

103^D CONGRESS
1ST SESSION

H. R. 111

To establish domestic content requirements for motor vehicles sold or distributed in interstate commerce in the United States.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. BURTON of Indiana introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Ways and Means

A BILL

To establish domestic content requirements for motor vehicles sold or distributed in interstate commerce in the United States.

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 “Fair Practices in Auto-
5 motive Products Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to encourage the produc-
8 tion in the United States by American workers of auto-
9 motive products which are sold or distributed in interstate
10 commerce.

1 **SEC. 3. DEFINITIONS.**

2 (a) IN GENERAL.—As used in this Act:

3 (1) The term “automotive products” means
4 motor vehicles and parts for use in the production
5 of new motor vehicles.

6 (2) The term “added domestic value”, when
7 used with respect to a vehicle manufacturer for any
8 model year, means the aggregate of—

9 (A) the production costs of all automotive
10 products sold by the vehicle manufacturer in
11 the United States, other than for export, during
12 that model year, and

13 (B) the export value of all automotive
14 products that were either—

15 (i) manufactured by the vehicle manu-
16 facturer in the United States and exported
17 from the United States by, or on behalf of,
18 such manufacturer during that model year,
19 or

20 (ii) manufactured in the United
21 States by any other person and purchased
22 by the vehicle manufacturer and exported
23 from the United States by, or on behalf of,
24 such manufacturer during that model year,
25 but only to the extent that the export value
26 of such automotive products is not in-

1 cluded in automotive products to which
2 clause (i) applies;
3 reduced by the aggregate appraised value, as deter-
4 mined for purposes of the customs laws, of all auto-
5 motive products that were entered by, or on behalf
6 of, the vehicle manufacturer during that model year.

7 (3) The term “domestic content ratio” means,
8 with respect to a vehicle manufacturer for any model
9 year, the percentage determined by multiplying by
10 one hundred the factor obtained by dividing—

11 (A) the added domestic value determined
12 for that manufacturer for that model year
13 under paragraph (2); by

14 (B) the production costs determined, for
15 purposes of paragraph (2)(A), for that manu-
16 facturer for that model year.

17 (4) The term “entered” means entered, or with-
18 drawn from warehouse for consumption, within the
19 customs territory of the United States.

20 (5) The term “export value” means, with re-
21 spect to an automotive product—

22 (A) the free-on-board price for which the
23 vehicle manufacturer sells the product for ex-
24 portation from the United States; or

1 (B) if the vehicle manufacturer sells the
2 product for such exportation to a buyer that
3 controls, is controlled by, or is under common
4 control with, such manufacturer, the price at
5 which such or similar products are freely of-
6 fered for free-on-board sale to all purchasers in
7 the principal markets of the United States in
8 the usual wholesale quantities and in the ordi-
9 nary course of trade for such exportation.

10 (6) The term “model year” means a vehicle
11 manufacturer’s annual production period (as deter-
12 mined by the Secretary) which includes January 1
13 of a calendar year, or if a vehicle manufacturer does
14 not have an annual production period, the calendar
15 year. A model year shall be designated by the
16 year in which January 1 occurs.

17 (7) The term “motor vehicle” means any three-
18 wheeled or four-wheeled vehicle propelled by fuel
19 which is manufactured primarily for use on the pub-
20 lic streets, roads, and highways (except any vehicle
21 operated exclusively on a rail or rails), and which is
22 rated as ten thousand pounds gross vehicle weight or
23 less. Such term does not include (A) any motorcycle,
24 or (B) any vehicle determined by the Secretary to be
25 an automobile capable of off-highway operation with-

1 in the meaning of section 501(3) of the Motor Vehi-
2 cle Information and Cost Savings Act.

3 (8) The term “production cost” means, with re-
4 spect to an automotive product, the wholesale price
5 to dealers in the United States for that product as
6 set forth in the vehicle manufacturer’s official dealer
7 price list that is in effect at the time the product is
8 sold at wholesale.

9 (9) The term “Secretary” means the Secretary
10 of Transportation.

11 (10) The term “vehicle manufacturer” means
12 any person engaged in the business of producing
13 motor vehicles for ultimate retail sale in the United
14 States and includes as one entity all persons who
15 control, are controlled by, or are in common control
16 with, such person. Such term also includes any pred-
17 ecessor or successor of such a vehicle manufacturer.

18 **SEC. 4. DETERMINATION OF ADDED DOMESTIC VALUE.**

19 Two or more vehicle manufacturers may not include,
20 for purposes of determining their respective added domes-
21 tic values, the value of the same automotive product; but
22 such manufacturers may, under rules prescribed under
23 section 5(b), apportion the value of that automotive prod-
24 uct among them.

