

112TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mrs. MCCASKILL introduced the following bill; which was read twice and
referred to the Committee on _____

A BILL

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 “Fighting for American
5 Industry’s Right to Enforcement Against Duty Evasion
6 Act” or the “FAIR Enforcement Against Duty Evasion
7 Act of 2011”.

8 **SEC. 2. TERMINATION OF AVAILABILITY OF BONDS FOR**
9 **NEW SHIPPERS.**

10 Section 751(a)(2)(B) of the Tariff Act of 1930 (19
11 U.S.C. 1675(a)(2)(B)) is amended—

12 (1) by striking clause (iii); and

1 (2) by redesignating clause (iv) as clause (iii).

2 **SEC. 3. COLLECTION OF IDENTIFICATION RELATING TO IM-**
3 **PORTERS.**

4 (a) IN GENERAL.—Section 641 of the Tariff Act of
5 1930 (19 U.S.C. 1641) is amended by adding at the end
6 the following:

7 “(i) IDENTIFICATION OF CUSTOMERS.—

8 “(1) IN GENERAL.—Subject to the require-
9 ments of this subsection, the Secretary shall pre-
10 scribe regulations setting forth the minimum stand-
11 ards for customs brokers and their customers re-
12 garding the identity of the customer that shall apply
13 in connection with the importation of merchandise
14 into the United States.

15 “(2) MINIMUM REQUIREMENTS.—The regula-
16 tions shall, at a minimum, require customs brokers
17 to implement, and customers (after being given ade-
18 quate notice) to comply with, reasonable procedures
19 for—

20 “(A) collecting the identity of any person
21 seeking to import merchandise into the United
22 States to the extent reasonable and practicable;

23 “(B) collecting the identity of any non-
24 United States person seeking to import mer-

1 chandise into the United States to the extent
2 reasonable and practicable; and

3 “(C) maintaining records of the informa-
4 tion used to substantiate a person’s identity, in-
5 cluding name, address, and other identifying in-
6 formation.

7 “(3) PENALTIES.—Any customs broker who
8 fails to collect information required under the regu-
9 lations prescribed under this subsection shall be lia-
10 ble to the United States, at the discretion of the
11 Secretary, for a monetary penalty not to exceed
12 \$10,000 for each violation of those regulations and
13 to revocation or suspension of license or permit pur-
14 suant to the procedures set forth in subsection (d).

15 “(4) ESTABLISHMENT OF SAFE HARBORS.—Not
16 later than 60 days after the date of the enactment
17 of this subsection, the Secretary shall publish a no-
18 tice in the Federal Register soliciting proposals,
19 which shall be accepted during a 60-day period, for
20 the specification of practices for which penalties will
21 not be imposed under this subsection. After consid-
22 ering the proposals so submitted, the Secretary,
23 shall publish in the Federal Register, including a 60-
24 day period for comment, proposed specified practices
25 for which such penalties will not be imposed. After

1 considering any public comments received during
2 such period, the Secretary shall issue final regula-
3 tions specifying such practices.

4 “(5) EFFECTIVE DATE.—Final regulations pre-
5 scribed under this subsection shall take effect before
6 the end of the 1-year period beginning on the date
7 of the enactment of this subsection.”.

8 (b) STUDY AND REPORT REQUIRED.—Not later than
9 180 days after the date of the enactment of this Act, the
10 Secretary, in consultation with relevant Federal regulators
11 shall submit a report to the Congress containing rec-
12 ommendations for—

13 (1) determining the most timely and effective
14 way to require foreign nationals to provide customs
15 brokers and agencies with appropriate and accurate
16 information, comparable to that which is required of
17 United States nationals, concerning the identity, ad-
18 dress, and other related information about such for-
19 eign nationals necessary to enable customs brokers
20 and agencies to comply with the requirements of sec-
21 tion 641(i) of the Tariff Act of 1930 (as added by
22 subsection (a)); and

23 (2) establishing a system for customs brokers
24 and agencies to review information maintained by
25 relevant Government agencies for purposes of

1 verifying the identities of foreign nationals and
2 United States nationals seeking to import merchan-
3 dise into the United States.

4 **SEC. 4. IMPORTER OF RECORD DATABASE.**

5 (a) IMPROVEMENT OF IMPORTER OF RECORD DATA-
6 BASE.—Not later than 180 days after the date of the en-
7 actment of this Act, the Secretary of Homeland Security
8 shall implement the following improvements to the im-
9 porter of record database:

10 (1) Include a history of importer of record
11 numbers associated with each importer of record.

12 (2) Provide a system to evaluate the accuracy
13 of the database maintained with respect to each im-
14 porter of record.

15 (3) Establish a system that ensures that dupli-
16 cate importer of record numbers are not issued.

17 (4) Establish a system for updating the data-
18 base described in this subsection on a regular basis,
19 but not less frequently than once a year.

20 (5) Establish a system that enables customs
21 brokers to verify the information required under sec-
22 tion 641(i) of the Tariff Act of 1930 (as added by
23 section 3(a) of this Act).

24 (b) REPORT.—Not later than 1 year after the date
25 of the enactment of this Act, the Secretary of Homeland

1 Security shall submit to the Committee on Finance of the
2 Senate and the Committee on Ways and Means of the
3 House of Representatives a report on the improvements
4 made to the importer of record program pursuant to this
5 section.