

AMENDMENT TO RULES COMMITTEE

PRINT 117-31

OFFERED BY MS. TENNEY OF NEW YORK

At the end of division K, add the following:

1 **TITLE VIII—MAKE IN AMERICA**
2 **TO SELL IN AMERICA**

3 **SEC. 109001. FINDINGS; SENSE OF CONGRESS.**

4 (a) FINDINGS.—Congress makes the following find-
5 ings:

6 (1) Excessive globalization has been a disaster
7 for United States workers in the manufacturing sec-
8 tor.

9 (2) The erosion of the domestic industrial base
10 of the United States is the result of the lack of ade-
11 quate protection for both domestic industry and
12 United States workers from import competition.

13 (3) Since 2001, approximately 60,000 factories
14 have shuttered in the United States.

15 (4) The COVID-19 pandemic revealed the de-
16 gree to which the United States is dependent on the
17 People’s Republic of China for certain critical manu-
18 factured goods.

1 (5) The United States currently mandates do-
2 mestic sourcing by requiring certain government
3 agencies to purchase only goods that are produced in
4 whole or in part in the United States.

5 (b) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that a targeted regime of local content requirements
7 across manufactured goods sold in the United States
8 should be deployed to boost domestic industry, repatriate
9 supply chains, and nurture infant industries.

10 **SEC. 109002. DEFINITIONS.**

11 In this title:

12 (1) COMMISSION.—The term “Commission”
13 means the United States International Trade Com-
14 mission.

15 (2) COVERED GOOD.—The term “covered good”
16 means a good identified by the Secretary of Com-
17 merce in the report required by section 109003.

18 (3) INTRODUCE FOR SALE.—The term “intro-
19 duce for sale”, with respect to a good, means to im-
20 port the good into the United States or produce the
21 good for consumption in the United States.

22 **SEC. 109003. IDENTIFICATION OF CRITICAL GOODS.**

23 (a) IN GENERAL.—Not later than one year after the
24 date of the enactment of this Act, and annually thereafter,
25 the Secretary of Commerce, in consultation with the Sec-

1 retary of Defense, shall submit to Congress and make
2 available to the public a report that identifies finished
3 goods and intermediate goods the domestic production of
4 which is critical for the protection of the industrial base
5 in the United States or for the national security of the
6 United States.

7 (b) CONSIDERATIONS.—In considering whether the
8 production of a good is critical for the protection of the
9 industrial base or for the national security of the United
10 States, the Secretary of Commerce may consider—

11 (1) the relative lack of the domestic production
12 of the good compared to domestic demand for the
13 good;

14 (2) the extent to which the global supply chain
15 of the good is vulnerable; and

16 (3) the employment effects of restoring or es-
17 tablishing production of the good in the United
18 States.

19 **SEC. 109004. MINIMUM DOMESTIC CONTENT REQUIRE-**
20 **MENT.**

21 (a) IN GENERAL.—Except as provided in subsection
22 (c) or (d), a covered good may not be introduced for sale
23 in the United States unless the domestic value content of
24 the good is more than 50 percent.

25 (b) DOMESTIC VALUE CONTENT.—

1 (1) CALCULATION.—The domestic value content
2 of a covered good may be calculated on the basis of
3 the following transaction value method:

$$\text{DVC} = \frac{\text{TV} - \text{VNM}}{\text{TV}} \times 100$$

4 (2) DEFINITIONS.—In this subsection:

5 (A) DVC.—The term “DVC” means the
6 domestic value content of the good, expressed
7 as a percentage.

8 (B) ORIGINATING GOOD; ORIGINATING MA-
9 TERIAL.—

10 (i) IN GENERAL.—The terms “origi-
11 nating good” and “originating material”
12 mean a good or material, as the case may
13 be—

14 (I) wholly obtained or produced
15 entirely in the United States; or

16 (II) substantially transformed in
17 the United States from a good or ma-
18 terial that is not wholly the growth,
19 product, or manufacture of the United
20 States.

21 (ii) REMANUFACTURED GOODS.—For
22 purposes of determining whether a re-
23 manufactured good is an originating good,
24 a recovered material derived in the United

1 States shall be treated as an originating
2 material if the material is used or con-
3 sumed in the production of, and incorpora-
4 tion into, the manufactured good.

5 (C) NONORIGINATING GOOD; NONORIGI-
6 NATING MATERIAL.—The terms “nonoriginating
7 good” and “nonoriginating material” mean a
8 good or material, as the case may be, that does
9 not qualify as originating under subparagraph
10 (B).

11 (D) TV.—The term “TV” means the
12 transaction value of the good, adjusted to ex-
13 clude any costs incurred in the international
14 shipment of the good.

15 (E) VNM.—The term “VNM” means the
16 value of nonoriginating goods or nonoriginating
17 materials used by the producer in the produc-
18 tion of the good.

19 (3) VALUE OF NONORIGINATING MATERIALS.—
20 For purposes of calculating the domestic value con-
21 tent of a good under this subsection, the value of
22 nonoriginating materials used by the producer in the
23 production of the good shall not include the value of
24 nonoriginating materials used or consumed to

1 produce originating materials that are subsequently
2 used or consumed in the production of the good.

3 (c) EXCEPTIONS.—The prohibition under subsection
4 (a) does not apply with respect to—

5 (1) used goods; or

6 (2) goods introduced for sale in the United
7 States by any person with annual revenue of less
8 than \$5,000,000.

