

107TH CONGRESS  
1ST SESSION

# H. R. 1838

To amend the Tariff Act of 1930 to modify the provisions relating to drawback claims, and for other purposes.

---

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2001

Mr. BRADY of Texas introduced the following bill; which was referred to the Committee on Ways and Means

---

## A BILL

To amend the Tariff Act of 1930 to modify the provisions relating to drawback claims, 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 **TITLE I—MODIFICATION OF**  
4 **PROVISIONS RELATING TO**  
5 **DRAWBACK CLAIMS**

6 **SEC. 101. MERCHANDISE NOT CONFORMING TO SAMPLE OR**  
7 **SPECIFICATIONS.**

8 Section 313(c) of the Tariff Act of 1930 (19 U.S.C.  
9 1313(c)), is amended to read as follows:

1       “(c) MERCHANDISE NOT CONFORMING TO SAMPLE  
2 OR SPECIFICATIONS.—

3               “(1) CONDITIONS FOR DRAWBACK.—Upon the  
4       exportation or destruction under the supervision of  
5       the Customs Service of articles or merchandise—

6               “(A) upon which the duties have been  
7       paid,

8               “(B) which has been entered or withdrawn  
9       for consumption,

10              “(C) which is—

11                      “(i) not conforming to sample or spec-  
12                      ifications, shipped without the consent of  
13                      the consignee, or determined to be defec-  
14                      tive as of the time of importation, or

15                      “(ii) ultimately sold at retail and for  
16                      any reason returned to and accepted by  
17                      the importer or the claimant under the  
18                      provisions of the importer’s or claimant’s  
19                      merchandise warranty provision, and

20              “(D) which, within 3 years after the date  
21       of importation or withdrawal, as applicable, has  
22       been exported or destroyed under the super-  
23       vision of the Customs Service,

1 the full amount of the duties paid upon such mer-  
 2 chandise, less 1 percent, shall be refunded as draw-  
 3 back.

4 “(2) DESIGNATION OF IMPORT ENTRIES.—Not-  
 5 withstanding paragraph (1), for purposes of para-  
 6 graph (1)(C)(ii), drawback may be claimed by desig-  
 7 nating any entry of merchandise that was imported  
 8 within 1 year before the date of exportation or de-  
 9 struction of the merchandise described in paragraph  
 10 (1) under the supervision of the Customs Service.  
 11 The returned merchandise, at the time of its impor-  
 12 tation, must be commercially interchangeable with  
 13 the merchandise designated for drawback.

14 “(3) WHEN DRAWBACK CERTIFICATES NOT RE-  
 15 QUIRED.—For purposes of this subsection, drawback  
 16 certificates are not required if the drawback claim-  
 17 ant and the importer are the same party, or if the  
 18 drawback claimant is a drawback successor to the  
 19 importer as defined in subsection (s)(3).”.

20 **SEC. 102. TIME LIMITATION ON EXPORTATION OR**  
 21 **DESTRUCTION.**

22 Section 313(i) of the Tariff Act of 1930 (19 U.S.C.  
 23 1313(i)), is amended—

24 (1) by striking “No” and inserting “Unless oth-  
 25 erwise provided for in this section, no”; and

1 (2) by inserting “, or destroyed under the su-  
2 pervision of the Customs Service,” after “exported”.

3 **SEC. 103. USE OF DOMESTIC MERCHANDISE ACQUIRED IN**  
4 **EXCHANGE FOR IMPORTED MERCHANDISE**  
5 **OF SAME KIND AND QUALITY.**

6 Section 313(k) of the Tariff Act of 1930 (19 U.S.C.  
7 1313(k)), is amended—

8 (1) by striking “(k)” and inserting “(k)(1)”;  
9 and

10 (2) by adding at the end the following new  
11 paragraph:

12 “(2) For purposes of subsections (a) and (b), the use  
13 of any domestic merchandise acquired in exchange for a  
14 drawback product of the same kind and quality shall be  
15 treated as the use of such drawback product if no certifi-  
16 cate of delivery or certificate of manufacture and delivery  
17 pertaining to such drawback product is issued, other than  
18 that which documents the product’s manufacture and de-  
19 livery. As used in this paragraph, the term ‘drawback  
20 product’ means any domestically produced product manu-  
21 factured with imported merchandise that is subject to  
22 drawback.”.

23 **SEC. 104. PACKAGING MATERIAL.**

24 Section 313(q) of the Tariff Act of 1930 (19 U.S.C.  
25 1313(q)), is amended to read as follows:

1 “(q) PACKAGING MATERIAL.—

2 “(1) PACKAGING MATERIAL UNDER SUB-  
3 SECTIONS (c) AND (j).—Packaging material, whether  
4 imported and duty paid, and claimed for drawback  
5 under either subsection (c) or (j)(1), or imported  
6 and duty paid, or substituted, and claimed for draw-  
7 back under subsection (j)(2), shall be eligible for  
8 drawback, upon exportation or destruction, of 99  
9 percent of any duty, tax, or fee imposed under Fed-  
10 eral law on such imported material.

