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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R.

To amend the Tariff Act of 1930 to impose additional requirements with respect to importers of record, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. ARRINGTON introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Tariff Act of 1930 to impose additional requirements with respect to importers of record, 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 “Securing Account-
5 ability in Foreign Entries Act”.

1 **SEC. 2. REQUIREMENT THAT IMPORTER OF RECORD BE LO-**
2 **CATED IN THE UNITED STATES.**

3 (a) IN GENERAL.—Section 484(a)(2)(B) of the Tar-
4 iff Act of 1930 (19 U.S.C. 1484(a)(2)(B)) is amended—

5 (1) by inserting “(i)” before “When an entry”;

6 and

7 (2) by striking the third sentence and inserting
8 the following:

9 “(ii) For the purposes of this Act, the importer
10 of record is required to be—

11 “(I) a party that—

12 “(aa) is eligible under clause (i) to file
13 the documentation or information required
14 by this section; and

15 “(bb) participates in the filing of that
16 documentation or information; and

17 “(II)(aa) in the case of an individual, a
18 United States citizen or an alien lawfully admit-
19 ted for permanent residence to the United
20 States; or

21 “(bb) in the case of an entity, is an entity
22 described in clause (iii).

23 “(iii) An entity described in this clause is an
24 entity—

25 “(I) with—

1 “(aa) a physical location in the United
2 States; and

3 “(bb) at least 1 owner or full-time
4 employee who is a United States citizen or
5 an alien lawfully admitted for permanent
6 residence to the United States;

7 “(II) that is organized under the laws of
8 Canada, Australia, or a covered country; or

9 “(III) that is an affiliate of a United
10 States entity that—

11 “(aa) has been in continuous oper-
12 ation for not less than 3 years;

13 “(bb) maintains not fewer than 1,500
14 full-time employees in the United States;

15 “(cc) has annual gross receipts or as-
16 sets in the United States of not less than
17 \$1,000,000; and

18 “(dd) has filed a certification with
19 U.S. Customs and Border Protection des-
20 ignating the affiliate as its agent for serv-
21 ice of process and agreeing to joint and
22 several liability for all duties, taxes, fees,
23 and penalties owed by the affiliate when
24 acting as importer of record.

1 “(iv)(I) Except as provided in subclause (II), an
2 individual may not serve as the importer of record
3 for more than one entity.

4 “(II) The limitation under subclause (I) does
5 not apply to a customs broker designated as an im-
6 porter of record by an express consignment operator
7 or carrier under section 4(d) of the Securing Ac-
8 countability in Foreign Entries Act.

9 “(v) A foreign entity that is not described in
10 clause (ii)(II)(bb), and has a United States sub-
11 sidiary that is described in that clause, is required
12 to have the United States subsidiary or another enti-
13 ty described in that clause serve as the importer of
14 record.

15 “(vi) In this subparagraph:

16 “(I) The term ‘affiliate’, with respect to an
17 entity, means the entity controls, is controlled
18 by, or is under common control with another
19 entity.

20 “(II) The term ‘control’, with respect to an
21 entity, means ownership of more than 50 per-
22 cent of the voting securities or equivalent inter-
23 ests in the entity.

24 “(III) The term ‘covered country’ means a
25 country the government of which the United

1 States Trade Representative, in consultation
2 with the Commissioner of U.S. Customs and
3 Border Protection, determines—

4 “(aa) imposes requirements on per-
5 sons serving as importers of record under
6 the laws of that country that are substan-
7 tially equivalent to the requirements im-
8 posed on importers of record under this
9 subparagraph; and

10 “(bb) permits persons qualifying as
11 importers of record under this subpara-
12 graph and customs brokers (as defined in
13 section 641(a)) to act as importers of
14 record in that country on terms equal to
15 the terms applicable to importers of record
16 under the laws of that country.

17 “(IV) The term ‘full-time employee’, with
18 respect to an individual, means—

19 “(aa) the written statement required
20 under section 6051 of the Internal Rev-
21 enue Code of 1986 for the individual indi-
22 cates that the individual’s employment sta-
23 tus is full time; and

1 “(bb) the individual is not employed
2 by more than one entity that is an im-
3 porter of record.

4 “(V) The term ‘physical location’—

5 “(aa) means a location, with a street
6 address, where the importer conducts sub-
7 stantive business operations, including
8 maintaining the presence of employees; and

9 “(bb) does not include—

10 “(AA) a shared office space, un-
11 less the importer permanently occu-
12 pies the office;

13 “(BB) an address associated with
14 a registered agent, other agent, cus-
15 toms broker, or freight forwarder, or
16 mailbox services; or

17 “(CC) an address that exists
18 solely for the purpose of collecting
19 mail or establishing a virtual business
20 address.”.

