



April 16, 2024

Please Oppose the Ways and Means GOP “Murphy” De Minimis Bill H.R. 7979

Dear Representative,

The Rethink Trade program of the American Economic Liberties Project urges you to oppose the Murphy (R-NC) *de minimis* bill (H.R. 7979) that will be marked up on April 17.

Despite serious threats posed to American families, workers and firms by the current *de minimis* policy, the Murphy bill would have almost no real impact and certainly would not stop the hundreds of millions of uninspected packages of imports, mainly from China, that dodge U.S. trade-cheating penalties, regular tariffs and taxes, and Customs inspection via the *de minimis* loophole. If you have the opportunity to vote on an amendment to strike and replace the Murphy bill with Rep. Blumenauer’s *de minimis* legislation (H.R. 4148), we urge you to please vote yes on such an amendment.

Today, the *de minimis* loophole allows three million packages of imports ordered online to enter the United States daily evading normal U.S. trade rules and requirements. These imports, mainly from China in packages valued \$800 or less, harm U.S. producers, put brick-and-mortar retailers at an unfair disadvantage, allow fentanyl and other illegal imports to slip through Customs as well as a flood of forced-labor products violating the Uighur Forced Labor Prevention Act (UFLPA), and expose U.S. consumers to dangerous and fake goods delivered to their doorsteps.

By design the GOP *de minimis* bill would have almost no practical impact on remedying these threats because it only excludes products subject to U.S. trade-enforcement law penalties at any particular time from *de minimis* treatment. Chairman Smith refuses to bring up the Blumenauer *de minimis* bill, which would be a real, effective first step in fixing this mess.

With a sizeable share of product lines coming here from China not subject to tariffs under any of the trade-enforcement statutes today, the Murphy bill would explicitly allow many Chinese imports still to come into the country through the *de minimis* loophole. U.S. Customs estimated that perhaps 40% of the top product lines from China are currently not subject to sanctions under U.S. trade-enforcement laws. Moreover, the Murphy bill’s design means that 100% of Chinese imports could qualify to exploit the *de minimis* loophole if a future president ended the Section 301 tariffs now applied to China and other enforcement sanctions.

But even the bad best-case scenario for the Murphy bill would not likely materialize because the bill’s design makes it almost impossible to effectively enforce. Enforcement under the bill relies on importers listing tariff codes on Customs forms to qualify for *de minimis*. But with three million such packages entering daily, it would be impossible to verify that shippers are providing accurate information. Real *de minimis* reform requires easily enforceable mechanisms that will reduce the

volume of *de minimis* shipments. Otherwise, it would be impossible for Customs to find goods entering with false tariff codes listed to hide trade-enforcement-tariffed goods or banned forced-labor goods and extremely difficult to distinguish between packages that should and should not qualify for *de minimis*.

In contrast, the Blumenauer *de minimis* bill is easily enforceable because it excludes *all* Chinese shipments (and those from any non-market economy subject to U.S. intellectual property enforcement) from *de minimis*.

Because the Murphy bill won't bring down the overwhelming volume of *de minimis* shipments, it will do nothing to curb the flow of Fentanyl and other deadly or dangerous illicit goods "hiding" in the flood of *de minimis* packages. It also will not remedy the textile and apparel industry crisis being caused by a flood of forced-labor and otherwise unfairly-traded *de minimis* imports from China.

Given the House Republicans are blocking the Blumenauer bill, and the Murphy bill will not end the urgent *de minimis* trade loophole threats, it's good news that President Biden has authority under existing statutes to do so. Section 321 of the Tariff Act of 1930 states that: "The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is authorized, under such regulations as he shall prescribe, to admit articles free of duty and of any tax (if they are below the *de minimis* threshold)" (*emphasis added*). That means Congress did not require the executive branch to allow any particular good to enter via *de minimis*, but rather granted authority at the president's discretion to do so. A president cannot unilaterally change the \$800 *de minimis* threshold but can determine what product types can enter under the loophole. A real fix would be to exclude "commercial goods" and restore *de minimis* to its original purpose of allowing in inexpensive souvenirs Americans bring back from overseas travel and low-value gifts sent from abroad.

The number of *de minimis* shipments exploded from 150 million annually in 2016 to one billion in 2023 after online retailers like Amazon and express delivery giants pushed for the U.S. \$200 *de minimis* threshold to be elevated to \$800 in 2015. Lowering the threshold will not fix the problem: The categories of products and countries to which *de minimis* applies must be dramatically narrowed. House GOP have been unwilling to move a legislative fix, such as the Blumenauer bill supported by labor, business, police, consumer and human rights groups that would disqualify goods from China from *de minimis*. The Murphy bill will not fix the many threats posed by the current *de minimis* program and we urge you to oppose it and to work with the administration to exercise its existing authority via Treasury and the Department of Homeland Security to close the *de minimis* loophole.

Thank you for your attention to this urgent matter. Please contact me at llwallach@rethinktrade.org or 202-441-7369 if I may answer any questions or otherwise help.

Sincerely,

Lori Wallach
Director, Rethink Trade