

FREE IMPORTATION OF PERSONAL AND HOUSEHOLD EFFECTS BROUGHT INTO THE UNITED STATES UNDER GOVERNMENT ORDERS

JUNE 29, 1955.—Ordered to be printed

Mr. JOHNSON of Texas (for Mr. BYRD), from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 5560]

The Committee on Finance, to whom was referred the bill (H. R. 5560) relating to the free importation of personal and household effects brought into the United States under Government orders, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

AMENDMENT

The House bill would have made permanent the right of citizens returning from extended foreign assignments to bring in free of duty their personal and household goods.

The Finance Committee felt that because of the marked increase in foreign assignments of military and civilian personnel and the corresponding increase in the possibility of abuse, periodic congressional review should be made.

An amendment was adopted which provides for a 3-year extension in lieu of the permanent authority contained in the bill.

PURPOSE

The purpose of H. R. 5560, as amended by the Finance Committee, is to provide for a continuation until July 1, 1958, of the exemption from duty of personal and household effects brought into the United States under Government orders. The bill also amends the Tariff Act of 1930 (ch. 497, 46 Stat. 590), section 401 (a) of the Antismuggling Act (ch. 438, 49 Stat. 529), and sections 542, 544, and 545 of title 18, United States Code, so as to place the military and civilian

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personnel stationed on Johnston Island in the same legal position with regard to customs laws and smuggling laws as the personnel stationed on Wake Island and Midway Island.

The act of June 27, 1942 (Public Law 633, 77th Cong.; 56 Stat. 461), allowed, until the day following the proclamation of peace by the President, the free entry of personal and household effects of any person returning to the United States under Government orders.

Public Law 450 of the 82d Congress extended the period of free entry to April 1, 1953.

Public Law 20 of the 83d Congress continued the free-entry privilege to July 1, 1955.

H. R. 5560, as amended, will provide a free-entry privilege for the personal and household effects of certain persons in the service of the United States until July 1, 1958.

The privilege of importing personal and household goods without the trouble and expense of paying duty has constituted an important morale factor and has been a needed incentive to overseas duty on the part of Government personnel. The administrative burdens involved in the movement of personnel and members of families would be seriously increased if the present free-entry privilege was to be allowed to lapse.

The Department of Defense has recommended that this legislation be adopted.

Temporary allowance for free importation of personal and household goods not for sale has been continued at intervals since first adopted in June 1942. Under these laws such free importation might take place whether the foreign service was of long or short duration. Under H. R. 5560 only those on extended foreign assignment would be allowed the duty-free privilege relating to personal and household goods. For short assignments abroad the necessity for acquiring large amounts of personal or household goods would not be so likely to arise and those having short assignments could claim the ordinary duty-free tourist privileges granted to all citizens.

In extending this authority, it is recognized that our international relations and constantly increasing foreign trade will continue to require that substantial numbers of Government personnel be assigned to foreign service.

The free importation of personal or household effects permitted by the bill is based on the termination of the foreign assignment and the return to the United States of the employee concerned. An overly rigid interpretation of the language to mean that the employee must physically accompany the household effects or that all foreign assignments must have terminated could result in considerable inconvenience or loss of the free importation privileges. Civil or military personnel are frequently transferred to other temporary foreign assignments prior to their return to the United States, and find it impossible to carry with them all their household or personal goods. Others released from foreign assignments take advantage of the opportunity to travel abroad before returning to the United States. The committee is of the opinion that the Secretary of the Treasury will be reasonably lenient in the administration of the proposed law without allowing abuses to multiply.

The Treasury Department recognizes that, especially with regard to liquor and tobacco, some returning Government employees may have

taken undue advantage of the free import privilege. It is anticipated that this will be held to a low minimum in the future by the requirement in the law that it shall apply only to those on extended foreign duty and the Treasury regulation that free imports of liquor and tobacco will be limited to those amounts allowed to returning tourists.

