

114TH CONGRESS
2D SESSION

H. R. 5209

To amend the Tariff Act of 1930 to provide for the payment to affected producers and their employees of duties that are collected pursuant to countervailing and antidumping duty orders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2016

Mr. MCKINLEY (for himself, Mr. RUSH, and Mr. WESTERMAN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Tariff Act of 1930 to provide for the payment to affected producers and their employees of duties that are collected pursuant to countervailing and antidumping duty orders, 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 “American Manufac-
5 turing and Worker Protection Act of 2016”.

1 **SEC. 2. DISTRIBUTION OF COUNTERVAILING AND ANTI-**
2 **DUMPING DUTIES.**

3 (a) IN GENERAL.—Title VII of the Tariff Act of
4 1930 (19 U.S.C. 1671 et seq.) is amended by inserting
5 after section 753 the following:

6 **“SEC. 754. DISTRIBUTION OF CERTAIN DUTIES TO AF-**
7 **FECTED DOMESTIC PRODUCERS AND EM-**
8 **PLOYEES.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) AFFECTED DOMESTIC PRODUCER.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), the term ‘affected domestic pro-
13 ducer’ means any manufacturer or producer
14 that—

15 “(i) was a petitioner or interested
16 party in support of the petition with re-
17 spect to which an antidumping duty order,
18 a finding under the Antidumping Act of
19 1921, or a countervailing duty order has
20 been entered; and

21 “(ii) remains in operation.

22 “(B) EXCEPTION.—Any company, busi-
23 ness, or person that has ceased the production
24 of the product covered by the order or finding
25 described in subparagraph (A) or who has been
26 acquired by a company or business that is re-

1 lated to a company that opposed the investiga-
2 tion pursuant to which the order or finding
3 under subparagraph (A) was issued shall not be
4 an affected domestic producer.

5 “(2) COMMISSIONER.—The term ‘Commis-
6 sioner’ means the Commissioner responsible for U.S.
7 Customs and Border Protection.

8 “(3) COMMISSION.—The term ‘Commission’
9 means the United States International Trade Com-
10 mission.

11 “(4) ELIGIBLE EMPLOYEE.—

12 “(A) IN GENERAL.—An individual is an
13 ‘eligible employee’ of an affected domestic pro-
14 ducer if the individual—

15 “(i) has been totally or partially sepa-
16 rated from employment with that affected
17 domestic producer because of dumping or a
18 subsidy pursuant to which the antidumping
19 order or finding, or the countervailing duty
20 order, described in paragraph (1)(A)(i)
21 was entered; or

22 “(ii) is an employee of the affected
23 domestic producer at the time a distribu-
24 tion is made under subsection (b) and was
25 such an employee continuously from a date

1 that preceded the date on which the anti-
2 dumping order or finding, or the counter-
3 vailing duty order, described in paragraph
4 (1)(A)(i) was entered.

5 “(B) EXCLUSION.—An executive officer of
6 an affected domestic producer is not an eligible
7 employee of that producer.

8 “(C) EXECUTIVE OFFICER DEFINED.—The
9 term ‘executive officer’ means, with respect to
10 an affected domestic producer, the chairman of
11 the board of directors, chief executive officer,
12 chief financial officer, president, or vice chair-
13 man, any executive vice president, and any sen-
14 ior vice president in charge of a principal busi-
15 ness unit, division, or function.

16 “(5) PARTIALLY SEPARATED.—The term ‘par-
17 tially separated’ means, with respect to an employee
18 who has not been totally separated, that the em-
19 ployee has had—

20 “(A) the employee’s hours of work reduced
21 to 80 percent or less of the employee’s average
22 weekly hours because of dumping or a subsidy
23 pursuant to which an antidumping order or
24 finding, or a countervailing duty order, de-

1 scribed in paragraph (1)(A)(i), was entered;
2 and

3 “(B) the employee’s wages reduced to 80
4 percent or less of the employee’s average weekly
5 wage because of dumping or a subsidy pursuant
6 to which such antidumping order or finding, or
7 countervailing duty order, was entered.

8 “(6) QUALIFYING EXPENDITURE.—The term
9 ‘qualifying expenditure’ means an expenditure in-
10 curred by an affected domestic producer after the
11 issuance of the antidumping duty finding or order,
12 or countervailing duty order, described in paragraph
13 (1)(A)(i) in any of the following categories:

14 “(A) Manufacturing facilities.