21 (b) REGULATIONS.—Not later than 360 days after
22 the date of the enactment of this Act, the Commissioner
23 of U.S. Customs and Border Protection, in consultation
24 with the heads of relevant Federal agencies, shall prescribe
25 regulations specifying—

1 (1) measures and processes for verifying that
2 importers of record meet the requirements of clause
3 (ii) of section 484(a)(2)(B) of the Tariff Act of
4 1930, as added by subsection (a);

5 (2) how U.S. Customs and Border Protection
6 will verify that importers of record meet those re-
7 quirements using investigative tools of U.S. Customs
8 and Border Protection and without relying on cus-
9 toms brokers or sureties; and

10 (3) penalties for omissions or false statements
11 with respect to meeting those requirements.

12 (c) APPLICABILITY.—The amendments made by sub-
13 section (a) apply with respect to importers of record on
14 and after the date that is one year after the date of the
15 enactment of this Act.

16 **SEC. 3. RESPONSIBILITY OF IMPORTER OF RECORD FOR**
17 **PAYMENT OF DUTIES.**

18 (a) IN GENERAL.—Section 484(a)(1) of the Tariff
19 Act of 1930 (19 U.S.C. 1484(a)(1)) is amended—

20 (1) in subparagraph (B), by redesignating
21 clauses (i), (ii), and (iii) as subclauses (I), (II), and
22 (III), respectively, and by moving such subclauses,
23 as so redesignated, 2 ems to the right;

24 (2) by redesignating subparagraphs (A) and
25 (B) as clauses (i) and (ii), respectively, and by mov-

1 ing such clauses, as so redesignated, 2 ems to the
2 right;

3 (3) by striking “paragraph (2)(B), either” and
4 inserting the following: “paragraph (2)(B)—

5 “(A) either”;

6 (4) in subparagraph (A), as designated by para-
7 graph (3)—

8 (A) in clause (i), as redesignated by para-
9 graph (2), by striking the semicolon and insert-
10 ing “; and”;

11 (B) in clause (ii)(III), as so redesignated,
12 by striking the period at the end and inserting
13 “; and”; and

14 (5) by adding at the end the following:

15 “(B) shall, in accordance with paragraphs
16 (3) and (4), pay directly to U.S. Customs and
17 Border Protection all duties, taxes, and fees as-
18 sessed with respect to the entry of the merchan-
19 dise.”.

20 (b) REQUIREMENTS FOR PAYMENT.—Section 484(a)
21 of the Tariff Act of 1930 (19 U.S.C. 1484(a)) is amended
22 by adding at the end the following:

23 “(3) An importer of record shall pay duties, taxes,
24 and fees assessed with respect to the entry of merchan-
25 dise—

1 “(A) in the form of an electronic transfer of
2 funds from a depository institution (as defined in
3 section 3 of the Federal Deposit Insurance Act (12
4 U.S.C. 1813)) chartered or authorized to do busi-
5 ness in the United States; and

6 “(B) from a deposit account that—

7 “(i) is held—

8 “(I) if the importer of record is an in-
9 dividual, in the legal name of the importer
10 of record; or

11 “(II) if the importer of record is an
12 entity, in the legal name of—

13 “(aa) the importer of record; or

14 “(bb) an entity organized under
15 the laws of the United States or a ju-
16 risdiction within the United States
17 that U.S. Customs and Border Pro-
18 tection verifies, pursuant to regula-
19 tions prescribed by the Commissioner
20 of U.S. Customs and Border Protec-
21 tion, is wholly or majority-owned by
22 the importer of record; and

23 “(ii) has been verified by the depository in-
24 stitution under an anti-money-laundering cus-
25 tomer identification program consistent with

1 section 1020.220 of title 31, Code of Federal
2 Regulations (or a successor regulation) and ap-
3 plicable rules of the Financial Crimes Enforce-
4 ment Network.

5 “(4) An importer of record shall provide to U.S. Cus-
6 toms and Border Protection, before the first entry of mer-
7 chandise for which the importer of record pays duties,
8 taxes, and fees from an account—

9 “(A) the account number and routing number
10 for the account;

11 “(B) the name of the depository institution
12 where the account is held; and

13 “(C) an attestation from the depository institu-
14 tion certifying that—

15 “(i) the account is held in the legal name
16 of the importer of record or an entity described
17 in paragraph (3)(B)(i)(II)(bb); and

18 “(ii) the depository institution has verified
19 the identity of the account holder under a cus-
20 tomer identification program described in para-
21 graph (3)(B)(ii).

