

AMERICAN E-COMMERCE BUSINESS ALLIANCE

aeba.org

September 2026

The Honorable Rick Scott
United States Senate
Washington, D.C. 20510

Re: Strengthening H.R. 1869, the PAIL Act

Modest additions to protect American sellers and hold accountable the foreign actors that harm them.

Dear Senator Scott:

On behalf of the American E-Commerce Business Alliance and the American brands and sellers we represent, thank you for the Senate's attention to trade-crime enforcement. We strongly support H.R. 1869, the Protecting American Industry and Labor from International Trade Crimes Act, and respectfully ask you to consider a few modest additions as the bill moves through the Senate.

The PAIL Act creates an important new DOJ capability to prosecute tariff evasion, transshipment, forced-labor imports, customs fraud, and counterfeit trafficking. But prosecution alone cannot solve the fundamental problem facing American businesses: a foreign seller can enter the U.S. market, harm American competitors, and disappear, leaving no accountable party in the United States behind its conduct. Foreign sellers, overwhelmingly based in China, are now the majority of third-party sellers on our largest marketplaces, and when they harm an American competitor they can vanish and reopen under a new name, which is why roughly seven in ten infringement suits against them end in default.

The principle is simple: goods entering and being sold in the United States should have a real, identifiable, and financially accountable party behind them.

The President's June 3, 2026 Executive Order strengthening Importer of Record requirements is an important step. It requires every importer to be reachable and backed by a bond or tangible U.S. assets, and it directs CBP to collect ownership and beneficial-ownership information. But a U.S. name on paper cannot be allowed to become a way for a foreign seller to hide behind a strawman importer. Where a U.S. importer is used to conceal a foreign principal, enforcement has to reach the beneficial owner and the party actually controlling the import.

The same principle should apply to online marketplaces. A marketplace that provides access to American consumers and controls the listing, payment, and, in many cases, fulfillment of a transaction should know the true identity of its sellers and the parties responsible for importing those products.

There is a further harm this bill is well placed to address. When a foreign seller evades the duties, the income tax, and the safety and regulatory costs that every American competitor must bear, the money saved is not a victimless loss to the Treasury. It is the weapon. Those unlawful savings become a cost advantage, often thirty percent or more on the identical product, that lets the foreign seller undercut and drive out the law-abiding American business. The American company is not a bystander to those crimes; it is their target and their victim. This is unfair competition achieved through unlawful means, and it belongs squarely within the Justice Department's mandate.

We therefore recommend the following additions to H.R. 1869. Suggested amendment language is enclosed.

1. **Prioritize marketplace-facilitated trade crime, and reach the accountable importer of record.** Direct the new unit to prioritize trade crimes committed through online marketplaces against American sellers, and to investigate the importer of record for the merchandise, including the beneficial owner and any party actually controlling the import, pursuing prosecution where the elements of an offense are met.
2. **Expand the annual report.** Require the unit to report its marketplace and foreign-importer cases, the restitution obtained for harmed American businesses, and the gaps in existing authority, including marketplace seller verification, foreign-seller bonding or U.S. representation, weaknesses that permit strawman or otherwise non-accountable importers, and the unlawful tax and regulatory advantages of foreign sellers.
3. **Establish marketplace accountability as a principle.** State the sense of Congress that a marketplace controlling listings, payments, or fulfillment should know the true identity of the sellers it hosts and share responsibility for preventing trade-related crimes committed through its platform, that harmed American businesses should be made whole, and that no foreign actor should win in our market by attacking an American company.
4. **Treat the American competitor as a victim of the unlawful cost advantage, and pursue the crimes that create it.** Direct the new unit, in coordination with the appropriate DOJ components and the IRS, to pursue the tax evasion, duty evasion, and related fraud that give foreign sellers an unlawful cost advantage over American competitors; to recognize American businesses harmed by that advantage as victims of the scheme and seek restitution where the law allows; and to

report to Congress within 180 days on the scope of these unlawful advantages, the adequacy of current enforcement, and any gaps in existing authority that keep harmed American competitors from being made whole.

We would also encourage Congress and the Administration to look beyond prosecution toward earlier detection and prevention. CBP already holds enormous amounts of import data. Connecting declared values, importers of record, beneficial owners, sellers, and marketplace information could surface suspicious activity before years of damage are done. An extreme gap between a declared customs value and the known U.S. retail price, for example, would not establish fraud on its own, but it is a strong risk indicator worth further review. The goal is a connected enforcement system: identify and verify the parties, connect the importer to the seller and the marketplace, detect suspicious activity, investigate and enforce, and make harmed American businesses whole.

These recommendations should not create new criminal exposure for legitimate American importers acting in good faith. We support the bill's requirement that prosecution occur only where the elements of an offense are met. The objective is to eliminate anonymous and strawman importers and hold knowing participants accountable, not to add risk for the honest U.S. businesses, brokers, and brands that make up much of our own membership.

We are not asking for a rewrite of H.R. 1869. These are targeted additions that build on the bill and the Administration's recent customs-enforcement actions, and we defer to the Office of Legislative Counsel on form and placement. Your standing on the Homeland Security and Governmental Affairs Committee and the Foreign Relations Committee, and your record countering the People's Republic of China's economic aggression, put you in a strong position to carry them.