15 “(B) Equipment.

16 “(C) Research and development.

17 “(D) Personnel training.

18 “(E) Acquisition of technology.

19 “(F) Health care benefits to employees
20 paid for by the employer.

21 “(G) Pension benefits to employees paid
22 for by the employer.

23 “(H) Environmental equipment, training,
24 or technology.

1 “(I) Acquisition of raw materials and other
2 inputs.

3 “(J) Working capital or other funds need-
4 ed to maintain production.

5 “(7) RELATED TO.—

6 “(A) IN GENERAL.—A company, business,
7 or person shall be considered to be ‘related to’
8 another company, business, or person if—

9 “(i) the company, business, or person
10 directly or indirectly controls or is con-
11 trolled by the other company, business, or
12 person;

13 “(ii) a third party directly or indi-
14 rectly controls both companies, businesses,
15 or persons; or

16 “(iii) both companies, businesses, or
17 persons directly or indirectly control a
18 third party and there is reason to believe
19 that the relationship causes the first com-
20 pany, business, or persons to act dif-
21 ferently than a nonrelated party.

22 “(B) CONTROL.—For purposes of subpara-
23 graph (A), a party shall be considered to di-
24 rectly or indirectly control another party if the
25 party is legally or operationally in a position to

1 exercise restraint or direction over the other
2 party.

3 “(8) TOTALLY SEPARATED.—The term ‘totally
4 separated’ means the layoff or severance of an indi-
5 vidual from employment with an affected domestic
6 producer because of dumping or a subsidy pursuant
7 to which an antidumping order or finding, or the
8 countervailing duty order, described in paragraph
9 (1)(A)(i) was entered.

10 “(b) IN GENERAL.—Duties assessed pursuant to a
11 countervailing duty order, an antidumping duty order, or
12 a finding under the Antidumping Act of 1921 shall be dis-
13 tributed on a semiannual basis under this section to the
14 affected domestic producers for qualifying expenditures
15 and cash to eligible employees. Such distribution shall be
16 known as the ‘antidumping and subsidy protection
17 amount’. Of each such distribution, not more than 10 per-
18 cent may be used for administrative expenses. Of the re-
19 mainder, 40 percent shall be distributed to eligible employ-
20 ees of each affected domestic producer to which a distribu-
21 tion is made as provided in this section, and 50 percent
22 shall be distributed for qualifying expenditures of such af-
23 fected domestic producer.

24 “(c) DISTRIBUTION PROCEDURES.—The Commis-
25 sioner shall prescribe procedures for distribution of the

1 antidumping and subsidy protection amount required by
2 this section. Such procedures shall require each affected
3 producer to whom a distribution is to be made under this
4 section to distribute the portion required for eligible em-
5 ployees in equal amounts to all such employees. Each dis-
6 tribution under this section shall be made not later than
7 60 days after the last day of each 6-month period of a
8 fiscal year from duties assessed during that 6-month pe-
9 riod.

10 “(d) PARTIES ELIGIBLE FOR DISTRIBUTION OF
11 ANTIDUMPING AND COUNTERVAILING DUTIES AS-
12 SESSED.—

13 “(1) LIST OF AFFECTED DOMESTIC PRO-
14 DUCERS.—The Commission shall forward to the
15 Commissioner, within 45 days after the effective
16 date of the American Manufacturing and Worker
17 Protection Act of 2016 in the case of orders or find-
18 ings in effect on that date or, in any other case,
19 within 45 days after the date on which an anti-
20 dumping or countervailing duty order or finding is
21 issued, a list of petitioners and persons with respect
22 to each order and finding and a list of persons that
23 indicate support of the petition by letter or through
24 questionnaire response. In those cases in which a de-
25 termination of injury was not required or the Com-

1 mission's records do not permit an identification of
2 those in support of a petition, the Commission shall
3 consult with the administering authority to deter-
4 mine the identity of the petitioner and those domes-
5 tic parties who have entered appearances during ad-
6 ministrative reviews conducted by the administering
7 authority under section 751.

