033	–1,771	–2,259	–2,471	–2,527	–2,589	–2,651	–2,701	–2,767	–2,829	–10,061	–23,598
	INCREASES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization .....	0	5	2	2	3	3	n.e.	n.e.	n.e.	n.e.	n.e.	15	n.e.
Estimated Outlays .....	0	5	2	2	3	3	n.e.	n.e.	n.e.	n.e.	n.e.	15	n.e.

n.e. = not estimated.

n.e.= not estimated.

Basis of estimate: CBO's estimate assumes that the bill will be enacted late in fiscal year 2024 and that the estimated amounts will be available each year.

The estimate is based on CBO's projection of the volume of imports entering the country and the value of those goods, as well as CBO's expectation of how firms and importers will respond to the bill's changes to the de minimis exception.

Revenues: Using data from Customs and Border Patrol (CBP), CBO estimates that approximately \$27 billion worth of goods that would otherwise be subject to the tariffs were imported under the de minimis exception in 2023. On that basis, we estimate that enacting the bill would increase revenues from customs duties by about \$24 billion over the 2024–2034 period.

Additionally, the government might collect civil penalties from importers that use or attempt to use the de minimis exception for an ineligible product. Those penalties are recorded in the budget as revenues. CBO estimates that enacting H.R. 7979 would increase civil penalty collections by less than \$500,000 over the 2024–2034 period.

Direct spending: Under current law, goods that enter the country under the de minimis exception are not subject to customs user fees. By eliminating that exception for certain imports, H.R. 7979 would increase collections of those fees. Customs user fees are collected by CBP to cover some of the costs of inspecting people and cargo entering the country. The fees are recorded in the budget as mandatory offsetting collections—that is, as reductions in direct spending. Under current law, customs user fees are set to expire at the end of fiscal year 2031. CBO estimates that H.R. 7979 would reduce direct spending by \$72 million over the 2024–2034 period.

Spending subject to appropriation: CBO expects that CBP would need to make improvements to its automated system for collecting and processing import data in order to accommodate the additional volume of data under the bill. Based on the costs of similar projects, CBO estimates that CBP would incur a onetime cost of \$3 million to make those improvements and would need about \$2 million annually for data storage and system maintenance. In total, CBO estimates, implementing H.R. 7979 would cost \$15 million over the 2024–2029 period. Any related spending would be subject to the availability of appropriated funds.

Uncertainty: CBO's estimate is subject to significant uncertainty, particularly for the future volume and value of those goods that would be subject to customs duties and user fees under the bill, as well as how importers respond to the bill's requirements. If the actual volume or value differs from CBO's estimates, the revenues could be larger or smaller than CBO estimates.

In addition, the way in which businesses choose to import goods that would no longer be eligible for the de minimis exception under the bill would affect the collection of customs user fees. Thus, CBO's estimate of those fees could be larger or smaller than CBO's estimate, depending on how those businesses respond.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 2.



TABLE 2.—CBO'S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF H.R. 7979, THE END CHINA'S DE MINIMIS ABUSE ACT, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON APRIL 17, 2024

	By fiscal year, millions of dollars—										
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2024– 2034
DECREASES IN DIRECT SPENDING											
Pay-As-You-Go Effect .....	0	– 1,033	– 1,771	– 2,259	– 2,471	– 2,527	– 2,589	– 2,651	– 2,701	– 2,767	– 23,598
Memorandum:											
Decreases in Outlays .....	0	– 5	– 8	– 11	– 12	– 12	– 12	– 12	0	0	– 72
Increases in Revenues ..	0	1,028	1,763	2,248	2,459	2,515	2,577	2,639	2,701	2,767	23,526

Increase in long-term net direct spending and deficits: CBO estimates that enacting H.R. 7979 would not increase net direct spending or deficits in any of the four consecutive 10-year periods beginning in 2035.

Mandates: H.R. 7979 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) on importers by requiring them to remit duties on goods that otherwise could be imported duty-free under the de minimis exception. The cost of the mandate would be the amounts paid by U.S. importers. As discussed above, CBO estimates the bill would result in importers remitting more than \$1 billion in additional duties in the first two years, and more than \$2 billion each year over the next eight years. As a result, CBO estimates that the cost of the mandate would exceed the threshold established in UMRA for private-sector mandates (\$200 million in 2024, adjusted annually for inflation).

This bill contains no intergovernmental mandates as defined in UMRA.