American companies should not have to compete against foreign actors that can exploit our customs system, hide behind anonymous entities, avoid the taxes and rules that bind their competitors, sell through American marketplaces, and disappear when enforcement finally arrives. We would welcome the chance to brief you or your staff and to share AEBA's broader [Customs Modernization recommendations](#). Thank you for your leadership.

Respectfully,

Shinghi Detlefsen

Founder, American E-Commerce Business Alliance

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Enclosure: Model Amendment Text

Offered as a recommendation and a starting point. Every operative term is drawn from law that already exists. The "()" placeholders are for the drafter to number, and the Office of Legislative Counsel should conform form, numbering, and punctuation to the enrolled bill.

Amendment 1. Prioritize marketplace crime, and reach the accountable importer of record

Amends Section 4 (Duties). It adds to an existing list of prosecutorial duties and cross-references terms already defined in federal law. The beneficial-owner clause reaches the real party behind a strawman importer.

Section 4 of the bill is amended by adding at the end the following new paragraphs:

"() give particular priority to trade-related crimes committed through, or facilitated by, an online marketplace (as defined in section 45f(f) of title 15, United States Code), including the sale of counterfeit or smuggled goods, the manipulation of product listings or reviews, and coordinated schemes that target United States sellers;

"() in any such investigation or prosecution, treat the importer of record for the merchandise involved (within the meaning of section 484 of the Tariff Act of 1930 (19 U.S.C. 1484)), including the beneficial owner and any party actually controlling the import activity, as a party subject to investigation and, where the elements of an offense are met, prosecution; and

"() seek restitution for United States sellers and manufacturers directly and proximately harmed by such crimes, including under sections 3663 and 3663A of title 18, United States Code.".

Amendment 2. Expand the annual report to build the record

Amends Section 5 (Annual Report). A reporting mandate directs disclosure, not action, and builds the record for the larger fix. Under the INFORM Consumers Act, a 'high-volume third party seller' is one that made 200 or more sales and took in at least \$5,000 in gross revenue on the marketplace in any 12-month period during the prior 24 months.

Section 5 of the bill is amended by adding at the end of the list of required contents the following new paragraphs:

"() the number of matters involving high-volume third party sellers (as defined in section 45f(f) of title 15, United States Code) or foreign importers of record, and the amount of restitution ordered to United States sellers and manufacturers;

"() an assessment of any gaps in existing legal authority that limit the investigation or prosecution of trade-related crimes committed through online marketplaces, or that keep American businesses harmed by such crimes from being made whole, including whether online marketplaces should be required to verify and retain the identity of the sellers they host, whether foreign sellers should be required to designate a registered agent for service of process in the United States or to maintain a bond, any weakness that permits a United States importer of record to be used to conceal a foreign principal, and any recommendations for legislative or administrative action.".

Amendment 3. Sense of Congress

Adds a new section. It binds no one and carries no cost, and it places the principle on the record.

At the end of the bill, add the following:

SEC. 7. SENSE OF CONGRESS.

It is the sense of Congress that United States sellers and manufacturers directly and proximately harmed by trade-related crimes may be victims within the meaning of section 3663A(a)(2) of title 18, United States Code, and should be made whole through restitution wherever the law allows.

It is further the sense of Congress that an online marketplace (as defined in section 45f(f) of title 15, United States Code) that controls the listing, payment, and fulfillment of sales on its platform should know the true identity of the sellers it hosts and should share responsibility for preventing trade-related crimes committed through its platform against United States businesses.

It is further the sense of Congress that a United States marketplace should be a level and fair field of competition, and that no foreign actor should gain advantage in the United States market by attacking a United States business through counterfeit goods, fraudulent listings, the manipulation of reviews, or the unlawful evasion of the duties, taxes, and regulatory obligations that bind its United States competitors.

Amendment 4. Unlawful cost advantages harming U.S. competitors

Adds a new section. It keeps the tax and duty question in the Judiciary lane: the Attorney General leads, the harmed American competitor is treated as a victim under Title 18, and the report goes to the Judiciary Committees. AEBA's Letter to the IRS and Letter to the President set out the underlying tax analysis.

At the end of the bill, add the following:

SEC. 8. UNLAWFUL COST ADVANTAGES HARMING UNITED STATES COMPETITORS.

(a) Coordination. In carrying out this Act, the Attorney General shall coordinate with the Secretary of the Treasury and the Commissioner of Internal Revenue to investigate and, where the elements of an offense are met, prosecute the evasion of duties and of Federal tax obligations by foreign sellers that confers an unlawful cost advantage over their United States competitors, and shall treat United States businesses directly and proximately harmed by such conduct as victims for purposes of sections 3663 and 3663A of title 18, United States Code, wherever applicable.

(b) Report. Not later than 180 days after the date of enactment of this Act, the Attorney General, in coordination with the Secretary of the Treasury and the Commissioner of Internal Revenue, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that includes the following:

(1) An assessment of the scope of such unlawful cost advantages and the harm they cause to United States businesses.

(2) An evaluation of the adequacy of current enforcement of the duty and tax obligations at issue.

(3) Any gap in existing legal authority that prevents a United States business harmed by such conduct from being recognized as a victim or made whole, together with recommendations for legislative or administrative action.