

TO ESTABLISH A TOLL FREE NUMBER TO ASSIST CONSUMERS IN DETERMINING IF PRODUCTS ARE AMERICAN-MADE

AUGUST 2, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce,
submitted the following

R E P O R T

[To accompany H.R. 447]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 447) to establish a toll free number in the Department of Commerce to assist consumers in determining if products are American-made, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. ESTABLISHMENT OF TOLL FREE NUMBER PILOT PROGRAM.

(a) **ESTABLISHMENT.**—If the Secretary of Commerce determines, on the basis of comments submitted in rulemaking under section 2, that—

- (1) interest among manufacturers is sufficient to warrant the establishment of a 3-year toll free number pilot program, and
 - (2) manufacturers will provide fees under section 2(c) so that the program will operate without cost to the Federal Government,
- the Secretary shall establish such program solely to help inform consumers whether a product is made in America or the equivalent thereof. The Secretary shall publish the toll-free number by notice in the Federal Register.

(b) **CONTRACT.**—The Secretary of Commerce shall enter into a contract for—

- (1) the establishment and operation of the toll free number pilot program provided for in subsection (a), and
- (2) the registration of products pursuant to regulations issued under section 2,

which shall be funded entirely from fees collected under section 2(c).

(c) **USE.**—The toll free number shall be used solely to inform consumers as to whether products are registered under section 2 as made in America or the equivalent thereof. Consumers shall also be informed that registration of a product does not mean—

- (1) that the product is endorsed or approved by the Government,
- (2) that the Secretary has conducted any investigation to confirm that the product is a product which meets the definition of made in America or the equivalent thereof, or
- (3) that the product contains 100 percent United States content.

SEC. 2. REGISTRATION.

(a) **PROPOSED REGULATION.**—The Secretary of Commerce shall propose a regulation—

- (1) to establish a procedure under which the manufacturer of a product may voluntarily register such product as complying with the definition of a product made in America or the equivalent thereof and have such product included in the information available through the toll free number established under section 1(a);
- (2) to establish, assess, and collect a fee to cover all the costs (including start-up costs) of registering products and including registered products in information provided under the toll-free number;
- (3) for the establishment under section 1(a) of the toll-free number pilot program; and
- (4) to solicit views from the private sector concerning the level of interest of manufacturers in registering products under the terms and conditions of paragraph (1).

(b) **PROMULGATION.**—If the Secretary determines based on the comments on the regulation proposed under subsection (a) that the toll-free number pilot program and the registration of products is warranted, the Secretary shall promulgate such regulations

(c) **REGISTRATION FEE.**—

(1) **IN GENERAL.**—Manufacturers of products included in information provided under section 1 shall be subject to a fee imposed by the Secretary of Commerce to pay the cost of registering products and including them in information provided under subsection (a).

(2) **AMOUNT.**—The amount of fees imposed under paragraph (1) shall—

(A) in the case of a manufacturer, not be greater than the cost of registering the manufacturer's product and providing product information directly attributable to such manufacturer, and

(B) in the case of the total amount of fees, not be greater than the total amount appropriated to the Secretary of Commerce for salaries and expenses directly attributable to registration of manufacturers and having products included in the information provided under section 1(a).

(3) **CREDITING AND AVAILABILITY OF FEES.**—

(A) **IN GENERAL.**—Fees collected for a fiscal year pursuant to paragraph (1) shall be credited to the appropriation account for salaries and expenses of the Secretary of Commerce and shall be available in accordance with appropriation Acts until expended without fiscal year limitation.

(B) **COLLECTIONS AND APPROPRIATION ACTS.**—The fees imposed under paragraph (1)—

- (i) shall be collected in each fiscal year in an amount equal to the amount specified in appropriation Acts for such fiscal year, and

(ii) shall only be collected and available for the costs described in paragraph (2).

SEC. 3. PENALTY.

Any manufacturer of a product who knowingly registers a product under section 2 which is not made in America or the equivalent thereof—

(1) shall be subject to a civil penalty of not more than \$7500 which the Secretary of Commerce may assess and collect, and

(2) shall not offer such product for purchase by the Federal Government.

SEC. 4. DEFINITION.

For purposes of this Act:

(1) The term “made in America or the equivalent thereof”, with respect to a product, has the meaning given such term for purposes of laws administered by the Federal Trade Commission.

(2) The term “product” means a product with a retail value of at least \$250.

SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act or in any regulation promulgated under section 2 shall be construed to alter, amend, modify, or otherwise affect in any way, the Federal Trade Commission Act or the opinions, decisions, rules, or any guidance issued by the Federal Trade Commission regarding the use of the term “made in America or the equivalent thereof” in labels on products introduced, delivered for introduction, sold, advertised, or offered for sale in commerce.

PURPOSE AND SUMMARY

The purpose of the bill is to provide for the establishment and operation of a three-year, toll free number pilot program to assist consumers in determining what products are “Made in America.” The reported bill provides that all costs of the program be paid with fees collected from manufacturers who voluntarily choose to register their products under this program.

