

115TH CONGRESS  
2D SESSION

# S. 3329

To amend section 232 of the Trade Expansion Act of 1962 to require the Secretary of Defense to initiate investigations and to provide for congressional disapproval of certain actions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2018

Mr. PORTMAN (for himself, Mr. JONES, Mrs. ERNST, and Mr. ALEXANDER) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend section 232 of the Trade Expansion Act of 1962 to require the Secretary of Defense to initiate investigations and to provide for congressional disapproval of certain actions, 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 “Trade Security Act  
5 of 2018”.

1 **SEC. 2. INVESTIGATIONS TO DETERMINE EFFECTS ON NA-**  
 2 **TIONAL SECURITY OF IMPORTS OF ARTICLES**  
 3 **AND CONGRESSIONAL REVIEW OF PRESI-**  
 4 **DENTIAL ACTIONS.**

5 (a) INVESTIGATIONS AND DETERMINATIONS BY SEC-  
 6 RETARY OF DEFENSE.—Section 232 of the Trade Expans-  
 7 sion Act of 1962 (19 U.S.C. 1862) is amended—

8 (1) in subsection (b)—

9 (A) in paragraph (1)—

10 (i) in subparagraph (A), by striking  
 11 “Secretary of Commerce” and all that fol-  
 12 lows through “‘Secretary’)” and inserting  
 13 “Secretary of Defense”; and

14 (ii) in subparagraph (B)—

15 (I) by striking “Secretary shall”  
 16 and inserting “Secretary of Defense  
 17 shall”; and

18 (II) by striking “Secretary of De-  
 19 fense of” and inserting “Secretary of  
 20 Commerce of”;

21 (B) in paragraph (2)—

22 (i) by striking subparagraph (B);

23 (ii) in the matter preceding clause

24 (i)—

25 (I) by striking “(A) In” and in-  
 26 serting “In”; and

1 (II) by striking “Secretary” and  
2 inserting “Secretary of Defense”; and  
3 (iii) by striking clauses (i) through  
4 (iii) and inserting the following:

5 “(A) consult with the Secretary of Commerce  
6 regarding the methodological and policy questions  
7 raised in any investigation initiated under paragraph  
8 (1);

9 “(B) prepare an assessment of the defense re-  
10 quirements and national security impact of any arti-  
11 cle that is the subject of an investigation, which  
12 shall focus on—

13 “(i) the impact of the importation of the  
14 article on military readiness and critical infra-  
15 structure; and

16 “(ii) the need for a reliable supply of the  
17 article to protect national security;

18 “(C) seek information and advice from the Sec-  
19 retary of Commerce;

20 “(D) consult with appropriate officers of the  
21 United States;

22 “(E) consult with members of the Committee  
23 on Finance of the Senate and members of the Com-  
24 mittee on Ways and Means of the House of Rep-  
25 resentatives; and

1           “(F) hold public hearings, co-chaired with the  
2       Department of Commerce, or otherwise afford inter-  
3       ested parties an opportunity to present information  
4       and advice relevant to such investigation.”;

5           (C) in paragraph (3)—

6           (i) by redesignating subparagraph (B)  
7       as subparagraph (D);

8           (ii) by striking subparagraph (A) and  
9       inserting the following:

10       “(A) Not later than 200 days after the date on which  
11   the Secretary of Defense initiates an investigation under  
12   paragraph (1) with respect to an article, the Secretary of  
13   Defense shall submit to the President a report on the find-  
14   ings of such investigation with respect to the effect of the  
15   importation of such article in such quantities or under  
16   such circumstances on the national security of the United  
17   States.

18       “(B) If the report described in subparagraph (A) in-  
19   cludes an affirmative finding that the importation of an  
20   article in such quantities or under such circumstances  
21   threatens to impair the national security, the President  
22   may direct the Secretary of Commerce to devise rec-  
23   ommendations to address such threat.

24       “(C) Not later than 100 days after receiving from  
25   the President under subparagraph (B) a direction to de-

1    vise recommendations with respect to an article, the Sec-  
2    retary of Commerce, in consultation with the United  
3    States Trade Representative, the Secretary of Defense,  
4    members of the Committee on Finance of the Senate, and  
5    members of the Committee on Ways and Means of the  
6    House of Representatives, shall submit to the President  
7    a report that includes—

8            “(i) recommendations for action or inaction  
9            under this section with respect to the article; and

10           “(ii) the findings of the Secretary of Commerce  
11           with respect to the investigation by the Secretary of  
12           Defense under paragraph (1).”; and

13                        (iii) in subparagraph (D), as redesign-  
14                        nated by subparagraph (C)—

15                        (I) by striking “Secretary” and  
16                        inserting “Secretary of Defense”; and

17                        (II) by inserting “or the report  
18                        submitted by the Secretary of Com-  
19                        merce under subparagraph (C)” after  
20                        “subparagraph (A)”; and

21                        (D) in paragraph (4), by inserting “of De-  
22                        fense, in consultation with the Secretary of  
23                        Commerce,” after “The Secretary”;

24                        (2) in subsection (c)(1), by striking subpara-  
25                        graph (A) and inserting the following:

1 “(A) Not later than 60 days after receiving rec-  
 2 ommendations submitted under subsection (b)(3)(C)(i)  
 3 with respect to an article, the President shall—

4 “(i) decide whether to take action based on  
 5 such recommendations; and

6 “(ii) if the President decides to take action  
 7 under clause (i), determine the nature and duration  
 8 of the action to be taken to adjust the imports of the  
 9 article and its derivatives so that such imports will  
 10 not threaten to impair the national security.”;

11 (3) by redesignating the second subsection (d)  
 12 as subsection (e);

13 (4) in subsection (d)—

14 (A) by striking “the Secretary and the  
 15 President” each place it appears and inserting  
 16 “the Secretary of Defense, the Secretary of  
 17 Commerce, and the President”; and

18 (B) by inserting “, the production of which  
 19 is needed for national defense requirements and  
 20 critical infrastructure in the United States”  
 21 after “welfare of individual domestic indus-  
 22 tries”; and

23 (5) in subsection (e)(1), as redesignated by  
 24 paragraph (3), by striking “Secretary” and inserting  
 25 “Secretary of Defense”.

1 (b) CONGRESSIONAL DISAPPROVAL OF PRESI-  
2 DENTIAL ACTION.—Section 232(f) of the Trade Expan-  
3 sion Act of 1962 (19 U.S.C. 1862(f)) is amended—

4 (1) in paragraph (1), by striking “of petroleum  
5 or petroleum products”; and

6 (2) in paragraph (2)(B)—

7 (A) by striking “petroleum imports” and  
8 inserting “imports”; and

9 (B) by striking “of petroleum or petroleum  
10 products” and inserting “imports”.

11 (c) APPLICABILITY.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), subsection (f) of section 232 of the Trade  
14 Expansion Act of 1962 (19 U.S.C. 1862), as amend-  
15 ed by subsection (b), shall apply to adjustments of  
16 imports under that section on or after July 1, 2018.

17 (2) EXCEPTION.—Subsection (f) of section 232  
18 of the Trade Expansion Act of 1962 (19 U.S.C.  
19 1862), as amended by subsection (b), shall not apply  
20 to the presidential actions taken under that section  
21 on March 8, 2018, relating to the adjustment of im-  
22 ports of steel and aluminum, or any subsequent ac-  
23 tions (including proclamations, Executive orders, or

- 1 other Executive acts) relating to those presidential
- 2 actions.