1 **SEC. 5. DOMESTIC CONTENT RATIOS FOR MODEL YEAR 1994**
 2 **AND THEREAFTER.**

3 (a) RATIOS.—In order to carry out the purpose of
 4 this Act, for each model year beginning after January 1,
 5 1993, the minimum domestic content ratio for a vehicle
 6 manufacturer shall not be less than the higher of—

7 (1) the domestic content ratio achieved by the
 8 vehicle manufacturer in model year 1994 reduced by
 9 10 per centum; or

10 (2) the applicable minimum content ratio speci-
 11 fied in the following table:

| Number of motor vehicles produced by the manufacturer and sold in the United States during each year: | Minimum domestic content ratio: |
|---|---|
| Model Year 1994 | |
| Not over 100,000 | 0 percent. |
| Over 100,000 but not over 900,000 | The number, expressed as a per- centage, determined by dividing the number of vehicles sold by 30,000. |
| Over 900,000 | 30 percent. |
| Model Year 1995 | |
| Not over 100,000 | 0 percent. |
| Over 100,000 but not over 900,000 | The number, expressed as a per- centage, determined by dividing the number of vehicles sold by 15,000. |
| Over 900,000 | 60 percent. |
| Each Model Year After Model Year 1995 | |
| Not over 100,000 | 0 percent. |
| Over 100,000 but not over 900,000 | The number, expressed as a per- centage, determined by dividing the number of vehicles sold by 10,000. |
| Over 900,000 | 90 percent. |

12 (b) ALLOCATION OF AUTOMOTIVE PRODUCTS AMONG
 13 MANUFACTURERS.—In order to carry out the purpose of

1 this Act, the Secretary shall prescribe rules or allocating
2 automotive products among vehicle manufacturers in ap-
3 propriate cases such as where—

4 (1) a vehicle manufacturer sells automotive
5 products manufactured by it in the United States to
6 another vehicle manufacturer;

7 (2) two or more vehicle manufacturers in joint
8 venture produce automotive products in the United
9 States; and

10 (3) a vehicle manufacturer produces motor vehi-
11 cles for ultimate retail sale in the United States,
12 some of which will be sold by that manufacturer and
13 some by another vehicle manufacturer.

14 **SEC. 6. INFORMATION AND REPORTS.**

15 (a) VEHICLE MANUFACTURERS RECORDS AND IN-
16 FORMATION.—Each vehicle manufacturer that produces
17 more than 100,000 motor vehicles for sale in the United
18 States during any model year after model year 1993 must
19 establish and maintain such records, and provide such in-
20 formation, regarding the production and sale of auto-
21 motive products by it as the Secretary by rule shall require
22 for purposes of carrying out sections 5(a) and 7.

23 (b) AUTHORITY TO OBTAIN INFORMATION.—

24 (1) SECRETARIAL AUTHORITY.—The authority
25 granted to the Secretary under subsection (b)(1) of

1 section 505 of the Motor Vehicle Information and
2 Cost Saving Act (as in effect on the date of the en-
3 actment of this Act) to obtain information and data,
4 and access thereto, that is deemed advisable by the
5 Secretary for purposes of carrying out part V of that
6 Act may be used by the Secretary for purposes of
7 obtaining the information and data, and access
8 thereto, that is necessary or appropriate to carry out
9 sections 5(a) and 7.

10 (2) COURT AUTHORITY.—The authority granted
11 to the district courts of the United States under
12 subsection (b)(2) of such section 505 to enforce
13 compliance with action taken by the Secretary under
14 subsection (b)(1) of such section may be used by
15 such courts to enforce actions taken by the Sec-
16 retary pursuant to paragraph (1) for purposes of
17 carrying out this Act.

18 (3) DISCLOSURE OF INFORMATION AND
19 DATA.—The Secretary shall disclose any information
20 and data obtained under this subsection and sub-
21 section (a) to the public only in accordance with sec-
22 tion 552 of title 5, United States Code and any mat-
23 ter described in subsection (b)(4) of such section
24 shall not be disclosed to the public, except that
25 where such matter may be relevant to any adminis-

1 trative or judicial proceeding to enforce this Act.
2 Such matter may be disclosed in such proceeding
3 only in a manner which would not result in competi-
4 tive damage or disadvantage, as determined by the
5 Secretary or a court, because of such disclosure.

6 (c) ANNUAL REPORTS.—As soon as practicable after
7 the close of each model year after January 1, 1993, the
8 Secretary shall prepare and make available to the public
9 a report setting forth the domestic content ratio achieved
10 by each vehicle manufacturer during such model year.

11 **SEC. 7. ENFORCEMENT.**

12 (a) PENALTY FOR FAILURE TO MEET DOMESTIC
13 CONTENT RATIOS.—

14 (1) IN GENERAL.—In furtherance of the pur-
15 pose of this Act, it is unlawful for a vehicle manu-
16 facturer to fail to meet for any model year the appli-
17 cable minimum domestic content ratio required
18 under section 5(a).