The reported bill requires the Secretary of Commerce to issue regulations establishing the program, as well as procedures for manufacturers to register products that are made in America. If there is sufficient interest in providing private sector funding, the Secretary is directed to enter into a contract for the establishment and operation of the program.

BACKGROUND AND NEED FOR LEGISLATION

In today’s global economy, it is increasingly difficult for consumers to determine which products are “Made in America.” Whether shopping for cars, computers, industrial equipment, or hand tools, the “Made in America” designation still represents quality and value to consumers, and is something that consumers, when adequately informed, factor into purchasing decisions. Currently, there is no central repository for lists of American-made products.

The issue of the appropriate definition of when a product is “Made in America” continues to occupy the minds of manufacturers, regulators, and the consuming public. This is clearly evidenced by the recent efforts undertaken by the Federal Trade Commission (“FTC”) to reevaluate its long-standing decisions that, for purposes of enforcement against “unfair and deceptive trade practices,” all or virtually all of a product must be made in the United States in order to make that claim. In an effort to better understand the sentiment among both consumers and manufacturers, the Commission undertook a comprehensive series of workshops, an extensive public comment period generating more than 300 comments, and consumer surveys. The Chairman of the FTC indicated in testi-

mony before the Committee that the Commission soon expects to receive a staff report on the results of these activities and recommendations for the future, in light of the increasingly global economy.

The Committee considered, and the House passed, nearly identical legislation in the 103rd Congress. The Committee's report on H.R. 3342 (H. Rpt. 103-660) contains additional background information on the subject of "Made in America."

HEARINGS

The Subcommittee on Commerce, Trade, and Hazardous Materials held a hearing on H.R. 447, a bill to establish a toll-free number in the Department of Commerce to assist consumers in determining if products are American-made, on July 11, 1996. The Subcommittee received testimony from the Honorable James A. Traficant, M.C., who testified in favor of the legislation.

COMMITTEE CONSIDERATION

On July 18, 1996, the Subcommittee on Commerce, Trade, and Hazardous Materials met in open markup session and approved H.R. 447 for Full Committee consideration, as amended, by a voice vote.

On July 24, 1996, the Committee on Commerce met in open markup session and ordered H.R. 447 reported to the House, as amended, by a voice vote, a quorum being present.

ROLLCALL VOTES

Clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 447 reported. A motion by Mr. Bliley to order H.R. 447 reported to the House, as amended, was agreed to by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 447 would result in no new or increased budget authority or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974 with the following clarification: The Committee notes that the Congressional Budget Office estimates that there may be some minimal cost to the Federal government to conduct the rulemaking by the Secretary. However, since these costs are minimal, the Committee believes and intends that this program should, and can, be operated within existing appropriations levels and that no additional funding is required.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1996.

Hon. THOMAS J. BLILEY, Jr.,
*Chairman, Committee on Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 447, a bill to establish a toll free number in the Department of Commerce to assist consumers in determining if products are American-made.

Enacting H.R. 447 would affect receipts. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 447.
2. Bill title: A bill to establish a toll free number in the Department of Commerce to assist consumers in determining if products are American-made.
3. Bill status: As ordered reported by the House Committee on Commerce on July 24, 1996.
4. Bill purpose: H.R. 447 would require the Department of Commerce (DOC) to conduct a rulemaking proceeding to determine if sufficient interest exists among manufacturers to establish a consumer hotline listing products that are made in America. If sufficient interest is found, the bill would require the DOC to enter into a contract to establish a three-year pilot program and to charge fees to pay for the cost of the contract.
5. Estimated cost to the Federal Government: CBO estimates that enacting H.R. 447 would not result in any significant net cost to the federal government because the bill would authorize the

DOC to establish fees to offset the costs of the toll-free line, subject to approval in appropriations acts. H.R. 447 would affect governmental receipts because the bill would establish a civil penalty for anyone who knowingly registers a product for the toll-free hotline that is not made in America, as defined by the bill. Additional receipts from civil penalties are likely to be small. The following table summarizes the estimated budgetary impact of H.R. 447 over the 1997–2002 period.

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level:						
Funding for the Department of Commerce	12	0	0	0	0	0
Less: Estimated Fee Collections	-2	-4	-5	-1	0	0
Estimated Net Authorization	8	-4	-5	-1	0	0
Outlays:						
Estimated Gross Outlays	2	4	5	1	0	0
Less: Estimated Fee Collections	-2	-4	-5	-1	0	0
Estimated Net Outlays	0	0	0	0	0	0
CHANGES IN REVENUES						
Estimated Receipts from Civil Penalties	(1)	(1)	(1)	(1)	(1)	(1)

¹ Less than \$500,000.

The costs of this bill fall within budget function 370.

6. Basis of estimate: CBO assumes that all amounts estimated to be authorized are appropriated, and in particular, that the funding would be provided in fiscal year 1997 for the full cost of the three-year contract for a consumer hotline.