H. R. 5560 would accord to personnel stationed on Johnston Island the same privilege granted to personnel stationed on Wake Island and Midway Island with respect to allowing personal and household effects to be admitted to the United States without payment of duty when such effects are forwarded to the United States by reason of Government instructions regarding the movement of the owner of the article. Personnel stationed on Wake Island and Midway Island are entitled under present law to this privilege because these islands were exempted from the customs laws of the United States by the act of June 25, 1938 (ch. 679, 52 Stat. 1077) and are considered therefore, for customs purposes, as foreign countries. Under existing law a transfer of articles from Johnston Island to the Territory of Hawaii or the continental United States is not considered to constitute "an importation" within the meaning of the applicable sections of the customs laws.

The Department of the Navy submitted the following favorable report on this legislation:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington 25, D. C., February 12, 1955.

HON. RICHARD M. NIXON,
President of the Senate,
United States Senate, Washington 25, D. C.

MY DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation to amend the act of June 27, 1942 (ch. 453, 56 Stat. 461), as amended, to make permanent the exemptions from duty of personal and household effects, and for other purposes.

This proposal is a part of the Department of Defense legislative program for 1955, and the Bureau of the Budget has advised that there would be no objection to its transmittal to the Congress for consideration. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of this proposal is to make permanent the existing temporary authority for the exemptions from duty of personal and household effects brought into the United States under Government orders. The present law was temporarily extended by Public Law 20 of the 83d Congress and will expire on July 1, 1955. This law permits the free entry of personal and household effects of any person evacuated into the United States under Government orders and applies to the personal and household effects of any person in the service of the United States, or of his family, which are forwarded to the United States by reason of Government instructions regarding the movement of the owner of the article, whether or not the owner returns to this country.

In view of the expansion of the Armed Forces and the continuing international obligations and commitments of the Government, which require, and will continue to require, the presence in many parts of the world of substantial numbers of personnel in the Armed Forces, this Department believes the free entry privileges should be made permanent. Termination of this authority not only would impose inequitable administrative burdens upon persons evacuated to the United States but would remove an important morale factor and inducement to overseas duty. In view of the foregoing, it is believed that rather than continually burden the Congress with requests for extensions, the authority should be made permanent. The exercise of this authority is safeguarded from abuse by appropriate regulations of the Department of the Treasury, as required by the act,

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Additionally, this proposal would further amend the Tariff Act of 1930 (ch. 497, 46 Stat. 590), section 401 (a) of the Antismuggling Act (ch. 438, 49 Stat. 529), and sections 542, 544, and 545 of title 18, United States Code, so as to place the military and civilian personnel residing on Johnston Island in the same legal position with regard to the customs laws and smuggling laws as the personnel who reside on Wake Island, Midway Island, and Kingman Reef.

The act of June 28, 1938 (ch. 679, 52 Stat. 1077), made various amendments to the Tariff Act of 1930 and the Antismuggling Act, the effect of which was to exclude Wake Island, Midway Island, and Kingman Reef from the term "United States" wherever it is found in the laws relating to customs administration and smuggling. As a consequence, the personnel assigned to those islands are within the scope of the act of June 27, 1942 (ch. 453, 56 Stat. 461), as amended. That act, which would be made permanent by the first section of this proposal, currently authorizes, until July 1, 1955, the free importation into the United States without the payment of any import tax or duty, of "the personal and household effects of any person in the service of the United States, or his family, or of any person evacuated to the United States," when the movement is made in compliance with Government orders. Johnston Island was not excluded from the term "United States," and, therefore, when personnel assigned to that island are transferred on Government orders back to the United States, they are required to pay duty upon any articles of foreign manufacture purchased by them on Johnston Island, upon which duty has not already been paid.

