

105TH CONGRESS  
1ST SESSION

# H. R. 2811

To amend the Trade Act of 1974 and the Tariff Act of 1930 to clarify the definitions of domestic industry and like articles in certain investigations involving perishable agricultural products, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 4, 1997

Mrs. THURMAN introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Trade Act of 1974 and the Tariff Act of 1930 to clarify the definitions of domestic industry and like articles in certain investigations involving perishable agricultural products, 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. DEFINITIONS OF DOMESTIC INDUSTRY AND**  
4               **LIKE OR DIRECTLY COMPETITIVE ARTICLES.**

5       (a) DEFINITION OF DOMESTIC INDUSTRY.—Section  
6       202(c)(4) of the Trade Act of 1974 (19 U.S.C.  
7       2252(c)(4)) is amended—

1 (1) by striking “and” at the end of subpara-  
2 graph (B),

3 (2) by striking the period at the end of sub-  
4 paragraph (C) and inserting “; and”, and

5 (3) by adding at the end the following new sub-  
6 paragraph:

7 “(D) may, in the case of one or more do-  
8 mestic producers who produce a like or directly  
9 competitive perishable agricultural product dur-  
10 ing a particular growing season, limit the do-  
11 mestic industry to those producers if the pro-  
12 ducers sell all or almost all of their production  
13 of the article in that growing season and the  
14 demand for the article is not supplied, to any  
15 substantial degree, by other domestic producers  
16 of the article who produce the article in a dif-  
17 ferent growing season.”.

18 (b) DEFINITION OF LIKE OR DIRECTLY COMPETI-  
19 TIVE ARTICLE; CONSIDERATION OF IMPORTED ARTI-  
20 CLE.—Section 202(c)(6) of such Act is amended by add-  
21 ing at the end the following new subparagraphs:

22 “(E) In the case of a perishable agricul-  
23 tural product produced by a domestic industry  
24 described in paragraph (4)(D), the term ‘like or  
25 directly competitive article’ means only the arti-

1           cles produced by the industry during the appli-  
2           cable growing season.

3           “(F) In the case of a perishable agricul-  
4           tural product, the Commission shall limit its  
5           consideration to imported articles that are en-  
6           tered, or withdrawn from warehouse for con-  
7           sumption, during the same growing season as  
8           the like or directly competitive product.”.

9           (c) RELIEF LIMITED TO CERTAIN IMPORTED PROD-  
10          UCTS.—Section 202(d)(4) of the Trade Act of 1974 (19  
11          U.S.C. 2252(d)(4)) is amended by adding at the end the  
12          following new subparagraph:

13                 “(E) The Commission shall, in the case of  
14                 a perishable agricultural product, limit provi-  
15                 sional relief to imported articles that are en-  
16                 tered, or withdrawn from warehouse for con-  
17                 sumption, during the same growing season as  
18                 the like or directly competitive product.”.

19          (d) CONFORMING AMENDMENT.—Section 202(d)(5)  
20          of the Trade Act of 1974 (19 U.S.C. 2252(d)(5)) is  
21          amended in the matter preceding subparagraph (A), by  
22          striking “subsection” and inserting “section”.

1 **SEC. 2. MONITORING OF FRESH TOMATOES AND PEPPERS.**

2 Section 316 of the North American Free Trade  
3 Agreement Implementation Act (19 U.S.C. 3381) is  
4 amended—

5 (1) in the first sentence by striking “Inter-  
6 national Trade Commission” and inserting “Com-  
7 missioner of Customs”;

8 (2) by striking the second sentence and insert-  
9 ing the following: “At the request of the Commis-  
10 sioner of Customs, the Secretary of Agriculture shall  
11 provide to the Commissioner information relevant to  
12 the monitoring carried out under this section. The  
13 Commissioner of Customs shall promptly make  
14 available to the public information gathered in car-  
15 rying out this section, but in no case more than 7  
16 calendar days after the Commissioner receives the  
17 information.”.

18 **SEC. 3. EFFECTIVE DATE.**

19 (a) SECTION 1.—The amendments made by section  
20 1 apply with respect to investigations initiated pursuant  
21 to section 202(b) of the Trade Act of 1974 (19 U.S.C.  
22 2252(b)) and requests for provisional relief initiated pur-  
23 suant to section 202(d) of that Act (19 U.S.C. 2252(d))  
24 after the date of the enactment of this Act.

1       (b) SEC. 2.—The amendments made by section 2  
2 shall take effect 60 days after the date of the enactment  
3 of this Act.

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