9 (d) WAIVER.—

10 (1) IN GENERAL.—The President may waive
11 the application of subsection (a) with respect to a
12 covered good if the President—

13 (A) determines that—

14 (i) the covered good is not available
15 for sale in the United States in a manner
16 that meets the minimum domestic content
17 requirement under subsection (a);

18 (ii) the development of domestic pro-
19 duction of the covered good to meet the
20 consumptive demand of the United States
21 is substantially time-intensive or capital-in-
22 tensive compared with other covered goods;
23 or

24 (iii) a delay in the application of the
25 requirement under subsection (a) is critical

1 for the national security of the United
2 States; and

3 (B) submits to Congress and makes avail-
4 able to the public a report on the reasons for
5 the waiver.

6 (2) EFFECTIVE PERIOD.—A waiver issued
7 under paragraph (1) with respect to a covered good
8 terminates on the date that is 3 years after the date
9 on which the President submits the report required
10 by paragraph (1)(B) with respect to the waiver.

11 (3) PROHIBITION ON RENEWAL.—A waiver
12 issued under paragraph (1) may not be renewed.

13 (4) BRIEFINGS REQUIRED.—Not less frequently
14 than annually, the President shall brief the Com-
15 mittee on Finance of the Senate and the Committee
16 on Ways and Means of the House of Representatives
17 with respect to the waivers issued under paragraph
18 (1) and the determinations made under paragraph
19 (1)(A) with respect to those waivers during the pre-
20 ceding year.

21 (5) PUBLIC LIST.—Not less frequently than an-
22 nually, the President shall make available to the
23 public a list of all waivers issued under paragraph
24 (1) during the preceding year.

1 (e) REGULATIONS.—The Secretary of Commerce, in
2 consultation with the Commissioner of U.S. Customs and
3 Border Protection, shall prescribe regulations and guid-
4 ance to carry out this section, including with respect to
5 the calculation and applicability of the minimum domestic
6 content requirement under subsection (a).

7 **SEC. 109005. ENFORCEMENT.**

8 (a) IN GENERAL.—

9 (1) PENALTIES.—If the Secretary of Commerce
10 determines that a person introduces for sale, or
11 causes to be introduced for sale, a covered good in
12 the United States in violation of section 109004(a),
13 that person shall be liable for a civil penalty not to
14 exceed the greater of—

15 (A) the amount that is twice the total
16 transaction value of the good; or

17 (B) \$5,000,000.

18 (2) CONSIDERATIONS.—In making a determina-
19 tion under paragraph (1) with respect to an alleged
20 violation of section 109004(a), the Secretary of
21 Commerce shall consider the findings of the Com-
22 mission pursuant to an investigation conducted
23 under subsection (b) with respect to the alleged vio-
24 lation.

25 (b) INVESTIGATIONS BY COMMISSION.—

1 (1) PETITIONS.—The Commission may initiate
2 an investigation into an alleged violation of section
3 109004(a) with respect to a covered good upon the
4 filing of a petition by a domestic producer of the
5 covered good or the Secretary of Commerce.

6 (2) NOTIFICATION.—Upon receipt of a petition
7 filed under paragraph (1), the Commission shall no-
8 tify the person alleged to have violated section
9 109004(a) of the petition and the allegations in-
10 cluded in the petition.

11 (3) INITIATION OF INVESTIGATION.—Not later
12 than 20 days after receiving a petition filed under
13 paragraph (1), the Commission shall—

14 (A) after examining, on the basis of
15 sources readily available, the accuracy and ade-
16 quacy of the allegations included in the petition,
17 determine whether the petition—

18 (i) alleges the elements necessary for
19 the imposition of a penalty under sub-
20 section (a)(1); and

21 (ii) contains information reasonably
22 available to the petitioner supporting the
23 allegations;

1 (B) determine whether the covered good
2 that is the subject of the petition is covered by
3 a waiver issued under section 109004(d); and

4 (C) if the determination under subpara-
5 graph (A) is affirmative and the determination
6 under subparagraph (B) is negative, initiate an
7 investigation.

8 (4) FINDINGS.—

9 (A) IN GENERAL.—Not later than 60 days
10 after initiating an investigation under para-
11 graph (3)(C), and after soliciting public com-
12 ments, soliciting evidence from the parties, and
13 examining other relevant sources, the Commis-
14 sion shall make a finding with respect to wheth-
15 er, based on a preponderance of evidence, the
16 person that is the subject of the investigation
17 has violated section 109004(a).

18 (B) NOTIFICATIONS.—If the finding of the
19 Commission under subparagraph (A) is affirma-
20 tive, the Commission shall—

21 (i) notify all parties to the investiga-
22 tion of the finding; and

23 (ii) make available to the public the
24 facts and conclusions upon which the find-
25 ing was based.

1 (5) WITHDRAWAL OF PETITIONS.—The Com-
2 mission may terminate an investigation initiated
3 under paragraph (3), after notice to all parties to
4 the investigation, if the petition filed under para-
5 graph (1) is withdrawn by the petitioner.

6 (6) STAFF.—The Commission may hire suffi-
7 cient staff to carry out investigations under this sub-
8 section.

9 (7) REGULATIONS.—The Commission may pre-
10 scribe regulations and guidance as necessary to
11 carry out this subsection.

12 **SEC. 109006. APPLICABILITY.**

13 The provisions of this title apply with respect to
14 goods introduced for sale in the United States on and after
15 the date that is 3 years after the date of the enactment
16 of this Act.