11 “(2) PACKAGING MATERIAL UNDER SUB-  
12 SECTIONS (a) AND (b).—Packaging material that is  
13 manufactured or produced under subsection (a) or  
14 (b) shall be eligible for drawback, upon exportation  
15 or destruction, of 99 percent of any duty, tax, or fee  
16 imposed under Federal law on the imported or sub-  
17 stituted merchandise used to manufacture or  
18 produce such material.

19 “(3) CONTENTS.—Packaging material described  
20 in paragraphs (1) and (2) shall be eligible for draw-  
21 back whether or not they contain articles or mer-  
22 chandise, and whether or not any articles or mer-  
23 chandise they contain are eligible for drawback.

24 “(4) EMPLOYING PACKAGING MATERIAL FOR  
25 ITS INTENDED PURPOSE PRIOR TO EXPORTATION.—

1       The use of any packaging material for its intended  
2       purpose prior to exportation or destruction shall not  
3       be treated as a use of such material prior to exportation or destruction for purposes of applying subsection (a), (b), or (c), or paragraph (1)(B) or  
4       (2)(C)(i) of subsection (j).”.

7       **SEC. 105. LIMITATION ON LIQUIDATION.**

8       Section 504 of the Tariff Act of 1930 (19 U.S.C.  
9       1504) is amended—

10           (1) by striking subsections (a) and (b) and inserting the following:

12       “(a) LIQUIDATION.—

13           “(1) ENTRIES FOR CONSUMPTION.—Unless an  
14       entry of merchandise for consumption is extended  
15       under subsection (b) of this section or suspended as  
16       required by statute or court order, except as provided in section 751(a)(3), an entry of merchandise  
17       for consumption not liquidated within 1 year from—

19           “(A) the date of entry of such merchandise,  
20       dise,

21           “(B) the date of the final withdrawal of all  
22       such merchandise covered by a warehouse  
23       entry,

24           “(C) the date of withdrawal from warehouse of such merchandise for consumption if,  
25

1           pursuant to regulations issued under section  
2           505(a), duties may be deposited after the filing  
3           of any entry or withdrawal from warehouse, or

4           “(D) if a reconciliation is filed, or should  
5           have been filed, the date of the filing under sec-  
6           tion 484 or the date the reconciliation should  
7           have been filed,

8           shall be deemed liquidated at the rate of duty, value,  
9           quantity, and amount of duties asserted at the time  
10          of entry by the importer of record. Notwithstanding  
11          section 500(e), notice of liquidation need not be  
12          given of an entry deemed liquidated.

13          “(2) ENTRIES OR CLAIMS FOR DRAWBACK.—

14               “(A) IN GENERAL.—Except as provided in  
15               subparagraph (B), unless an entry or claim for  
16               drawback is extended under subsection (b) or  
17               suspended as required by statute or court order,  
18               an entry or claim for drawback not liquidated  
19               within 1 year from the date of entry or claim  
20               shall be deemed liquidated at the drawback  
21               amount asserted by the claimant at the time of  
22               entry or claim. Notwithstanding section 500(e),  
23               notice of liquidation need not be given of an  
24               entry deemed liquidated.

1           “(B) EXCEPTION.—An entry or claim for  
2           drawback filed before the date of the enactment  
3           of this paragraph, the liquidation of which is  
4           not final as of the date of the enactment of this  
5           paragraph, shall be deemed liquidated on the  
6           date that is 1 year after the date of the enact-  
7           ment of this paragraph at the drawback  
8           amount asserted by the claimant at the time of  
9           the entry or claim.

10          “(3) PAYMENTS OR REFUNDS.—Payment or re-  
11          fund of duties owed pursuant to paragraph (1) or  
12          (2) shall be made to the importer of record or draw-  
13          back claimant, as the case may be, not later than 90  
14          days after liquidation.

15          “(b) EXTENSION.—The Secretary may extend the pe-  
16          riod in which to liquidate an entry if—

17               “(1) the information needed for the proper ap-  
18               praisement or classification of the imported or with-  
19               drawn merchandise, or for determining the correct  
20               drawback amount, or for ensuring compliance with  
21               applicable law, is not available to the Customs Serv-  
22               ice; or

23               “(2) the importer of record or drawback claim-  
24               ant, as the case may be, requests such extension and  
25               shows good cause therefor.