19 (2) ORDER OF SECRETARY.—If the Secretary
20 finds, after notice and an opportunity for a hearing
21 in accordance with section 554 of title 5, United
22 States Code, that a vehicle manufacturer has vio-
23 lated paragraph (1), the Secretary shall issue an
24 order prohibiting the vehicle manufacturer from en-
25 tering, or having entered on its behalf, during the

1 12-month period beginning on the date on which the
2 finding becomes final—

3 (A) a quantity of motor vehicles that ex-
4 ceeds the total quantity of motor vehicles that
5 was entered by, or on behalf of, that manufac-
6 turer during the model year in which such vio-
7 lation occurred reduced by the number of motor
8 vehicles that bears to such total quantity the
9 same percentage by which the vehicle manufac-
10 turer failed to meet the domestic content ratio
11 for that model year; and

12 (B) parts for motor vehicles in an aggre-
13 gate value (as appraised for purposes of the
14 customs laws) that exceed the total aggregate
15 appraised value of parts for motor vehicles that
16 were entered by, or on behalf of, that manufac-
17 turer during the model year in which such vio-
18 lation occurred reduced by parts of an aggre-
19 gate value that bear to such total aggregate
20 value the same percentage by which the vehicle
21 manufacturer failed to meet the domestic con-
22 tent ratio for that model year.

23 (3) ORDER CONTENT.—An order issued pursu-
24 ant to paragraph (2) shall specify the total number
25 of motor vehicles and the aggregate appraised value

1 of parts for motor vehicles that may be entered dur-
2 ing the applicable 12-month period by, or on behalf
3 of, the vehicle manufacturer.

4 (4) JUDICIAL REVIEW.—Any person against
5 whom an order is issued under paragraph (2) may,
6 within 60 calendar days after the date of the order,
7 institute an action in the United States court of ap-
8 peals for the appropriate judicial circuit for judicial
9 review of such order in accordance with chapter 7 of
10 title 5, United States Code. The court shall have ju-
11 risdiction to enter a judgment affirming, modifying,
12 or setting aside in whole or in part, the order of the
13 Secretary or the court may remand the proceeding
14 to the Secretary for such further action as the court
15 may direct.

16 (b) OTHER VIOLATIONS.—

17 (1) IN GENERAL.—Any person who knowingly
18 violates any provision of this Act (other than failure
19 to meet the applicable domestic content ratio for any
20 model year) or any rule or regulation issued under
21 this Act shall be liable, after notice and opportunity
22 for a hearing, to the United States for a civil penalty
23 of not more than \$10,000. Each day of a continuing
24 violation under this subsection shall constitute a sep-
25 arate offense.

1 (2) PROCEDURES.—

2 (A) NOTICE.—Before issuing an order as-
3 sessing a civil penalty against any person for
4 violation of paragraph (1), the Secretary shall
5 provide to such person written notice of the
6 proposed penalty.

7 (B) ASSESSMENT.—The Secretary shall
8 promptly assess such penalty, by order, after
9 the date of the receipt of the notice under sub-
10 paragraph (A) of the proposed penalty.

11 (C) ACTION FOR NONPAYMENT.—If the
12 penalty has not been paid within 60 calendar
13 days after the assessment order has been made
14 under subparagraph (B), the Secretary shall in-
15 stitute an action in the appropriate district
16 court of the United States for an order affirm-
17 ing the assessment of the civil penalty. The
18 court shall have authority to review de novo the
19 law and the facts involved, and shall have juris-
20 diction to enter a judgment enforcing, modify-
21 ing, and enforcing as so modified, or setting
22 aside in whole or in part, such assessment.

23 (D) RECOVERY ACTION.—If any person
24 fails to pay an assessment of a civil penalty
25 after the appropriate district court has entered

1 final judgment in favor of the Secretary under
2 subparagraph (C), the Secretary shall institute
3 an action to recover the amount of such penalty
4 in any appropriate district court of the United
5 States. In such action, the validity and appro-
6 priateness of such final assessment order or
7 judgment shall not be subject to review.

8 (3) COMPROMISE, ETC.—The Secretary may
9 compromise, modify, or remit, with or without condi-
10 tions, any penalty that is subject to imposition or
11 that has been imposed under this subsection.

12 **SEC. 8. STUDY OF DISCRIMINATORY PRACTICES AFFECT-**
13 **ING DOMESTIC PRODUCTION OF MOTOR VE-**
14 **HICLE PARTS.**

15 Within one year after the date of the enactment of
16 this Act, the Secretary and the Federal Trade Commission
17 shall jointly undertake an investigation, and submit to
18 Congress a written report, regarding those policies and
19 practices of vehicle manufacturers that are used to per-
20 suade United States motor vehicle dealers, in choosing re-
21 placement parts for motor vehicles, to favor foreign-made
22 parts rather than domestically produced parts. Such re-
23 port shall include recommended administrative or legisla-
24 tive action that the Secretary and the Federal Trade Com-
25 mission consider appropriate to assure that domestic pro-

- 1 ducers of replacement parts are accorded fair access to
- 2 the United States market for such parts.

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