

118TH CONGRESS
1ST SESSION

H. R. 6299

To require origin and location disclosure for new products of foreign origin offered for sale on the internet.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 2023

Mr. GIMENEZ (for himself and Mr. KIM of New Jersey) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Agriculture, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require origin and location disclosure for new products of foreign origin offered for sale on the internet.

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 “COOL Online Act”.

5 **SEC. 2. MANDATORY ORIGIN DISCLOSURE FOR NEW PROD-**

6 **UCTS OF FOREIGN ORIGIN OFFERED FOR**

7 **SALE ON THE INTERNET.**

8 (a) MANDATORY DISCLOSURE.—

1 (1) IN GENERAL.—

2 (A) DISCLOSURE.—Subject to the suc-
3 ceeding provisions of this paragraph, it shall be
4 unlawful for an online store, an online market-
5 place, or a seller to introduce, sell, or offer for
6 sale on an internet website a product that is
7 marked or required to be marked under section
8 304 of the Tariff Act of 1930 (19 U.S.C. 1304)
9 unless the country of origin is disclosed in a
10 conspicuous manner on the online store or on-
11 line marketplace’s online description of the
12 product and in a manner consistent with the
13 regulations prescribed under such section 304
14 at the time of the product’s importation, or an-
15 ticipated importation, into the customs territory
16 of the United States.

17 (B) EXCLUSIONS.—

18 (i) AGRICULTURAL PRODUCTS.—The
19 disclosure requirements under subpara-
20 graph (A) shall not apply to—

21 (I) a covered commodity (as de-
22 fined in section 281 of the Agricul-
23 tural Marketing Act of 1946 (7
24 U.S.C. 1638));

1 (II) a meat or meat food product
2 subject to inspection under the Fed-
3 eral Meat Inspection Act (21 U.S.C.
4 601 et seq.);

5 (III) a poultry or poultry product
6 subject to inspection under the Poul-
7 try Products Inspection Act (21
8 U.S.C. 451 et seq.); or

9 (IV) an egg product subject to
10 regulation under the Egg Products
11 Inspection Act (21 U.S.C. 1031 et
12 seq.).

13 (ii) FOOD AND DRUGS.—The disclo-
14 sure requirements under subparagraph (A)
15 shall not apply to a food or drug (as those
16 terms are defined in paragraphs (f) and
17 (g), respectively, of section 201 of the Fed-
18 eral Food, Drug, and Cosmetic Act (21
19 U.S.C. 321)) that is subject to the jurisdic-
20 tion of the Food and Drug Administration.

21 (iii) USED OR PREVIOUSLY OWNED
22 PRODUCTS.—The disclosure requirements
23 under subparagraph (A) shall not apply to
24 any used or previously owned products sold
25 in interstate commerce.

1 (iv) SMALL SELLER.—The disclosure
2 requirements under subparagraph (A) shall
3 not apply to goods listed by a small seller.

4 (C) LIMITATION OF LIABILITY.—

5 (i) ONLINE STORE.—An online store
6 is not in violation of the requirements
7 under subparagraph (A) if the online store
8 provided its third-party manufacturer, dis-
9 tributor, supplier, or private labeler with—

10 (I) a notice of their obligation to
11 provide the country of origin to the
12 store, if applicable; and

13 (II) the means to list directly, or
14 provide to the online store for listing,
15 the country of origin of the product.

16 (ii) ONLINE MARKETPLACE.—

17 (I) IN GENERAL.—Subject to
18 subclause (II), an online marketplace
19 is not in violation of the requirements
20 under subparagraph (A) if the online
21 marketplace provided its sellers
22 with—

23 (aa) a notice of the seller's
24 obligation to provide country of

1 origin information when selling a
2 product; and

3 (bb) the means to list the
4 country of origin in the product's
5 description.

6 (II) EXCEPTION.—Subclause (I)
7 shall not apply when the online mar-
8 ketplace is selling the product itself,
9 rather than only facilitating a sale by
10 a seller and relying on a seller for
11 that product's information.