22 “(5) A depository institution that holds an account
23 from which an importer of record intends to pay duties,
24 taxes, and fees with respect to an entry of merchandise
25 shall, upon the request of the Commissioner of U.S. Cus-

1 toms and Border Protection, provide to the Commissioner
2 a confirmation that the depository institution has verified
3 the identity of the account holder under a customer identi-
4 fication program described in paragraph (3)(B)(ii).

5 “(6) U.S. Customs and Border Protection may not
6 accept payment of duties, taxes, and fees assessed with
7 respect to an entry of merchandise—

8 “(A) from any person other than the importer
9 of record, a surety of the importer of record, or a
10 customs broker (as defined in section 641(a));

11 “(B) in any form other than that required by
12 paragraph (3)(A); or

13 “(C) from an account that does not meet the
14 requirements under paragraph (3)(B).”.

15 (c) APPLICABILITY.—The amendments made by sub-
16 section (a) apply with respect to articles entered on and
17 after the date that is one year after the date of the enact-
18 ment of this Act.

19 **SEC. 4. INCREASE IN BONDING REQUIREMENT FOR IM-**
20 **PORTERS OF RECORD.**

21 (a) IN GENERAL.—Except as provided by subsections
22 (c) and (d), the Commissioner of U.S. Customs and Bor-
23 der Protection shall require each importer of record that
24 elects to use a continuous import bond under section
25 113.62 of title 19, Code of Federal Regulations—

1 (1) to maintain, in the name of the importer,
2 a continuous import bond of not less than \$100,000;
3 and

4 (2) to use that bond for purposes of entry of
5 merchandise by the importer.

6 (b) IMPLEMENTATION.—The dollar amount required
7 under subsection (a)(1) for a bond shall apply with respect
8 to—

9 (1) each new continuous import bond issued on
10 or after the date that is 60 days after the date of
11 the enactment of this Act;

12 (2) each continuous import bond renewed on or
13 after the date that is 360 days after the date of the
14 enactment of this Act; and

15 (3) any importer of record that holds, on or
16 after the date that is 60 days after the date of the
17 enactment of this Act, a continuous import bond in
18 an amount the Commissioner determines is insuffi-
19 cient to adequately protect the revenue and ensure
20 compliance with applicable law and regulations.

21 (c) ROLE OF CUSTOMS BROKERS.—Under the regu-
22 lations prescribed under subsection (a), a customs broker
23 may prepare and file entry documentation, but may not
24 use a bond held by the customs broker for purposes of

1 entry of merchandise unless the customs broker is acting
2 as the importer of record.

3 (d) TREATMENT OF EXPRESS CONSIGNMENT OPERA-
4 TORS AND CARRIERS.—

5 (1) IN GENERAL.—Notwithstanding any other
6 provision of this section, an express consignment op-
7 erator or carrier that meets the requirements of
8 paragraph (2) may—

9 (A) designate a customs broker licensed
10 under section 641 of the Tariff Act of 1930 (19
11 U.S.C. 1641) to serve as the importer of record
12 with respect to merchandise; and

13 (B) use the broker's bond for purposes of
14 entry of that merchandise.

15 (2) REQUIREMENTS.—An express consignment
16 operator or carrier meets the requirements of this
17 paragraph if the operator or carrier—

18 (A) is organized under the laws of the
19 United States;

20 (B) maintains a significant physical oper-
21 ating presence in the United States, including
22 substantial infrastructure for cargo handling,
23 sorting, and customs clearance operations;

24 (C) employs not fewer than 300,000 per-
25 sons in the United States; and

1 (D) designates under paragraph (1) only
2 customs brokers that are wholly owned by the
3 operator or carrier.

4 (3) REGULATIONS.—The Commissioner of U.S.
5 Customs and Border Protection may prescribe regu-
6 lations to implement this subsection, including regu-
7 lations specifying—

8 (A) procedures for express consignment
9 operators or carriers to demonstrate compliance
10 with the requirements of paragraph (2);

11 (B) the form and manner in which an ex-
12 press consignment operator or carrier is re-
13 quired to designate a customs broker under
14 paragraph (1); and

15 (C) such other measures as the Commis-
16 sioner determines necessary to ensure account-
17 ability and prevent abuse of the authority pro-
18 vided under this subsection.

19 (4) EXPRESS CONSIGNMENT OPERATOR OR CAR-
20 RIER DEFINED.—The term “express consignment
21 operator or carrier” has the meaning given that
22 term in section 128.1 of title 19, Code of Federal
23 Regulations.