The Department of Defense is of the opinion that this inequality in the treatment of personnel assigned to islands in the Pacific is unjustifiable and causes lower morale among the personnel assigned to Johnston Island. In this regard, it is noted that personnel assigned to that island are "outside the continental limits of the United States" for the purposes of the act of December 5, 1942 (ch. 680, 56 Stat. 1041), as amended, and, like personnel assigned to Wake Island, Midway Island, and Kingman Reef, may mail gifts which do not exceed \$50 in value to the United States free of all customs duty. It is an anomalous situation for personnel on Johnston Island to be able to mail gifts to the United States without payment of duty thereon, while unable to ship such articles of foreign manufacture back to the United States among their personal and household effects.

COST AND BUDGET DATA

This proposal would cause no increase in the budgetary requirements for the Department of Defense.

Sincerely yours,

C. S. THOMAS.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, 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):

ACT OF JUNE 27, 1942

(Public Law 633, 77th Cong.)

AN ACT To exempt from duty personal and household effects brought into the United States under Government orders

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That, under such regulations as the Secretary of the Treasury may prescribe, the personal and household effects of any person in the service of the United States, or of his family, or of any person evacuated to the United States under Government orders, may be brought into the United States or any of its possessions, pursuant to Government orders or instructions, without the payment of any duty or tax imposed upon, or by reason of, importation.

[SEC. 2. This Act shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption on or after December 8, 1941, and before July 1, 1955. The free entry herein authorized shall apply to any effects described in section 1 which are in customs custody on the effective

date of this Act, notwithstanding the provisions of sections 490 and 491 of the Tariff Act of 1930, as amended.] That under regulations to be prescribed by the Secretary of the Treasury after consultation with such agencies as he shall consider to be substantially interested, the personal and household effects (with such limitation on the importation of alcoholic beverages and tobacco products as the Secretary may prescribe) of any person in the service of the United States who returns to the United States upon the termination of assignment to extended duty (as defined in the above-authorized regulations) at a post or station outside the customs territory of the United States, or of returning members of his family who have resided with him at such post or station, or of any person evacuated to the United States under Government orders or instructions, may be brought into customs territory of the United States without the payment of any duty or tax imposed upon, or by reason of, importation.

TARIFF ACT OF 1930

TITLE I—DUTIABLE LIST

SECTION 1. That on and after the day following the passage of this Act, except as otherwise specially provided for in this Act, there shall be levied, collected, and paid upon all articles when imported from any foreign country into the United States or into any of its possessions (except the Philippine Islands, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam) the rates of duty which are prescribed by the schedules and paragraphs of the dutiable list of this title, namely:

* * * * *

TITLE II—FREE LIST

SEC. 201. That on and after the day following the passage of this Act, except as otherwise specially provided for in this Act, the articles mentioned in the following paragraphs, when imported into the United States or into any of its possessions (except the Philippine Islands, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam), shall be exempt from duty:

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TITLE IV—ADMINISTRATIVE PROVISIONS

PART I—DEFINITIONS

SEC. 401. MISCELLANEOUS.

When used in this title or in part I of title III—

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(k) UNITED STATES.—The term "United States" includes all Territories and possessions of the United States, except the Philippine Islands, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam.

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PART IV—TRANSPORTATION IN BOND AND WAREHOUSING OF MERCHANDISE

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SEC. 557. ENTRY FOR WAREHOUSE—WAREHOUSE PERIOD—DRAWBACK.

(a) Any merchandise subject to duty, with the exception of perishable articles and explosive substances other than firecrackers, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner, importer, or consignee. Such merchandise may be withdrawn, at any time within three years from the date of importation, for consumption upon payment of the duties and charges accruing thereon at the rate of duty imposed by law upon such merchandise at the date of withdrawal; or may be withdrawn for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without the payment of duties thereon, or for transportation and rewarehousing at another port or elsewhere, or for transfer to another bonded warehouse at the same port: *Provided*, That the total period of time for which such merchandise may remain in bonded warehouse shall not exceed three years from the date of importation. Merchandise upon which the duties have been paid and which shall have remained continuously in bonded warehouse or otherwise in the custody

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and under the control of customs officers, may be entered or withdrawn at any time within three years after the date of importation for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, *Johnston Island*, or the island of Guam, under such regulations as the Secretary of the Treasury shall prescribe, and upon such entry or withdrawal, and exportation or shipment, the duties thereon shall be refunded.