12 (iii) SELLER.—A seller is not in viola-
13 tion of the requirements under subpara-
14 graph (A) if the online marketplace did not
15 provide the seller with—

16 (I) the notice described in clause
17 (ii)(I)(aa); or

18 (II) the means to list the county
19 of origin in the product's description
20 as described in clause (ii)(I)(bb).

21 (D) FUNGIBLE GOODS OR MATERIALS.—

22 For the purposes of subparagraph (A) and in
23 accordance with section 102.12(f) of title 19,
24 Code of Federal Regulations, an online store,
25 an online marketplace, or a seller is in compli-

1 ance with the disclosure requirements under
2 subparagraph (A) if it lists multiple countries
3 of origin for products that are fungible goods or
4 materials. Products shall be considered to be
5 “fungible goods or materials” if the goods or
6 materials, as the case may be, are interchange-
7 able for commercial purposes and have prop-
8 erties which are essentially identical.

9 (E) SAFE HARBOR.—An online store, an
10 online marketplace, or a seller satisfies the dis-
11 closure requirements under subparagraph (A) if
12 the online store, online marketplace, or seller
13 relies on the country of origin representation
14 provided by a third-party manufacturer, im-
15 porter, distributor, supplier, or private labeler
16 of the product.

17 (2) CERTAIN DRUG PRODUCTS.—It shall be un-
18 lawful for an online store, an online marketplace, or
19 a seller to offer for sale in commerce to consumers
20 on an internet website a drug that is not subject to
21 section 503(b)(1) of the Federal Food, Drug, and
22 Cosmetic Act (21 U.S.C. 353(b)(1)) and that is re-
23 quired to be marked under section 304 of the Tariff
24 Act of 1930 (19 U.S.C. 1304) unless the internet
25 website description of the drug indicates in a con-

1 spicuous place the name and place of business of the
2 manufacturer, packer, or distributor that is required
3 to appear on the label of the drug in accordance
4 with section 502(b) of the Federal Food, Drug, and
5 Cosmetic Act (21 U.S.C. 352(b)).

6 (3) OBLIGATION TO PROVIDE.—A manufac-
7 turer, importer, distributor, supplier, or private la-
8 beler seeking to have a product introduced, sold, ad-
9 vertised, or offered for sale in commerce shall pro-
10 vide the marking information required by section
11 304 of the Tariff Act of 1930 (19 U.S.C. 1304) to
12 the relevant online store, an online marketplace, or
13 a seller who wishes to offer the product for sale on
14 an internet website.

15 (b) ENFORCEMENT BY THE COMMISSION.—

16 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
17 TICES.—A violation of subsection (a) or a regulation
18 promulgated thereunder shall be treated as a viola-
19 tion of a rule defining an unfair or deceptive act or
20 practice under section 18(a)(1)(B) of the Federal
21 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

22 (2) POWERS OF THE COMMISSION.—

23 (A) IN GENERAL.—The Commission shall
24 enforce this section in the same manner, by the
25 same means, and with the same jurisdiction,

1 powers, and duties as though all applicable
2 terms and provisions of the Federal Trade
3 Commission Act (15 U.S.C. 41 et seq.) were in-
4 corporated into and made a part of this section.

5 (B) PRIVILEGES AND IMMUNITIES.—Any
6 person that violates subsection (a) shall be sub-
7 ject to the penalties and entitled to the privi-
8 leges and immunities provided in the Federal
9 Trade Commission Act (15 U.S.C. 41 et seq.)
10 as though all applicable terms and provisions of
11 that Act were incorporated and made part of
12 this section.

13 (C) AUTHORITY PRESERVED.—Nothing in
14 this section may be construed to limit the au-
15 thority of the Commission under any other pro-
16 vision of law.

17 (D) RULEMAKING.—

18 (i) IN GENERAL.—The Commission
19 shall promulgate in accordance with sec-
20 tion 553 of title 5, United States Code,
21 such rules as may be necessary to carry
22 out this section.

23 (ii) CONSULTATION.—In promulgating
24 any regulations under clause (i), the Com-

1 mission shall consult with U.S. Customs
2 and Border Protection.

