



AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

S. 1421

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

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Country Of Origin La-
5 beling Online Act” or the “COOL Online Act”.

6 **SEC. 2. MANDATORY ORIGIN DISCLOSURE FOR NEW PROD-
7 UCTS OF FOREIGN ORIGIN OFFERED FOR
8 SALE ON THE INTERNET.**

9 (a) MANDATORY DISCLOSURE.—

10 (1) IN GENERAL.—

11 (A) DISCLOSURE.—Subject to the suc-
12 ceeding provisions of this paragraph, it shall be

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

14 (B) EXCLUSIONS.—

15 (i) AGRICULTURAL PRODUCTS.—The
16 disclosure requirements under subpara-
17 graph (A) shall not apply to—

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

22 (II) a meat or meat food product
23 subject to inspection under the Fed-
24 eral Meat Inspection Act (21 U.S.C.
25 601 et seq.);

1 (III) a poultry or poultry product
2 subject to inspection under the Poul-
3 try Products Inspection Act (21
4 U.S.C. 451 et seq.); or

5 (IV) an egg product subject to
6 regulation under the Egg Products
7 Inspection Act (21 U.S.C. 1031 et
8 seq.).

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

17 (iii) USED OR PREVIOUSLY OWNED
18 PRODUCTS.—The disclosure requirements
19 under subparagraph (A) shall not apply to
20 any used or previously owned products sold
21 in interstate commerce.

22 (iv) SMALL SELLER.—The disclosure
23 requirements under subparagraph (A) shall
24 not apply to goods listed by a small seller.

25 (C) LIMITATION OF LIABILITY.—

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

6 (I) a notice of their obligation to
7 provide the country of origin to the
8 store, if applicable; and

9 (II) the means to list directly, or
10 provide to the online store for listing,
11 the country of origin of the product.

12 (ii) ONLINE MARKETPLACE.—

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

19 (aa) a notice of the seller's
20 obligation to provide country of
21 origin information when selling a
22 product; and

23 (bb) the means to list the
24 country of origin in the product's
25 description.

1 (II) EXCEPTION.—Subclause (I)
2 shall not apply when the online mar-
3 ketplace is selling the product itself,
4 rather than only facilitating a sale by
5 a seller and relying on a seller for
6 that product’s information.

7 (iii) SELLER.—A seller is not in viola-
8 tion of the requirements under subpara-
9 graph (A) if the online marketplace did not
10 provide the seller with—

11 (I) the notice described in clause
12 (ii)(I)(aa); or

13 (II) the means to list the county
14 of origin in the product’s description
15 as described in clause (ii)(I)(bb).

16 (D) FUNGIBLE GOODS OR MATERIALS.—
17 For the purposes of subparagraph (A) and in
18 accordance with section 102.12(f) of title 19,
19 Code of Federal Regulations, an online store,
20 an online marketplace, or a seller is in compli-
21 ance with the disclosure requirements under
22 subparagraph (A) if it lists multiple countries
23 of origin for products that are fungible goods or
24 materials. Products shall be considered to be
25 “fungible goods or materials” if the goods or

1 materials, as the case may be, are interchange-
2 able for commercial purposes and have prop-
3 erties which are essentially identical.

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

12 (2) CERTAIN DRUG PRODUCTS.—It shall be un-
13 lawful for an online store, an online marketplace, or
14 a seller to offer for sale in commerce to consumers
15 on an internet website a drug that is not subject to
16 section 503(b)(1) of the Federal Food, Drug, and
17 Cosmetic Act (21 U.S.C. 353(b)(1)) and that is re-
18 quired to be marked under section 304 of the Tariff
19 Act of 1930 (19 U.S.C. 1304) unless the internet
20 website description of the drug indicates in a con-
21 spicuous place the name and place of business of the
22 manufacturer, packer, or distributor that is required
23 to appear on the label of the drug in accordance
24 with section 502(b) of the Federal Food, Drug, and
25 Cosmetic Act (21 U.S.C. 352(b)).

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

10 (b) ENFORCEMENT BY THE COMMISSION.—

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

17 (2) POWERS OF THE COMMISSION.—

18 (A) IN GENERAL.—The Commission shall
19 enforce this section in the same manner, by the
20 same means, and with the same jurisdiction,
21 powers, and duties as though all applicable
22 terms and provisions of the Federal Trade
23 Commission Act (15 U.S.C. 41 et seq.) were in-
24 corporated into and made a part of this section.

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

9 (C) AUTHORITY PRESERVED.—Nothing in
10 this section may be construed to limit the au-
11 thority of the Commission under any other pro-
12 vision of law.

13 (D) RULEMAKING.—

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

19 (ii) CONSULTATION.—In promulgating
20 any regulations under clause (i), the Com-
21 mission shall consult with U.S. Customs
22 and Border Protection.

23 (3) INTERAGENCY AGREEMENT.—Not later
24 than 6 months after the date of enactment of this
25 section, the Commission, the Commissioner for U.S.

1 Customs and Border Protection, the Commissioner
2 of Food and Drugs, the United States Trade Rep-
3 resentative, and the Secretary of Agriculture shall—

4 (A) enter into a Memorandum of Under-
5 standing or other appropriate agreement for the
6 purpose of providing consistent implementation
7 of this section; and

8 (B) publish such Memorandum of Under-
9 standing or other agreement in order to provide
10 public guidance.

11 (c) **AUTHORITY PRESERVED.**—Nothing in this sec-
12 tion may be construed to—

13 (1) limit the authority of the Department of
14 Agriculture, the Food and Drug Administration, or
15 U.S. Customs and Border Protection under any
16 other provision of law; or

17 (2) require the Commission to interpret, mod-
18 ify, or enforce regulations promulgated by such
19 agencies unless as provided by the Memorandum of
20 Understanding or other agreement entered into
21 under subsection (b)(3)(A).

22 (d) **EFFECTIVE DATE.**—This section shall take effect
23 1 year after the date of the publication of the Memo-
24 randum of Understanding or other agreement under sub-
25 section (b)(3)(B).

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

7 (f) DEFINITIONS.—In this section:

8 (1) COMMISSION.—The term “Commission”
9 means the Federal Trade Commission.

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

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

19 (4) PRODUCT.—The term “product” has the
20 meaning given the term “article of foreign origin” in
21 section 304 of the Tariff Act of 1930 (19 U.S.C.
22 1304).

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

1 (6) SMALL SELLER.—

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

6 (i) annual sales of less than an aggre-
7 gate total of \$20,000 in gross revenues;
8 and

9 (ii) fewer than 200 discrete sales or
10 transactions (excluding sales of used or
11 previously owned products).

12 (B) CLARIFICATION.—For the purposes of
13 calculating the number of discrete sales or
14 transactions or the aggregate gross revenues
15 under subparagraph (A), a seller shall only be
16 required to count sales or transactions made
17 through the online marketplace and for which
18 payment was processed by the online market-
19 place, either directly or through its payment
20 processor.

21 (7) USED OR PREVIOUSLY OWNED PRODUCT.—

22 The term “used or previously owned product” means
23 a product that was previously sold or offered for sale
24 in interstate commerce.

1 **SEC. 3. COUNTRY OF ORIGIN LABELING FOR COOKED KING**
2 **CRAB AND TANNER CRAB AND COOKED AND**
3 **CANNED SALMON.**

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

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

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

10 “(i) a fillet”; and

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

12 “(ii) whole cooked king crab and tan-
13 ner crab and cooked king crab and tanner
14 crab sections; and

15 “(iii) cooked and canned salmon.”.