Estimate prepared by: Federal costs: Jeremy Crimm; Federal revenues: Emma Uebelhor; Mandates: Grace Watson.

Estimate reviewed by: Justin Humphrey, Chief, Finance, Housing, and Education Cost Estimates Unit; Joshua Shakin, Chief, Revenue Projections Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; John McClelland, Director of Tax Analysis.

Estimate approved by: Mark P. Hoeller for Phillip L. Swagel, Director, Congressional Budget Office.

## **VI. 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).

### VII. 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.

#### 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 italics, and existing law in which no change is proposed is shown in roman):

### TARIFF ACT OF 1930

\* \* \* \* \*

### TITLE III—SPECIAL PROVISIONS

\* \* \* \* \*

#### Part II—United States Tariff Commission

\* \* \* \* \*

#### SEC. 321. ADMINISTRATIVE EXEMPTIONS.

(a) The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is hereby authorized, under such regulations as he shall prescribe, to—

(1) disregard a difference of an amount specified by the Secretary by regulation, but not less than \$20, between the total estimated duties, fees, and taxes deposited, or the total duties fees, and taxes tentatively assessed, with respect to any entry of merchandise and the total amount of duties, fees, taxes, and interest actually accruing thereon;

(2) **[admit articles]** *subject to subsection (b)(1), admit articles free of duty and of any tax imposed on or by reason of importation, but the aggregate fair retail value in the country of ship-*

ment of articles imported by one person on one day and exempted from the payment of duty shall not exceed an amount specified by the Secretary by regulation, but not less than—

(A) \$100 in the case of articles sent as bona fide gifts from persons in foreign countries to persons in the United States \$200, in the case of articles sent as bona fide gifts from persons in the Virgin Islands, Guam, and America Samoa), or

(B) \$200 in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States who are not entitled to any exemption from duty under subheading 9804.00.30, 9804.00.65, or 9804.00.70 of this Act, or

(C) **[\$800]** *subject to subsection (b)(2), \$800 in any other case***].**; and

**[(The privilege of this subdivision (2) shall not be granted in any case in which merchandise covered by a single order or contract is forwarded in separate lots to secure the benefit of this subdivision (2); and]**

(3) waive the collection of duties, fees, taxes, and interest due on entered merchandise when such duties, fees, taxes, or interest are less than \$20 or such greater amount as may be specified by the Secretary by regulation.

*(b)(1) The privilege of subparagraph (A), (B), or (C) of subsection (a)(2) shall not be granted in any case in which merchandise covered by a single order or contract is forwarded in separate lots to secure the benefit of such subsection.*

*(2) The privilege of subparagraph (C) of subsection (a)(2) shall not be granted with respect to any article that is subject to duties or other import restrictions under any of the following provisions of law:*

*(A) Subtitle A or B of title VII of this Act.*

*(B) Section 201 of the Trade Act of 1974 (19 U.S.C. 2251).*

*(C) Section 301 of the Trade Act of 1974 (19 U.S.C. 2411).*

*(D) Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862).*

*(3)(A) No covered article may receive the privilege of subparagraph (C) of subsection (a)(2) unless the 10-digit classification of the article under the Harmonized Tariff Schedule of the United States is provided to U.S. Customs and Border Protection, pursuant to an authorized electronic data interchange system, as part of the entry filing in accordance with section 498 of this Act, in addition to any other information required by law.*

*(B) In this paragraph, the term “covered article” means an article the origin of which is a country with any goods subject to duties or other import restrictions under section 301 of the Trade Act of 1974 (19 U.S.C. 2411).*

*(c) Any person who enters, introduces, or attempts to introduce an article in violation of this section is liable for a civil penalty of \$5,000 for the first violation; and \$10,000 for each subsequent violation. A penalty imposed under this subsection is in addition to any other penalty authorized by law.*

**[(b)] (d)** The Secretary of the Treasury is authorized by regulations to prescribe exceptions to any exemption provided for in subsection (a) whenever he finds that such action is consistent with

the purpose of subsection (a) or is necessary for any reason to protect the revenue or to prevent unlawful importations.

\* \* \* \* \*

## VIII. DISSENTING VIEWS

Section 321 of the Tariff Act of 1930 allows for the informal entry of articles that have a de minimis value of \$800 or less, imported by “one person in one day,” by individual customers. The use of de minimis has exploded since Congress increased the de minimis threshold from \$200 to \$800 through the Trade Facilitation and Trade Enforcement Act of 2015. Over a billion packages entered the United States under de minimis in 2023.

