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SENATE

} REPORT
} No. 1421

AMENDING PARAGRAPH 813 OF THE TARIFF ACT OF 1930

MAY 27 (legislative day, MAY 20), 1948.—Ordered to be printed

Mr. MILLIKIN, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 5965]

The Committee on Finance, to whom was referred the bill (H. R. 5965) to amend paragraph 813 of the Tariff Act of 1930, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

This bill provides that, in imposing import duties on beverages which are also subject to internal revenue taxes, import duties shall be imposed on only the quantities subject to internal revenue taxes. This means that import duties will not be imposed on quantities of beverages which are lost through leakage, breakage, etc. while being transported into this country or before release from bond for consumption.

The report of the Committee on Ways and Means of the House of Representatives is as follows:

GENERAL STATEMENT

This bill has been designed to remove discriminations and to facilitate the collection of the duties on liquors.

The effect of the bill is to provide a dutiable basis for liquor products imported under bond the same as is now used for the assessment of internal-revenue taxes upon such liquor. The provision under present paragraph 813 of the Tariff Act of 1930 is for the assessment of duties on the basis of quantities exported rather than on the basis of the quantities imported. This is an exception to the usual rule of our customs law.

Before 1883, the law provided a system of arbitrary allowances or provisions for deductions in duty on account of losses by leakage, etc. However, the Congress of 1883 (22 Stat. 505) provided that "there shall be no allowances for breakage, leakage, or damage on wines, liquors, cordials, or distilled spirits." The Attorney General ruled that where there was leakage or other loss during the importation, allowance for such actual loss should be made in liquidating the entry. The Tariff Act of 1890 and subsequent acts continued the prohibition against allowances but modified the language so as to prohibit "constructive or other allowances." The Solicitor recognized the injustice done to importers by this requirement but concluded that the language of the law left no alternative.

In the Tariff Act of 1913, the general prohibition against allowances was continued although a provision was added for allowance in the case of losses occurring during the importation provided they amounted to 10 percent or more of each particular cask or package.

Under existing law an importer who has purchased a case of 12 quarts of spirits must pay duty on the basis of 3 gallons even though 1 bottle was broken on the voyage of importation so that only 2¾ gallons were entered, but if 2 bottles were broken in a case of 12 and the proper affidavit filed he would have to pay duty only on the basis of 2½ gallons. There appears no sound reason for this distinction in the law today although it may have been warranted at the time of its adoption. The probability of fraud is no basis for the distinction because the law permits allowances where there is a relatively large loss.

Enactment of the bill would eliminate the discrimination against liquors as compared with the procedures followed in determining the dutiable quantities of other commodities, in that it would permit allowance for losses occurring while the liquor was in transit to the United States. In addition, it would permit allowance for losses occurring after importation but before the goods had been released from bond for consumption.

The following excerpt is taken from the report of the Treasury Department:

"The Treasury Department recommends the enactment of such a bill as it would relieve the Bureau of Customs of the present administrative difficulties which result from the assessment of duties on imported liquors on a basis differing from that it is required to use by virtue of section 2800 (a) (1) of the Internal Revenue Code in assessing internal-revenue taxes on such liquors. Broadly speaking, paragraph 813 of the tariff act requires that duties be assessed on the quantity of liquor shipped from the foreign country whereas under section 2800 (a) (1) internal-revenue taxes are assessed on the quantity actually delivered to the importer. This results in the serious administrative difficulties attendant upon a multiplicity of gagings and redeterminations."

Favorable reports were received from other Government agencies and there has been no opposition to the bill. The committee unanimously recommend that the bill do pass.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

"TARIFF ACT OF 1930

"TITLE I—DUTIABLE LIST

"PAR. 813. [There shall be no constructive or other allowance for breakage, leakage, or damage on wines, liquors, cordials, or distilled spirits, except that when it shall appear to the collector of customs from the gager's return, verified by an affidavit by the importer to be filed within five days after the delivery of the merchandise, that a cask or package has been broken or otherwise injured in transit from a foreign port and as a result thereof a part of its contents, amounting to 10 per centum or more of the total value of the contents of the said cask or package in its condition as exported, has been lost, allowance therefor may be made in the liquidation of the duties.] *Notwithstanding any other provision of this Act, the duties imposed on beverages in this schedule which are subject also to internal revenue taxes shall be imposed only on the quantities subject to such taxes.*"