Based on information from the DOC, CBO estimates that the rulemaking proceeding required by the bill would cost approximately \$200,000, primarily for personnel costs. Assuming the DOC finds sufficient interest among manufacturers, CBO estimates that entering into a contract to establish a hotline and database, and to operate it over a three-year period would cost the federal government approximately \$12 million beginning in fiscal year 1997 and ending during fiscal year 2000. This estimate assumes that all costs of the three-year contract for the consumer hotline would be covered by fees, as specified in the bill.

DOC's authorization to enter into a contract for operation of the hotline would not constitute direct spending because the bill would require that the contract be paid solely through fee collections, and that those fees be collected only to the extent allowed in appropriations acts.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. H.R. 447 would affect governmental receipts because the bill would establish a civil penalty for anyone who knowingly registers a product for the toll-free hotline that is not made in America, as defined by the bill. Collections of fines would count as governmental receipts and would be deposited in the general fund of the Treasury. CBO expects that any additional collec-

tions would be negligible. The following table summarizes the estimated pay-as-you-go impact of this bill.

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	(1)	(1)	(1)
Change in receipts	0	0	0

¹ Not applicable.

8. Estimated impact on State, local, and tribal governments: The bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) and would have no impact on the budgets of state, local, or tribal governments.

9. Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in Public Law 104-4.

10. Previous CBO estimate: None.

11. Estimate prepared by: Federal cost estimate: Rachel Forward and Stephanie Weiner. Impact on State, local, and tribal governments: Pepper Santalucia. Impact on the private sector: Amy Downs.

12. Estimate approved by: Robert A. Sunshine (for Paul N. Van de Water, Assistant Director for Budget Analysis).

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the bill would have no inflationary impact.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Sec. 1. Establishment of toll free number pilot program

This section provides that if, pursuant to comments received during rulemaking under section 2 of the bill, the Secretary of Commerce (“the Secretary”) determines there is sufficient interest among manufacturers in the private sector to operate the program established under this section without Federal funding, the Secretary shall provide for the establishment of a toll free number which may be used by consumers to determine if a product is made in America. Under this section, the Secretary has responsibility to publish the toll free number in the Federal Register.

This section also provides that the Secretary shall contract out the establishment and operation of the toll free number pilot program and the registration of products pursuant to regulations issued under section 2.

This section further provides that consumers shall be informed: as to whether products about which inquiry is being made are registered as being made in America or the equivalent thereof; that registration of a product does not mean that the product is endorsed or approved by the Government; that registration of a product does not mean that the Secretary has conducted any investiga-

tion to confirm that the product is a product which meets the definition of made in America or the equivalent thereof; and that registration of a product does not mean that the product contains 100 percent U.S. content.

Sec. 2. Registration

This section provides that the Secretary shall propose a regulation:

- (1) to establish procedures under which manufacturers may voluntarily register products which are made in American and have such products included in the information available through the toll free number;
- (2) to establish, assess, and collect fees for the costs of having products included in information available through the toll free number established under section 1;
- (3) to establish a toll free number pilot program; and
- (4) to solicit views from the private sector concerning the level of interest of manufacturers in registering products under the terms and conditions of the toll free number pilot program described in the proposed regulations and the level of interest of consumers.

This section also states that manufacturers who register products as being made in America or the equivalent thereof for purposes of this Act shall be subject to a fee to cover all costs of operating the toll free number pilot program established in section 1.

Sec. 3. Penalty

This section provides that if a manufacturer knowingly registers a product with the Secretary under section 2 which is not made in America, the manufacturer may not offer such product for purchase to the Federal government and shall be subject to a civil penalty of not more than \$7500, which the Secretary of Commerce may impose.

Sec. 4. Definition

This section provides that the term “made in America or the equivalent thereof”, with respect to a product, has the same meaning given the term for purposes of the laws administered by the Federal Trade Commission. Under the Federal Trade Commission Act, as historically applied by the FTC, that agency has treated unqualified “made in America” claims as meeting a standard of all or virtually all domestic content. The Committee adopted the FTC’s definition to avoid the numerous, differing, and even conflicting definitions and interpretations in Federal law and by Federal agencies. While the Committee believes that the FTC should continue to be the arbiter of what constitutes a product “Made in America” for purposes of an advertising claim, the definition adopted by the Committee should not be construed as suggesting that the FTC change its current definition, standards, or interpretations, with respect to this Act or any other law.

This section also states that the term “product”, as used in the reported bill, means a product with a retail value of at least \$250.

Sec. 5. Rule of construction

This section states that nothing in this Act shall be deemed to alter, amend, modify, or otherwise affect in any way, the Federal Trade Commission Act or the opinions, decisions, rules, or any guidance issued by the Federal Trade Commission regarding the use of the term “made in America or the equivalent thereof” in labels on products introduced, delivered for introduction, sold, advertised, or offered for sale in commerce.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