U.S. Customs and Border Protection has found packages from China coming into the United States under de minimis to include products made with forced labor or intellectual property theft, or illicit goods including fentanyl and fentanyl precursors. An increasing number of packages in the de minimis environment has tested CBP’s capabilities to effectively enforce U.S. trade laws.

Committee Democrats have advocated for changes to de minimis since the 117th Congress, given these challenges. The House passed H.R. 4521, the America COMPETES Act on February 4, 2022, which included new exceptions for de minimis treatment.

Rep. Blumenauer (D-OR) offered an amendment during the markup that would have prohibited de minimis treatment for an article from a country that is (1) a nonmarket economy country (as such term is defined in section 771(18) of the Tariff Act) and (2) included in USTR’s Special 301 Priority Watch List (as such term is defined in section 182(g)(3) of the Trade Act of 1974). Committee Democrats present at the markup unanimously supported the amendment.

Committee Democrats present at the markup unanimously opposed favorably reporting H.R. 7979, as amended, to the House of Representatives.

Sincerely,

RICHARD E. NEAL,  
*Ranking Member.*

## DISSENTING VIEWS

I appreciate the opportunity for us to focus and I appreciate my friend Mr. Smith (NE) trying to inject a notion of calm and certitude and deliberation.

But this is something that I think we can get beyond the passion, get beyond the back and forth, because this is something that we all acknowledge is a serious problem.

And I appreciate the notion that this is a first step. We don't have to settle for a first step. We understand this challenge.

The Chairman's focus on the de minimis loophole is one that we share but I disagree this is the best we can do.

Over three million packages a day enter the United States untaxed and uninspected under. They undercut American businesses, including North Carolina. I've met with these people.

They undercut provisions relating to products produced with forced labor, with consumer product safety violations, and, increasingly, fentanyl and fentanyl precursors.

Mr. Chairman, you and I have had constructive conversations on the need to close the de minimis loophole. But we don't have to settle for a quarter of a loaf, a third of a loaf—this Committee has the opportunity to close the de minimis loophole.

I can think of no better gift for Chairman Gallagher in his last week in Congress.

Just yesterday, the China Select Committee released an explosive report that the Chinese government is actively subsidizing the manufacturing and export of fentanyl and its precursors.

We don't have to have this move forward. We don't have to have the Chinese government actively subsidizing fentanyl and its precursors.

The report specifically highlighted the de minimis loophole as an increasingly important way drug smugglers in China are exploiting our trade laws to flood our communities with fentanyl.

But under the proposal we're considering today, the volume of packages that will continue to come into the United States under de minimis will be so large that Customs will continue to be out-matched and overwhelmed.

Law enforcement knows this won't address the fentanyl crisis.

On Monday, the National Association of Police Organizations who represent 241,000 law enforcement officers wrote the Ways and Means Committee to advocate for meaningful reform and caution against "half-measures . . . that would only exclude a portion of imports from China."

They went on to say "international drug dealers flooding communities with fentanyl are not complying with the law today and there is no reason to think their behavior would stop unless the de minimis loophole is fully closed."

In January, thirteen state Republican attorneys general sent a letter urging the total closure of the de minimis loophole to address the de minimis' efforts facilitating an illegal narcotics trade.

Even Customs acknowledges the immense challenge of identifying and interdicting high-risk shipments that contain narcotics in the deluge of more than three million packages per day and increasing.

Far from "Ending China's De Minimis Abuse," as this legislation purports to do, it would simply redirect China's de minimis abuse toward other shipments while Customs can't keep up.

China is counting on Congress to continue to fail to act, to look the other way and facilitate their criminal activity while they undercut legitimate American business.

There is no reason to allow a few large shippers to profit at the expense of the American people.

The Chinese have a quarter trillion dollar e-commerce industry that relies on our lax de minimis rules.

My amendment would stop this and there's no reason that we can't do it. It would cut off China entirely. It's something you're all familiar with, a number of you cosponsored, and there's no reason for us not to do it except for the opposition of a few big shippers sending this stuff to the United States and undercutting American business. You all have examples of that.

I'm hopeful we can work together to completely close the de minimis loophole, keep Chinese fentanyl shipments out of our international stream of commerce, stop undercutting American manufacturing, and be able to do something on a bipartisan basis and be able to do something that is long overdue.

EARL BLUMENAUER,  
*Member of Congress.*

