

111TH CONGRESS  
1ST SESSION

# S. 1089

To facilitate the export of United States agricultural commodities and products to Cuba as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000, to establish an agricultural export promotion program with respect to Cuba, to remove impediments to the export to Cuba of medical devices and medicines, to allow travel to Cuba by United States citizens and legal residents, to establish an agricultural export promotion program with respect to Cuba, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 20, 2009

Mr. BAUCUS (for himself, Mr. CRAPO, Ms. CANTWELL, Mr. ROBERTS, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. LINCOLN, Mr. HARKIN, Mrs. MURRAY, Mr. PRYOR, Mr. BOND, Mr. JOHNSON, Mr. DORGAN, Mr. WYDEN, Mr. LUGAR, Mrs. MCCASKILL, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To facilitate the export of United States agricultural commodities and products to Cuba as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000, to establish an agricultural export promotion program with respect to Cuba, to remove impediments to the export to Cuba of medical devices and medicines, to allow travel to Cuba by United States citizens and legal residents, to establish an agricultural export promotion program with respect to Cuba, 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 “Promoting American  
5 Agricultural and Medical Exports to Cuba Act of 2009”.

6 **SEC. 2. CLARIFICATION OF PAYMENT TERMS UNDER THE**  
7                   **TRADE SANCTIONS REFORM AND EXPORT EN-**  
8                   **HANCEMENT ACT OF 2000.**

9       Section 908(b)(4) of the Trade Sanctions Reform and  
10 Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(4))  
11 is amended—

12           (1) in subparagraph (B), by striking “and” at  
13 the end;

14           (2) in subparagraph (C), by striking the period  
15 at the end and inserting “; and”; and

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

17                   “(D) the term ‘payment of cash in ad-  
18 vance’ means, notwithstanding any other provi-  
19 sion of law, the payment by the purchaser of an  
20 agricultural commodity or product and the re-  
21 ceipt of such payment by the seller prior to—

22                           “(i) the transfer of title of such com-  
23 modity or product to the purchaser; and

24                           “(ii) the release of control of such  
25 commodity or product to the purchaser.”.

1 **SEC. 3. AUTHORIZATION OF DIRECT TRANSFERS BETWEEN**  
2 **CUBAN AND UNITED STATES DEPOSITORY IN-**  
3 **STITUTIONS UNDER THE TRADE SANCTIONS**  
4 **REFORM AND EXPORT ENHANCEMENT ACT**  
5 **OF 2000.**

6 (a) IN GENERAL.—Notwithstanding any other provi-  
7 sion of law (including section 908(b)(1)(B) of the Trade  
8 Sanctions and Export Enhancement Act of 2000 (22  
9 U.S.C. 7207(b)(1)(B)), the President may not restrict di-  
10 rect transfers from a Cuban depository institution to a  
11 United States depository institution executed in payment  
12 for an agricultural commodity or product authorized for  
13 sale under the Trade Sanctions Reform and Export En-  
14 hancement Act of 2000 (22 U.S.C. 7201 et seq.).

15 (b) DEPOSITORY INSTITUTION DEFINED.—In this  
16 section, the term “depository institution” means any enti-  
17 ty that is engaged primarily in the business of banking  
18 (including a bank, savings bank, savings association, cred-  
19 it union, trust company, or bank holding company).

20 **SEC. 4. ESTABLISHMENT OF AGRICULTURAL EXPORT PRO-**  
21 **MOTION PROGRAM WITH RESPECT TO CUBA.**

22 (a) IN GENERAL.—The Secretary of Agriculture shall  
23 establish a program to provide information and technical  
24 assistance to United States agricultural producers, cooper-  
25 ative organizations, and State agencies that promote the  
26 sale of agricultural commodities or products, in order to

1 promote and facilitate exports of United States agricul-  
 2 tural commodities or products to Cuba as authorized by  
 3 the Trade Sanctions Reform and Export Enhancement  
 4 Act of 2000.

5 (b) TECHNICAL ASSISTANCE TO FACILITATE EX-  
 6 PORTS.—The Secretary of Agriculture shall maintain on  
 7 the website of the Department of Agriculture information  
 8 to assist exporters and potential exporters of United  
 9 States agricultural commodities or products with respect  
 10 to Cuba.

11 (c) AUTHORIZATION OF FUNDS.—The Secretary of  
 12 Agriculture is authorized to expend such sums as may be  
 13 available in the Agricultural Export Promotion Trust  
 14 Fund established under section 9511 of the Internal Rev-  
 15 enue Code of 1986 (as added by section 5(b) of this Act).