1 The Secretary shall give notice of an extension under this  
2 subsection to the importer of record or drawback claimant,  
3 as the case may be, and the surety of such importer of  
4 record or drawback claimant. Notice shall be in such form  
5 and manner (which may include electronic transmittal) as  
6 the Secretary shall by regulation prescribe. Any entry the  
7 liquidation of which is extended under this subsection shall  
8 be treated as having been liquidated at the rate of duty,  
9 value, quantity, and amount of duty asserted at the time  
10 of entry by the importer of record, or the drawback  
11 amount asserted at the time of entry by the drawback  
12 claimant, at the expiration of 4 years from the applicable  
13 date specified in subsection (a).”;

14 (2) in subsection (c)—

15 (A) by inserting “or drawback claimant, as  
16 the case may be,” after “to the importer of  
17 record”; and

18 (B) by inserting “or drawback claimant”  
19 after “of such importer of record”; and

20 (3) in subsection (d), by striking the period at  
21 the end and inserting “or (in the case of a drawback  
22 entry or claim) at the drawback amount asserted at  
23 the time of entry by the drawback claimant.”.

1 **SEC. 106. PENALTIES FOR FALSE DRAWBACK CLAIMS.**

2 Section 593A(h) of the Tariff Act of 1930 (19 U.S.C.  
3 1593a(h)) is amended by striking “subsection (g)” and in-  
4 serting “subsections (c) and (g)”.

5 **SEC. 107. EFFECTIVE DATE.**

6 (a) SECTIONS 101, 102, 103, 104, AND 106.—The  
7 amendments made by sections 101, 102, 103, 104, and  
8 106 shall take effect on the date of the enactment of this  
9 Act, and shall apply to—

10 (1) any drawback entry filed on and after such  
11 date of enactment; and

12 (2) any drawback entry filed before such date  
13 of enactment if the liquidation of the entry is not  
14 final on such date of enactment.

15 (b) SECTION 105.—The amendments made by sec-  
16 tion 105 shall take effect on the date of the enactment  
17 of this Act, and shall apply to—

18 (1) any entry of merchandise for consumption  
19 or entry or claim for drawback filed on and after  
20 such date of enactment; and

21 (2) any entry or claim for drawback filed before  
22 such date of enactment if the liquidation of the  
23 entry or claim is not final on such date of enact-  
24 ment.

1 **TITLE II—LIQUIDATION OR RE-**  
2 **LIQUIDATION OF CERTAIN**  
3 **ENTRIES**

4 **SEC. 201. LIQUIDATION OR RELIQUIDATION OF CERTAIN**  
5 **ENTRIES.**

6 (a) IN GENERAL.—Notwithstanding section 514 of  
7 the Tariff Act of 1930 (19 U.S.C. 1514) or any other pro-  
8 vision of law, and subject to subsection (b), the United  
9 States Customs Service shall, not later than 180 days  
10 after the receipt of the request described in subsection (b),  
11 liquidate or reliquidate each entry described in subsection  
12 (d) by applying the column 1 general rate of duty of the  
13 Harmonized Tariff Schedule of the United States to each  
14 entry that is liquidated or reliquidated, regardless of  
15 whether the entry was made under the column 1 special  
16 rate of duty of such schedule.

17 (b) REQUESTS.—Liquidation or reliquidation may be  
18 made under subsection (a) with respect to an entry de-  
19 scribed in subsection (d) only upon a request therefor is  
20 filed with the Customs Service.

21 (c) PAYMENT OF AMOUNTS DUE.—Any amounts due  
22 to the United States pursuant to the liquidation or reliqui-  
23 dation of an entry under subsection (a) shall be paid not  
24 later than 180 days after the date of such liquidation or  
25 reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a), filed at the ports of Laredo, Texas (designated as port of entry 2304), Hidalgo, Texas (designated as port of entry 2305), and Wilmington, Delaware (designated as port of entry 1103), are as follows:

| Entry number | Port of Entry | Date of Entry |
|--------------|---------------|---------------|
| 95300618568  | 2305          | 02/22/95      |
| 95300618576  | 2305          | 02/22/95      |
| 95300619236  | 2305          | 02/27/95      |
| 95300619277  | 2305          | 02/27/95      |
| 95300619806  | 2305          | 03/02/95      |
| 95300619871  | 2305          | 03/02/95      |
| 95300620142  | 2305          | 03/07/95      |
| 95300620176  | 2305          | 03/03/95      |
| 95300620184  | 2305          | 03/03/95      |
| 95300620911  | 2305          | 03/07/95      |
| 95300635133  | 2305          | 04/07/95      |
| 95300635141  | 2305          | 04/07/95      |
| 95300635950  | 2305          | 04/12/95      |
| 95300635968  | 2305          | 04/12/95      |
| 95300636370  | 2305          | 04/14/95      |
| 95300636388  | 2305          | 04/14/95      |
| 95300640554  | 2305          | 05/09/95      |
| 95300640653  | 2305          | 05/10/95      |
| 95300656592  | 2304          | 11/05/95      |
| 95300657665  | 2304          | 11/29/95      |
| 95300657756  | 2304          | 12/02/95      |
| 95300658358  | 2304          | 12/16/95      |
| 95300658408  | 2304          | 12/17/95      |
| 95300658572  | 2304          | 12/19/95      |
| 95300658648  | 2304          | 12/22/95      |
| 95300658754  | 2304          | 12/22/95      |
| 95300658945  | 2304          | 12/27/95      |
| 95300659018  | 2304          | 12/28/95      |
| 95300659117  | 2304          | 12/29/95      |
| 95300659208  | 2304          | 01/02/96      |
| 95300659398  | 2304          | 01/05/96      |
| 95300659513  | 2304          | 01/08/96      |
| 95300659547  | 2304          | 01/09/96      |
| 95300659679  | 2304          | 01/11/96      |
| 95300659737  | 2304          | 01/14/96      |
| 95300659794  | 2304          | 01/13/96      |
| 95300659810  | 2304          | 01/14/96      |
| 95300659844  | 2304          | 01/15/96      |
| 95300659851  | 2304          | 01/15/96      |
| 95300659901  | 2304          | 01/16/96      |
| 95300659919  | 2304          | 01/16/96      |
| 95300659935  | 2304          | 01/17/96      |
| 95300660065  | 2304          | 01/18/96      |
| 95300660107  | 2304          | 01/19/96      |
| 95300660172  | 2304          | 01/22/96      |
| 95300660180  | 2304          | 01/22/96      |
| 95300660248  | 2304          | 01/22/96      |
| 95300660362  | 2304          | 01/23/96      |
| 95300660388  | 2304          | 01/24/96      |
| 95300660560  | 2304          | 01/25/96      |
| 95300660743  | 2304          | 01/27/96      |
| 95300660818  | 2304          | 01/29/96      |

| Entry number | Port of Entry | Date of Entry |
|--------------|---------------|---------------|
| 95300660826  | 2304          | 01/29/96      |
| 95300704053  | 2305          | 05/16/95      |
| 95300704061  | 2305          | 05/16/95      |
| 95300704889  | 2305          | 05/22/95      |
| 95300704897  | 2305          | 05/22/95      |
| 95300705886  | 2305          | 05/31/95      |
| 95300705969  | 2305          | 05/30/95      |
| 95300706900  | 2305          | 06/09/95      |
| 95300706926  | 2305          | 06/09/95      |
| 95300752656  | 2305          | 02/02/96      |
| 95300752698  | 2305          | 02/04/96      |
| 95300752805  | 2305          | 02/05/96      |
| 95300752813  | 2305          | 02/05/96      |
| 95300752870  | 2305          | 02/06/96      |
| 95300752904  | 2305          | 02/06/96      |
| 95300753001  | 2305          | 02/07/96      |
| 95300753076  | 2305          | 02/09/96      |
| R7410350736  | 1103          | 11/29/95      |
| R7410350769  | 1103          | 11/29/95      |
| R7410350801  | 1103          | 11/29/95      |
| R7410350835  | 1103          | 11/29/95      |
| T8500081575  | 2305          | 06/16/95      |
| T8500081591  | 2305          | 06/16/95      |
| T8500081716  | 2305          | 06/20/95      |
| T8500081724  | 2305          | 06/20/95      |
| T8500081815  | 2305          | 06/27/95      |
| T8500081823  | 2305          | 06/28/95      |
| T8500081922  | 2305          | 06/27/95      |
| T8500081930  | 2305          | 06/27/95      |
| T8500082052  | 2305          | 07/01/95      |
| T8500082060  | 2305          | 07/01/95      |
| T8500082326  | 2305          | 07/14/95      |
| T8500082342  | 2305          | 07/14/95      |
| T8500082458  | 2305          | 07/22/95      |
| T8500082482  | 2305          | 07/22/95      |
| T8500082508  | 2305          | 07/24/95      |
| T8500082516  | 2305          | 07/24/95      |
| T8500082581  | 2305          | 07/30/95      |
| T8500082599  | 2305          | 07/30/95      |
| T8500082656  | 2305          | 08/03/95      |
| T8500082664  | 2305          | 08/03/95      |
| T8500082748  | 2305          | 08/09/95      |
| T8500082797  | 2305          | 08/10/95      |
| T8500082839  | 2305          | 08/14/95      |
| T8500082847  | 2305          | 08/14/95      |
| T8500084462  | 2305          | 10/22/95      |

○