SEC. 562. MANIPULATION IN WAREHOUSE.

Unless by special authority of the Secretary of the Treasury, no merchandise shall be withdrawn from bonded warehouse in less quantity than an entire bale, cask, box, or other package; or, if in bulk, in the entire quantity imported or in a quantity not less than one ton weight. All merchandise so withdrawn shall be withdrawn in the original packages in which imported unless, upon the application of the importer, it appears to the collector that it is necessary to the safety or preservation of the merchandise to repack or transfer the same. *Provided*, That upon permission therefor being granted by the Secretary of the Treasury, and under customs supervision, at the expense of the proprietor, merchandise may be cleaned; sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom for exportation to a foreign country or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, *Johnston Island*, or the island of Guam, without payment of the duties, or for consumption, upon payment of the duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in condition. The basis for the assessment of duties on such merchandise so withdrawn for consumption shall be the adjusted final appraised value, and if the rate of duty is based upon or regulated in any manner by the value of the merchandise, such rate shall be based upon or regulated by such adjusted final appraised value. The scouring or carbonizing of wool shall not be considered a process of manufacture within the provisions of this section. Under such regulations as the Secretary of the Treasury shall prescribe, imported merchandise which has been entered and which has remained in continuous customs custody may be manipulated in accordance with the provisions of this section under customs supervision and at the risk and expense of the consignee, but elsewhere than in a bonded warehouse, in cases where neither the protection of the revenue nor the proper conduct of customs business requires that such manipulation be done in a bonded warehouse.

SECTION 401 (a) OF THE ANTISMUGGLING ACT

TITLE IV

SECTION 401. When used in this Act—

(a) The term "United States", when used in a geographical sense, includes all Territories and possessions of the United States, except the Philippine Islands, the Virgin Islands, the Canal Zone, American Samoa, Wake Island, Midway Islands, Kingman Reef, *Johnston Island*, and the island of Guam.

TITLE 18 OF THE UNITED STATES CODE

SEC. 542. ENTRY OF GOODS BY MEANS OF FALSE STATEMENTS.

Whoever enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of any lawful duties; or

Whoever is guilty of any willful act or omission whereby the United States shall or may be deprived of any lawful duties accruing upon merchandise embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission—

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Shall be fined for each offense not more than \$5,000 or imprisoned not more than two years, or both.

Nothing in this section shall be construed to relieve imported merchandise from forfeiture under other provisions of law.

The term "commerce of the United States", as used in this section, shall not include commerce with the Philippine Islands, Virgin Islands, American Samoa, Wake Island, Midway Islands Kingman Reef *Johnston Island*, or Guam.

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SEC. 544. RELANDING OF GOODS.

If any merchandise entered or withdrawn for exportation without payment of the duties thereon, or with intent to obtain a drawback of the duties paid, or of any other allowances given by law on the exportation thereof, is relanded at any place in the United States without entry having been made, such merchandise shall be considered as having been imported into the United States contrary to law, and each person concerned shall be fined not more than \$5,000 or imprisoned not more than two years, or both; and such merchandise shall be forfeited.

The term "any place in the United States", as used in this section, shall not include the Philippine Islands, Virgin Islands, American Samoa, Wake Island, Midway Islands Kingman Reef, *Johnston Island*, or Guam.

SEC. 545. SMUGGLING GOODS INTO THE UNITED STATES.

Whoever knowingly and willfully, with intent to defraud the United States, smuggles, or clandestinely introduces into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the customhouse any false, forged, or fraudulent invoice, or other document or paper; or

Whoever fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law—

Shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

Proof of the defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this section.

Merchandise introduced into the United States in violation of this section, or the value thereof, to be recovered from any person described in the first or second paragraph of this section, shall be forfeited to the United States.

The term "United States", as used in this section, shall not include the Philippine Islands, Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, *Johnston Island*, or Guam.