16 **SEC. 5. INCREASE IN AIRPORT TICKET TAX FOR TRANSPOR-**  
 17 **TATION BETWEEN UNITED STATES AND**  
 18 **CUBA; ESTABLISHMENT OF AGRICULTURAL**  
 19 **EXPORT PROMOTION TRUST FUND.**

20 (a) INCREASE IN TICKET TAX.—Subsection (c) of  
 21 section 4261 of the Internal Revenue Code of 1986 (relat-  
 22 ing to use of international travel facilities) is amended by  
 23 adding at the end the following new paragraph:

24 “(4) SPECIAL RULE FOR CUBA.—In any case in  
 25 which the tax imposed by paragraph (1) applies to

1 transportation beginning or ending in Cuba before  
 2 January 1, 2016, such tax shall be increased by  
 3 \$1.00.”.

4 (b) AGRICULTURAL EXPORT PROMOTION TRUST  
 5 FUND.—

6 (1) IN GENERAL.—Subchapter A of chapter 98  
 7 of the Internal Revenue Code of 1986 (relating to  
 8 establishment of trust funds) is amended by adding  
 9 at the end the following new section:

10 **“SEC. 9511. AGRICULTURAL EXPORT PROMOTION TRUST**  
 11 **FUND.**

12 “(a) CREATION OF TRUST FUND.—There is estab-  
 13 lished in the Treasury of the United States a trust fund  
 14 to be known as the ‘Agricultural Export Promotion Trust  
 15 Fund’, consisting of such amounts as may be appropriated  
 16 or credited to such fund as provided in this section or sec-  
 17 tion 9602(b).

18 “(b) TRANSFERS TO TRUST FUND.—There are here-  
 19 by appropriated to the Agricultural Export Promotion  
 20 Trust Fund amounts equivalent to the increase in taxes  
 21 received in the Treasury by reason of section 4261(c)(4).

22 “(c) EXPENDITURES.—Amounts in the Agricultural  
 23 Export Promotion Trust Fund shall be available, as pro-  
 24 vided by appropriation Acts, for making expenditures to  
 25 the Office of the Secretary of Agriculture for the purposes

1 set out in section 4 of the Promoting American Agricul-  
2 tural and Medical Exports to Cuba Act of 2009.”.

3 (2) CONFORMING AMENDMENT.—Subparagraph  
4 (B) of section 9502(b)(1) of such Code is amended  
5 by inserting “(other than by reason of subsection  
6 (c)(4) thereof)” after “sections 4261”.

7 (3) CLERICAL AMENDMENT.—The table of sec-  
8 tions for subchapter A of chapter 98 of such Code  
9 is amended by adding at the end the following new  
10 item:

“Sec. 9511. Agricultural Export Promotion Trust Fund.”.

11 (c) EFFECTIVE DATE.—The amendment made by  
12 subsection (a) shall apply to transportation beginning  
13 after the 90-day period beginning on the date of the enact-  
14 ment of this Act, except that such amendment shall not  
15 apply to amounts paid before the end of such period.

16 **SEC. 6. SENSE OF CONGRESS THAT VISAS SHOULD BE**  
17 **ISSUED.**

18 (a) SENSE OF CONGRESS.—It is the sense of Con-  
19 gress that the Secretary of State should issue visas for  
20 temporary entry into the United States to nationals of  
21 Cuba whose itinerary documents an intent to conduct ac-  
22 tivities, including phytosanitary inspections, relating to  
23 the purchase of United States agricultural commodities or  
24 products pursuant to the provisions of the Trade Sanc-

1 tions Reform and Export Enhancement Act of 2000 (22  
2 U.S.C. 7201 et seq.).

3 (b) PERIODIC REPORTS.—

4 (1) IN GENERAL.—Not later than 45 days after  
5 the date of the enactment of this Act, and every 90  
6 days thereafter, the Secretary of State shall submit  
7 to the Committee on Finance, the Committee on Ag-  
8 riculture, Nutrition, and Forestry, and the Com-  
9 mittee on Foreign Relations of the Senate, and the  
10 Committee on Agriculture, the Committee on Ways  
11 and Means, and the Committee on Foreign Affairs  
12 of the House of Representatives a report on the  
13 issuance of visas described in subsection (a).

14 (2) CONTENT OF REPORTS.—Each report under  
15 paragraph (1) shall contain a full description of each  
16 application received from a national of Cuba for a  
17 visa to travel to the United States to engage in pur-  
18 chasing activities pursuant to the provisions of the  
19 Trade Sanctions Reform and Export Enhancement  
20 Act of 2000 (22 U.S.C. 7201 et seq.) and shall de-  
21 scribe the disposition of each such application.

