

106TH CONGRESS
1ST SESSION

H. R. 2609

To promote product development and testing in the United States, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 1999

Mr. CAMP (for himself and Mr. LEVIN) introduced the following bill; which
was referred to the Committee on Ways and Means

A BILL

To promote product development and testing in the United
States, 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 “Product Development
5 and Testing Act of 1999”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1)(A) A substantial amount of development
9 and testing occurs in the United States incident to

1 the introduction and manufacture of new products
2 for both domestic consumption and export overseas.

3 (B) Testing also occurs with respect to mer-
4 chandise that has already been introduced into com-
5 merce to insure that it continues to meet specifica-
6 tions and performs as designed.

7 (2) The development and testing that occurs in
8 the United States incident to the introduction and
9 manufacture of new products, and with respect to
10 products which have already been introduced into
11 commerce, represents a significant industrial activity
12 employing highly-skilled workers in the United
13 States.

14 (3)(A) Under the current laws affecting the im-
15 portation of merchandise, such as the provisions of
16 part I of title IV of the Tariff Act of 1930 (19
17 U.S.C. 1401 et seq.), goods commonly referred to as
18 “prototypes”, used for product development testing
19 and product evaluation purposes, are subject to cus-
20 toms duty upon their importation into the United
21 States unless the prototypes qualify for duty-free
22 treatment under special trade programs or unless
23 the prototypes are entered under a temporary impor-
24 tation bond.

1 (B) In addition, the United States Customs
2 Service has determined that the value of prototypes
3 is to be included in the value of production articles
4 if the prototypes are the result of the same design
5 and development effort as the articles.

6 (4)(A) Assessing duty on prototypes twice, once
7 when the prototypes are imported and a second time
8 thereafter as part of the cost of imported production
9 merchandise, discourages development and testing in
10 the United States, and thus encourages development
11 and testing to occur overseas, since, in that case,
12 duty will only be assessed once, upon the importa-
13 tion of production merchandise.

14 (B) Assessing duty on these prototypes twice
15 unnecessarily inflates the cost to businesses, thus re-
16 ducing their competitiveness.

17 (5) Current methods for avoiding the excessive
18 assessment of customs duties on the importation of
19 prototypes, including the use of temporary importa-
20 tion entries and obtaining drawback, are unwieldy,
21 ineffective, and difficult for both importers and the
22 United States Customs Service to administer.

23 (b) PURPOSE.—The purpose of this Act is to promote
24 product development and testing in the United States by

1 permitting the importation of prototypes on a duty-free
2 basis.

3 **SEC. 3. AMENDMENTS TO HARMONIZED TARIFF SCHEDULE**
4 **OF THE UNITED STATES.**

5 (a) **HEADING.**—Subchapter XVII of Chapter 98 of
6 the Harmonized Tariff Schedule of the United States is
7 amended by inserting in numerical sequence the following
8 new heading:

“	9817.85.01	Prototypes to be used exclusively for development, testing, product evaluation or quality control pur- poses	Free		The rate appli- cable in the ab- sence of this heading	”.
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9 (b) **U.S. NOTE.**—The U.S. Notes to subchapter XVII
10 of chapter 98 of the Harmonized Tariff Schedule of the
11 United States are amended by adding at the end the fol-
12 lowing:

13 “6. The following provisions apply to heading 9817.85.01:

14 “(a) The term ‘prototypes’ means originals or models of
15 articles that—

16 “(i) are either in the preproduction, production, or
17 postproduction stage and are to be used exclusively
18 for development, testing, product evaluation, or qual-
19 ity control purposes; and

20 “(ii) in the case of originals or models of articles that are
21 either in the production or postproduction stage, are
22 associated with a design change from current produc-

1 tion (including a refinement, advancement, improve-
2 ment, development, or quality control in either the
3 product itself or the means for producing the prod-
4 uct).

5 For purposes of clause (i), automobile racing shall not be
6 considered to be “development, testing, product eval-
7 uation, or quality control.”.

8 “(b)(i) Prototypes (as defined in paragraph (a)) may only
9 be imported in limited noncommercial quantities in ac-
10 cordance with industry practice.

11 “(ii) Prototypes (as defined in paragraph (a)), or parts
12 of prototypes, may not be sold (including sale for
13 scrap purposes) after importation into the United
14 States.

15 “(c) Articles subject to quantitative restrictions, anti-
16 dumping orders, or countervailing duty orders, may
17 not be classified as prototypes under this note. Arti-
18 cles subject to licensing requirements, or which must
19 comply with laws, rules, or regulations administered
20 by agencies other than the United States Customs
21 Service before being imported, may be classified as
22 prototypes, provided that they comply with all applica-
23 ble provisions of law and otherwise meet the definition
24 of ‘prototypes’ under paragraph (a).”.

1 **SEC. 4. ENTRY PROCEDURES.**

2 The Secretary of the Treasury shall establish regula-
3 tions for the identification of prototypes at the time of
4 importation into the United States in accordance with the
5 provisions of this Act and the amendments made by this
6 Act.

7 **SEC. 5. EFFECTIVE DATE.**

8 This Act, and the amendments made by this Act,
9 shall apply with respect to—

10 (1) an entry of a prototype under heading
11 9817.85.01 of the Harmonized Tariff Schedule of
12 the United States, as added by section 3(a) of this
13 Act, on or after the date of the enactment of this
14 Act; and

15 (2) an entry of a prototype (as defined in U.S.
16 Note 6(a) to subchapter XVII of chapter 98 of the
17 Harmonized Tariff Schedule of the United States, as
18 added by section 3(b) of this Act) under heading
19 9813.00.30 of the Harmonized Tariff Schedule of
20 the United States for which liquidation has not be-
21 come final as of the date of enactment of this Act.

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