

119TH CONGRESS
2D SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. CASSIDY introduced the following bill; which was read twice and 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”.

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

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

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

3 (2) by striking the third sentence and inserting
4 the following:

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

7 “(I) a party that—

8 “(aa) is eligible under clause (i) to file
9 the documentation or information required
10 by this section; and

11 “(bb) participates in the filing of that
12 documentation or information; and

13 “(II)(aa) in the case of an individual, a
14 United States citizen or an alien lawfully admit-
15 ted for permanent residence to the United
16 States; or

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

19 “(iii) An entity described in this clause is an
20 entity—

21 “(I) with—

22 “(aa) a physical location in the United
23 States; and

24 “(bb) at least 1 owner or full-time
25 employee who is a United States citizen or

1 an alien lawfully admitted for permanent
2 residence to the United States;

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

5 “(III) that is an affiliate of a United
6 States entity that—

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

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

11 “(cc) has annual gross receipts or as-
12 sets in the United States of not less than
13 \$1,000,000; and

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

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

24 “(II) The limitation under subclause (I) does
25 not apply to a customs broker designated as an im-

1 porter of record by an express consignment operator
2 or carrier under section 4(d) of the Securing Ac-
3 countability in Foreign Entries Act.

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

10 “(vi) In this subparagraph:

11 “(I) The term ‘affiliate’, with respect to an
12 entity, means the entity controls, is controlled
13 by, or is under common control with another
14 entity.

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

19 “(III) The term ‘covered country’ means a
20 country the government of which the United
21 States Trade Representative, in consultation
22 with the Commissioner of U.S. Customs and
23 Border Protection, determines—

24 “(aa) imposes requirements on per-
25 sons serving as importers of record under

1 the laws of that country that are substan-
2 tially equivalent to the requirements im-
3 posed on importers of record under this
4 subparagraph; and

5 “(bb) permits persons qualifying as
6 importers of record under this subpara-
7 graph and customs brokers (as defined in
8 section 641(a)) to act as importers of
9 record in that country on terms equal to
10 the terms applicable to importers of record
11 under the laws of that country.

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

14 “(aa) the written statement required
15 under section 6051 of the Internal Rev-
16 enue Code of 1986 for the individual indi-
17 cates that the individual’s employment sta-
18 tus is full time; and

19 “(bb) the individual is not employed
20 by more than one entity that is an im-
21 porter of record.

22 “(V) The term ‘physical location’—

23 “(aa) means a location, with a street
24 address, where the importer conducts sub-

1 stantive business operations, including
2 maintaining the presence of employees; and

3 “(bb) does not include—

4 “(AA) a shared office space, un-
5 less the importer permanently occu-
6 pies the office;

7 “(BB) an address associated with
8 a registered agent, other agent, cus-
9 toms broker, or freight forwarder, or
10 mailbox services; or

11 “(CC) an address that exists
12 solely for the purpose of collecting
13 mail or establishing a virtual business
14 address.”.

15 (b) REGULATIONS.—Not later than 360 days after
16 the date of the enactment of this Act, the Commissioner
17 of U.S. Customs and Border Protection, in consultation
18 with the heads of relevant Federal agencies, shall prescribe
19 regulations specifying—

20 (1) measures and processes for verifying that
21 importers of record meet the requirements of clause
22 (ii) of section 484(a)(2)(B) of the Tariff Act of
23 1930, as added by subsection (a);

24 (2) how U.S. Customs and Border Protection
25 will verify that importers of record meet those re-

1 quirements using investigative tools of U.S. Customs
2 and Border Protection and without relying on cus-
3 toms brokers or sureties; and

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

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

10 **SEC. 3. RESPONSIBILITY OF IMPORTER OF RECORD FOR**
11 **PAYMENT OF DUTIES.**

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

14 (1) in subparagraph (B), by redesignating
15 clauses (i), (ii), and (iii) as subclauses (I), (II), and
16 (III), respectively, and by moving such subclauses,
17 as so redesignated, 2 ems to the right;

18 (2) by redesignating subparagraphs (A) and
19 (B) as clauses (i) and (ii), respectively, and by mov-
20 ing such clauses, as so redesignated, 2 ems to the
21 right;

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

24 “(A) either”;

1 (4) in subparagraph (A), as designated by para-
2 graph (3)—

3 (A) in clause (i), as redesignated by para-
4 graph (2), by striking the semicolon and insert-
5 ing “; and”;

6 (B) in clause (ii)(III), as so redesignated,
7 by striking the period at the end and inserting
8 “; and”; and

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

10 “(B) shall, in accordance with paragraphs
11 (3) and (4), pay directly to U.S. Customs and
12 Border Protection all duties, taxes, and fees as-
13 sessed with respect to the entry of the merchan-
14 dise.”.

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

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

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

1 “(B) from a deposit account that—

2 “(i) is held—

3 “(I) if the importer of record is an in-
4 dividual, in the legal name of the importer
5 of record; or

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

8 “(aa) the importer of record; or

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

18 “(ii) has been verified by the depository in-
19 stitution under an anti-money-laundering cus-
20 tomer identification program consistent with
21 section 1020.220 of title 31, Code of Federal
22 Regulations (or a successor regulation) and ap-
23 plicable rules of the Financial Crimes Enforce-
24 ment Network.

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

5 “(A) the account number and routing number
6 for the account;

7 “(B) the name of the depository institution
8 where the account is held; and

9 “(C) an attestation from the depository institu-
10 tion certifying that—

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

14 “(ii) the depository institution has verified
15 the identity of the account holder under a cus-
16 tomer identification program described in para-
17 graph (3)(B)(ii).

18 “(5) A depository institution that holds an account
19 from which an importer of record intends to pay duties,
20 taxes, and fees with respect to an entry of merchandise
21 shall, upon the request of the Commissioner of U.S. Cus-
22 toms and Border Protection, provide to the Commissioner
23 a confirmation that the depository institution has verified
24 the identity of the account holder under a customer identi-
25 fication program described in paragraph (3)(B)(ii).

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

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

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

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

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

15 **SEC. 4. INCREASE IN BONDING REQUIREMENT FOR IM-**
16 **PORTERS OF RECORD.**

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

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

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

3 (b) IMPLEMENTATION.—The dollar amount required
4 under subsection (a)(1) for a bond shall apply with respect
5 to—

6 (1) each new continuous import bond issued on
7 or after the date that is 60 days after the date of
8 the enactment of this Act;

9 (2) each continuous import bond renewed on or
10 after the date that is 360 days after the date of the
11 enactment of this Act; and

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

18 (c) ROLE OF CUSTOMS BROKERS.—Under the regu-
19 lations prescribed under subsection (a), a customs broker
20 may prepare and file entry documentation, but may not
21 use a bond held by the customs broker for purposes of
22 entry of merchandise unless the customs broker is acting
23 as the importer of record.

24 (d) TREATMENT OF EXPRESS CONSIGNMENT OPERA-
25 TORS AND CARRIERS.—

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

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

9 (B) use the broker’s bond for purposes of
10 entry of that merchandise.

11 (2) REQUIREMENTS.—An express consignment
12 operator or carrier meets the requirements of this
13 paragraph if the operator or carrier—

14 (A) is organized under the laws of the
15 United States;

16 (B) maintains a significant physical oper-
17 ating presence in the United States, including
18 substantial infrastructure for cargo handling,
19 sorting, and customs clearance operations;

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

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

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

5 (A) procedures for express consignment
6 operators or carriers to demonstrate compliance
7 with the requirements of paragraph (2);

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

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

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