22 **SEC. 7. EXPORT OF MEDICINES AND MEDICAL DEVICES TO**  
23 **CUBA.**

24 (a) REPEAL OF REQUIREMENT FOR ONSITE  
25 VERIFICATIONS.—Section 1705 of the Cuban Democracy

1 Act of 1992 (22 U.S.C. 6004) is amended by striking sub-  
2 section (d).

3 (b) **RULE OF CONSTRUCTION.**—Nothing in the  
4 amendment made by subsection (a) shall be construed to  
5 restrict the authority of the President to—

6 (1) impose export controls with respect to the  
7 export of medicines or medical devices under sec-  
8 tions 5 or 6 of the Export Administration Act of  
9 1979 (as in effect pursuant to the International  
10 Emergency Economic Powers Act (50 U.S.C. App.  
11 2404 or 2405)); or

12 (2) exercise the authority the President has  
13 under the International Emergency Economic Pow-  
14 ers Act (50 U.S.C. 1701 et seq.) with respect to  
15 Cuba pursuant to a declaration of national emer-  
16 gency required by that Act that is made on account  
17 of an unusual and extraordinary threat, that did not  
18 exist before the enactment of this Act, to the na-  
19 tional security, foreign policy, or economy of the  
20 United States.

21 **SEC. 8. TRAVEL TO CUBA.**

22 (a) **FREEDOM OF TRAVEL FOR UNITED STATES CITI-**  
23 **ZENS AND LEGAL RESIDENTS.**—Notwithstanding section  
24 102(h) of the Cuban Liberty and Democratic Solidarity  
25 (LIBERTAD) Act of 1996 (22 U.S.C. 6032(h)) and sec-



1 tion 910(b) of the Trade Sanctions Reform and Export  
2 Enhancement Act of 2000 (22 U.S.C. 7209(b)) and sub-  
3 ject to subsection (b)—

4 (1) the President may not regulate or prohibit,  
5 directly or indirectly, travel to or from Cuba by  
6 United States citizens or legal residents, or any of  
7 the transactions incident to such travel; and

8 (2) any regulation in effect on the date of the  
9 enactment of this Act that regulates or prohibits  
10 travel to or from Cuba by United States citizens or  
11 legal residents or transactions incident to such travel  
12 shall cease to have any force or effect.

13 (b) EXCEPTION.—The restrictions on authority con-  
14 tained in subsection (a) shall not apply in a case in which  
15 the United States is at war with Cuba, armed hostilities  
16 between the two countries are in progress, or there is im-  
17 minent danger to the public health or the physical safety  
18 of United States citizens or legal residents.

19 (c) APPLICABILITY.—This section applies to actions  
20 taken by the President—

21 (1) on or after the date of the enactment of this  
22 Act; or

23 (2) before the date of the enactment of this Act  
24 which are in effect on such date of enactment.

1 **SEC. 9. ADHERENCE TO INTERNATIONAL AGREEMENTS**  
2 **FOR THE MUTUAL PROTECTION OF INTEL-**  
3 **LECTUAL PROPERTY.**

4 (a) REPEAL OF PROHIBITION ON TRANSACTIONS OR  
5 PAYMENTS WITH RESPECT TO CERTAIN UNITED STATES  
6 INTELLECTUAL PROPERTY.—Section 211 of the Depart-  
7 ment of Commerce and Related Agencies Appropriations  
8 Act, 1999 (section 101(b) of division A of Public Law  
9 105–277; 112 Stat. 2681–88) is repealed.

10 (b) REGULATIONS.—The Secretary of the Treasury  
11 shall promulgate such regulations as are necessary to  
12 carry out the repeal made by subsection (a), including re-  
13 moving any prohibition on transactions or payments to  
14 which subsection (a)(1) of section 211 of the Department  
15 of Commerce and Related Agencies Appropriations Act,  
16 1999 (as such section was in effect on the day before the  
17 date of the enactment of this Act) applied.

18 (c) FURTHER REGULATIONS.—

19 (1) IN GENERAL.—The Secretary of the Treas-  
20 ury shall amend part 515 of title 31, Code of Fed-  
21 eral Regulations (commonly referred to as the  
22 “Cuban Assets Control Regulations”), to authorize  
23 under general license the transfer or receipt of any  
24 trademark or trade name subject to United States  
25 law in which a designated national has an interest.

1           (2) DESIGNATED NATIONAL DEFINED.—In this  
2 subsection, the term “designated national” has the  
3 meaning given the term in subsection (d)(1) of sec-  
4 tion 211 of the Department of Commerce and Re-  
5 lated Agencies Appropriations Act, 1999 (as such  
6 section was in effect on the day before the date of  
7 the enactment of this Act).

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