3 (3) INTERAGENCY AGREEMENT.—Not later
4 than 6 months after the date of enactment of this
5 section, the Commission, the Commissioner for U.S.
6 Customs and Border Protection, the Commissioner
7 of Food and Drugs, the United States Trade Rep-
8 resentative, and the Secretary of Agriculture shall—

9 (A) enter into a Memorandum of Under-
10 standing or other appropriate agreement for the
11 purpose of providing consistent implementation
12 of this section; and

13 (B) publish such Memorandum of Under-
14 standing or other agreement in order to provide
15 public guidance.

16 (c) AUTHORITY PRESERVED.—Nothing in this sec-
17 tion may be construed to—

18 (1) limit the authority of the Department of
19 Agriculture, the Food and Drug Administration, or
20 U.S. Customs and Border Protection under any
21 other provision of law; or

22 (2) require the Commission to interpret, mod-
23 ify, or enforce regulations promulgated by such
24 agencies unless as provided by the Memorandum of

1 Understanding or other agreement entered into
2 under subsection (b)(3)(A).

3 (d) EFFECTIVE DATE.—This section shall take effect
4 1 year after the date of the publication of the Memo-
5 randum of Understanding or other agreement under sub-
6 section (b)(3)(B).

7 (e) RULE OF CONSTRUCTION.—Nothing in this Act
8 shall be construed to require an online store, an online
9 marketplace, or a seller to include a description of a prod-
10 uct introduced, sold, or offered for sale in interstate com-
11 merce other than a notice of the country of origin as re-
12 quired by subsection (a).

13 (f) DEFINITIONS.—In this section:

14 (1) COMMISSION.—The term “Commission”
15 means the Federal Trade Commission.

16 (2) ONLINE MARKETPLACE.—The term “online
17 marketplace” has the meaning given such term in
18 section 301(f) of the Consolidated Appropriations
19 Act, 2023 (15 U.S.C. 45f(f)).

20 (3) ONLINE STORE.—The term “online store”
21 means a person or entity that operates a consumer-
22 directed, electronically based or accessed website
23 that sells products to consumers over the internet
24 for itself or on behalf of third-party sellers.

1 (4) PRODUCT.—The term “product” has the
2 meaning given the term “article of foreign origin” in
3 section 304 of the Tariff Act of 1930 (19 U.S.C.
4 1304).

5 (5) SELLER.—The term “seller” has the mean-
6 ing given such term in section 301(f) of the Consoli-
7 dated Appropriations Act, 2023 (15 U.S.C. 45f(f)).

8 (6) SMALL SELLER.—

9 (A) IN GENERAL.—The term “small seller”
10 means a seller on an online marketplace that,
11 in any consecutive 12-month period during the
12 previous 24 months, has—

13 (i) annual sales of less than an aggre-
14 gate total of \$20,000 in gross revenues;
15 and

16 (ii) fewer than 200 discrete sales or
17 transactions (excluding sales of used or
18 previously owned products).

19 (B) CLARIFICATION.—For the purposes of
20 calculating the number of discrete sales or
21 transactions or the aggregate gross revenues
22 under subparagraph (A), a seller shall only be
23 required to count sales or transactions made
24 through the online marketplace and for which
25 payment was processed by the online market-

1 place, either directly or through its payment
2 processor.

3 (7) USED OR PREVIOUSLY OWNED PRODUCT.—

4 The term “used or previously owned product” means
5 a product that was previously sold or offered for sale
6 in interstate commerce.

7 **SEC. 3. COUNTRY OF ORIGIN LABELING FOR COOKED**
8 **KINGCRAB AND TANNER CRAB AND COOKED**
9 **AND CANNED SALMON.**

10 Section 281(7)(B) of the Agricultural Marketing Act
11 of 1946 (7 U.S.C. 1638(7)(B)) is amended—

12 (1) by striking the period at the end and insert-
13 ing a semicolon;

14 (2) by striking “includes a fillet” and inserting
15 the following: “includes—

16 “(i) a fillet”; and

17 (3) by adding at the end the following:

18 “(ii) whole cooked king crab and tan-
19 ner crab and cooked king crab and tanner
20 crab sections; and

21 “(iii) cooked and canned salmon.”.

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