

MADE IN AMERICA INFORMATION ACT

MARCH 13, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TAUZIN, from the Committee on Energy and Commerce, submitted the following

REPORT

together with

[To accompany 725]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 725) to establish a toll free number under the Federal Trade Commission to assist consumers in determining if products are American-made, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

	Page
Purpose and Summary .....	1
Background and Need for Legislation .....	2
Hearings .....	2
Committee Consideration .....	2
Committee Votes .....	3
Committee Oversight Findings .....	3
Statement of General Performance Goals and Objectives .....	3
New Budget Authority, Entitlement Authority, and Tax Expenditures .....	3
Committee Cost Estimate .....	3
Congressional Budget Office Estimate .....	3
Federal Mandates Statement .....	4
Advisory Committee Statement .....	4
Constitutional Authority Statement .....	4
Applicability to Legislative Branch .....	4
Section-by-Section Analysis of the Legislation .....	5
Changes in Existing Law Made by the Bill, as Reported .....	6

PURPOSE AND SUMMARY

The purpose of H.R. 725, the Made in America Information Act, 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 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 initiate a rulemaking to establish 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 promulgate the proposed rule and 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” has been addressed by the Federal Trade Commission (FTC or the Commission). The FTC’s long-standing decisions have held that, for purposes of enforcement against “unfair and deceptive trade practices,” “all or virtually all” of a product, including its components and parts, must be made in the United States by U.S. workers in order to make that claim. In an effort to understand the sentiment among both consumers and manufacturers better, the Commission undertook a comprehensive series of workshops, an extensive public comment period generating more than 300 comments, and consumer surveys. On December 1, 1997, the Commission issued an enforcement policy statement on U.S. origin claims rejecting an earlier effort to change the standard used by the Commission and announcing its intent to continue enforcing the Commission’s “all or virtually all” content standard.

The Committee considered, and the House passed, legislation nearly identical to H.R. 725 in the 103rd, 104th, 105th, and 106th Congresses. The language reported by the Committee is identical in every material respect to the language passed by the House in the 106th Congress. The Committee’s report on H.R. 3342 in the 103rd Congress (H. Rpt. 103 660) contains additional background information on the subject of “Made in America.” (See also H.R. 447 in the 104th Congress; H. Rpt. 104–753; H.R. 563 in the 105th Congress; H. Rpt. 105–759; H.R. 754 in the 106th Congress; H. Rpt. 106–399).

#### HEARINGS

The Committee has not held any hearings on H.R. 725.

#### COMMITTEE CONSIDERATION

On February 28, 2001, the Committee on Energy and Commerce met in open markup session and ordered H.R. 725 reported to the House, by voice vote, a quorum being present.

## COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 725 reported.

## COMMITTEE OVERSIGHT FINDINGS

The Committee did not hold oversight or legislative hearings on this legislation.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Currently, there is no central repository for lists of American-made products. The objective of this legislation is to provide for such a depository, which will be easily accessible to the consumer via a toll-free number and funded by industry.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 725, Made in America Information Act, would result in no new or increased budget authority, entitlement 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 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 12, 2001.*

Hon. W.J. "BILLY" TAUZIN,  
*Chairman, Committee on Energy and Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 725, the Made in America Information Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ken Johnson.

Sincerely,

STEVEN M. LIEBERMAN  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 725—Made in America Information Act*

H.R. 725 would require the Department of Commerce to determine if sufficient interest exists among manufacturers to establish a consumer telephone hotline listing products that are made in America. If sufficient interest is found, the bill would authorize the department to enter into a contract to establish a three-year pilot program to operate such a hotline and to charge fees to pay for the cost of the contract subject to future appropriations acts.

CBO estimates that implementing H.R. 725 would not result in any significant net cost to the federal government. Assuming the department finds sufficient interest among manufacturers, CBO estimates that establishing a hotline and database and operating the program over a three-year period would cost the Department of Commerce about \$10 million during the 2002–2005 period. However, the bill also would authorize the Department of Commerce to establish fees to offset the costs of the toll-free hotline, subject to approval in appropriation acts. CBO estimates that the collection of fees would reduce the net budgetary effect of H.R. 725 to an insignificant level.

H.R. 725 could increase 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. Consequently, pay-as-you-go procedures would apply. However, CBO estimates that any such receipts would not be significant in any year.

This bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reforms Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Ken Johnson. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

## ADVISORY COMMITTEE STATEMENT

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

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

This section establishes the short title of the legislation, the “Made in America Information Act.”

*Section 2. Establishment of toll free number pilot program*

This section provides that if, pursuant to comments received during rulemaking under section 3 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 will establish 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 requires that the Secretary contract out the establishment and operation of the toll free number pilot program and the registration of products pursuant to regulations issued under section 3.

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;” 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 investigation to confirm that the product is a product which meets the definition of “Made in America;” and that registration of a product does not mean that the product contains 100 percent U.S. content.

*Section 3. Registration*

This section provides that the Secretary shall propose a regulation: (1) to establish procedures under which manufacturers may voluntarily register products which meet the definition of “Made in America” used in the bill 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 2; (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” 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 2.

*Section 4. Penalty*

This section provides that if a manufacturer knowingly registers a product with the Secretary under section 3 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 \$7,500, which the Secretary of Commerce may impose.

*Section 5. Definition*

This section provides that the term “Made in America” has the same meaning given unqualified “Made in the U.S.A.” or “Made in America” claims, for purposes of the laws administered by the Federal Trade Commission. Under the Federal Trade Commission Act, as historically applied and recently reaffirmed by the FTC, that agency has treated unqualified “Made in America” or “Made in U.S.A.” claims as having to meet a standard of “all or virtually all” domestic content. The bill’s definition adopts the standard used by the FTC in order to ensure that “Made in America” claims made pursuant to this legislation meet the standard for unqualified “Made in U.S.A.” or “Made in America” claims that the FTC uses to enforce section 5 of the Federal Trade Commission Act’s (15 U.S.C. 45) prohibition against deceptive acts or practices.

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.

*Section 6. 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 unqualified “Made in the U.S.A.” or “Made in America” claims 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.