8 “(2) PUBLICATION OF LIST; CERTIFICATION.—

9 The Commissioner shall publish in the Federal Reg-
10 ister, at least 30 days before the distribution of an
11 antidumping and subsidy protection amount is
12 made, a notice of intention to distribute the anti-
13 dumping and subsidy protection amount and the list
14 of affected domestic producers potentially eligible for
15 the distribution based on the list obtained from the
16 Commission under paragraph (1). The Commis-
17 sioner shall request a certification from each poten-
18 tially eligible affected domestic producer—

19 “(A) that the producer desires to receive a
20 distribution;

21 “(B) that the producer is eligible to receive
22 the distribution as an affected domestic pro-
23 ducer;

24 “(C) the qualifying expenditures incurred
25 by the producer since the issuance of the order

1 or finding for which distribution under this sec-
2 tion has not previously been made; and

3 “(D) the eligible employees to whom the
4 distribution is to be made.

5 “(3) DISTRIBUTION OF FUNDS.—The Commis-
6 sioner shall distribute all funds (including all inter-
7 est earned on the funds) from assessed duties re-
8 ceived in a fiscal year to affected domestic producers
9 based on the certifications described in paragraph
10 (2). The distributions shall be made on a pro rata
11 basis based on new and remaining qualifying ex-
12 penditures and the number of eligible employees to
13 whom distributions are to be made.

14 “(e) SPECIAL ACCOUNTS.—

15 “(1) ESTABLISHMENTS.—Within 14 days after
16 the effective date of the American Manufacturing
17 and Worker Protection Act of 2016, with respect to
18 antidumping duty orders and findings and counter-
19 vailing duty orders in effect on that effective date,
20 and within 14 days after the effective date of an
21 antidumping duty order or finding or countervailing
22 duty order issued after the effective date of that Act,
23 the Commissioner shall establish in the Treasury of
24 the United States a special account with respect to
25 each such order or finding.

1 “(2) DEPOSITS INTO ACCOUNTS.—The Commis-
2 sioner shall deposit into the special accounts all anti-
3 dumping or countervailing duties (including interest
4 earned on such duties) that are assessed on or after
5 the effective date of the American Manufacturing
6 and Worker Protection Act of 2016 under the anti-
7 dumping duty order or finding or the countervailing
8 duty order with respect to which the account was es-
9 tablished.

10 “(3) TIME AND MANNER OF DISTRIBUTIONS.—
11 Consistent with the requirements of subsections (c)
12 and (d), the Commissioner shall by regulation pre-
13 scribe the time and manner in which distribution of
14 the funds in a special account shall be made.

15 “(4) TERMINATION.—

16 “(A) TERMINATION.—If—

17 “(i) the order or finding with respect
18 to which a special account was established
19 has terminated,

20 “(ii) all entries relating to the order
21 or finding have been liquidated and duties
22 assessed collected, and

23 “(iii) the Commissioner has provided
24 notice and a final opportunity to obtain a
25 distribution pursuant to subsection (c),

1 then the special account shall terminate upon
2 the expiration of the 90-day period beginning
3 on the date of the notice described in clause
4 (iii)

5 “(B) UNCLAIMED AMOUNTS.—Amounts
6 not claimed within the 90-day period described
7 in subparagraph (A) shall be deposited into the
8 general fund of the Treasury.

9 “(f) REPORTS TO CONGRESS.—The Commissioner
10 shall submit to Congress, not later than December 31 of
11 each year, a report on the implementation of this section
12 for antidumping and countervailing duty assessments
13 made during the preceding fiscal year, and any rec-
14 ommendations the Commissioner may have with respect
15 to such implementation. The report shall also include any
16 findings of the Commission with respect to any waste,
17 fraud, or abuse in the program established by this sec-
18 tion.”.

19 (b) CONFORMING AMENDMENT.—The table of con-
20 tents for title VII of the Tariff Act of 1930 is amended
21 by inserting after the item relating to section 753 the fol-
22 lowing new item:

“Sec. 754. Distribution of certain duties to affected domestic producers and
employees.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on October 1, 2016, and shall

1 apply with respect to all antidumping and countervailing
2 duty assessments made on or after that date.

3 **SEC. 3. APPLICATION TO CANADA AND MEXICO.**

4 Pursuant to article 1902 of the North American Free
5 Trade Agreement and section 408 of the North American
6 Free Trade Agreement Implementation Act (19 U.S.C.
7 3438), the amendments made by this Act shall apply with
8 respect to goods from Canada and Mexico.

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