

116TH CONGRESS  
1ST SESSION

# S. 2362

To establish a process for United States businesses to obtain exclusions from certain duties imposed under section 301 of the Trade Act of 1974 and section 232 of the Trade Expansion Act of 1962, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 31, 2019

Mr. WHITEHOUSE introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To establish a process for United States businesses to obtain exclusions from certain duties imposed under section 301 of the Trade Act of 1974 and section 232 of the Trade Expansion Act of 1962, 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 Business  
5 Tariff Relief Act of 2019”.

1 **SEC. 2. EXCLUSION PROCESS FOR CERTAIN DUTIES IM-**  
2 **POSED UNDER SECTION 301 OF THE TRADE**  
3 **ACT OF 1974.**

4 (a) IN GENERAL.—Title III of the Trade Act of 1974  
5 (19 U.S.C. 2411 et seq.) is amended by adding at the end  
6 the following:

7 **“SEC. 311. EXCLUSION PROCESS.**

8 “(a) IN GENERAL.—Not later than the first date  
9 after the date of the enactment of this section on which  
10 the United States Trade Representative announces the im-  
11 position of additional duties under section 301, the Trade  
12 Representative shall establish a process under which  
13 United States businesses may request the exclusion of ar-  
14 ticles from duties imposed under that section.

15 “(b) REQUIREMENTS.—A United States business  
16 that seeks the exclusion of an article from duties imposed  
17 under section 301 shall submit to the Trade Representa-  
18 tive information demonstrating that—

19 “(1) the article is not available from any source  
20 other than a source that is subject to the duties; or

21 “(2) the imposition of such duties on the article  
22 would cause economic harm to a United States in-  
23 terest.

24 “(c) DETERMINATIONS.—Not later than 30 days  
25 after receiving a request submitted under subsection (b)

1 for the exclusion of an article from duties imposed under  
2 section 301, the Trade Representative shall—

3 “(1) make a determination with respect to  
4 whether or not to grant the exclusion; and

5 “(2) if the Trade Representative determines not  
6 to grant the exclusion, provide to the United States  
7 business that requested the exclusion a rationale for  
8 denying the exclusion.

9 “(d) ADMINISTRATION OF REQUESTS.—The Trade  
10 Representative shall—

11 “(1) establish a component within the Office of  
12 the United States Trade Representative to be re-  
13 sponsible for reviewing requests for the exclusion of  
14 articles from duties imposed under section 301; and

15 “(2) ensure the continued operation of that  
16 component until all duties imposed under that sec-  
17 tion terminate.

18 “(e) REPORTS REQUIRED.—Not later than 90 days  
19 after establishing the process required by subsection (a),  
20 and every 90 days thereafter, the Trade Representative  
21 shall submit to the Committee on Finance of the Senate  
22 and the Committee on Ways and Means of the House of  
23 Representatives a report that includes detailed informa-  
24 tion about requests made pursuant to the process during

1 the preceding 90-day period and determinations made  
2 under subsection (c) with respect to those requests.

3 “(f) UNITED STATES BUSINESS DEFINED.—In this  
4 section, the term ‘United States business’ means an enti-  
5 ty—

6 “(1) organized under the laws of the United  
7 States or any jurisdiction within the United States;  
8 and

9 “(2) that employs workers in the United  
10 States.”.

11 (b) CLERICAL AMENDMENT.—The table of contents  
12 for the Trade Act of 1974 is amended by inserting after  
13 the item relating to section 310 the following:

“Sec. 311. Exclusion process.”.

14 **SEC. 3. EXCLUSION PROCESS FOR CERTAIN DUTIES IM-**  
15 **POSED UNDER SECTION 232 OF THE TRADE**  
16 **EXPANSION ACT OF 1962.**

17 Section 232 of the Trade Expansion Act of 1962 (19  
18 U.S.C. 1862) is amended by adding at the end the fol-  
19 lowing:

20 “(g) EXCLUSION PROCESS.—

21 “(1) IN GENERAL.—Not later than the first  
22 date after the date of the enactment of this sub-  
23 section on which the President announces the im-  
24 position of additional duties under subsection (c), the  
25 Secretary shall establish a process under which

1 United States businesses may request the exclusion  
2 of articles from duties imposed under that section.

3 “(2) REQUIREMENTS.—A United States busi-  
4 ness that seeks the exclusion of an article from du-  
5 ties imposed under subsection (c) shall submit to the  
6 Secretary information demonstrating that—

7 “(A) the article is not available from any  
8 source other than a source that is subject to the  
9 duties; or

10 “(B) the imposition of such duties on the  
11 article would cause economic harm to a United  
12 States interest.

13 “(3) DETERMINATIONS.—Not later than 30  
14 days after receiving a request submitted under para-  
15 graph (2) for the exclusion of an article from duties  
16 imposed under subsection (c), the Secretary shall—

17 “(A) make a determination with respect to  
18 whether or not to grant the exclusion; and

19 “(B) if the Secretary determines not to  
20 grant the exclusion, provide to the United  
21 States business that requested the exclusion a  
22 rationale for denying the exclusion.

23 “(4) ADMINISTRATION OF REQUESTS.—The  
24 Secretary shall—

1           “(A) establish a component within the De-  
2           partment of Commerce to be responsible for re-  
3           viewing requests for the exclusion of articles  
4           from duties imposed under subsection (c); and

5           “(B) ensure the continued operation of  
6           that component until all duties imposed under  
7           that subsection terminate.

8           “(5) REPORTS REQUIRED.—Not later than 90  
9           days after establishing the process required by para-  
10          graph (1), and every 90 days thereafter, the Sec-  
11          retary shall submit to the Committee on Finance of  
12          the Senate and the Committee on Ways and Means  
13          of the House of Representatives a report that in-  
14          cludes detailed information about requests made  
15          pursuant to that process during the preceding 90-  
16          day period and determinations made under para-  
17          graph (3) with respect to those requests.

18          “(6) UNITED STATES BUSINESS DEFINED.—In  
19          this subsection, the term ‘United States business’  
20          means an entity—

21                 “(A) organized under the laws of the  
22                 United States or any jurisdiction within the  
23                 United States; and

1                   “(B) that employs workers in the United  
2                   States.”.

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