H. R.  

To amend section 337 of the Tariff Act of 1930 with respect to requirements for domestic industries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. DelBene introduced the following bill; which was referred to the Committee on __________________

A BILL

To amend section 337 of the Tariff Act of 1930 with respect to requirements for domestic industries, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Advancing America’s Interests Act”.

4 SEC. 2. PURPOSE.

5 The purpose of this Act is to ensure that the resources of the United States International Trade Commis-
sion are focused on protecting genuine domestic industries and to safeguard the public health and welfare and the United States economy (including competitive conditions).

SEC. 3. UNFAIR PRACTICES IN IMPORT TRADE.

(a) IN GENERAL.—Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended as follows:

(1) Subsection (a) is amended—

(A) in paragraph (3)—

(i) by striking “or” at the end of subparagraph (B);

(ii) in subparagraph (C), by striking “engineering, research and development, or licensing.” and inserting “engineering and research and development; or”; and

(iii) by adding after subparagraph (C) the following:

“(D) substantial investment in licensing activities that leads to the adoption and development of articles that incorporate the patent, copyright, trademark, mask work, or design.”;

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:
“(4) For purposes of paragraph (3), the complainant may not rely upon activities by its licensees unless the license leads to the adoption and development of articles that incorporate the claimed patent, copyright, trademark, mask work, or design for sale in the United States.”.

(2) Subsection (b) is amended—

(A) in paragraph (1), by inserting after the first sentence the following: “For a complaint under oath, a person may be relied upon to qualify as an industry under subsection (a)(2) only if the person joins the complaint under oath, except that nothing in this sentence shall be construed to compel such a person to join the complaint.”; and

(B) by adding at the end the following:

“(4)(A) The Commission shall identify, at the beginning of an investigation, whether the investigation presents a dispositive issue appropriate for an expedited fact finding and an abbreviated hearing limited to that issue, and shall direct the assigned administrative law judge to issue an initial determination on such issue not later than 100 days after the investigation is instituted.

“(B) Any initial determination by the assigned administrative law judge under subparagraph (A) shall stay the investigation pending Commission action.”.
(3) Subsection (c) is amended—

(A) by striking the first sentence and inserting the following: “(1) The Commission shall determine, with respect to each investigation conducted by it under this section, whether or not there is a violation of this section, except that the Commission—

“(A) may, by issuing a consent order or on the basis of an agreement between the private parties to the investigation, including an agreement to present the matter for arbitration, terminate any such investigation, in whole or in part, without making such a determination; or

“(B) may determine during the course of the investigation that the exclusion of articles under investigation would not be in the interest of the public, after considering the nature of the articles concerned and the effect of such exclusion upon the public health and welfare, the United States economy (including competitive conditions), the production of like or directly competitive articles by the complainant and its licensees, and United States consumers, and terminate any such investigation, in whole or in part, without making any further determination.”;
(B) in the second sentence, by striking “Each determination” and inserting the following:

“(2) Each determination”;

(C) by striking “its findings on the public health and welfare, competitive conditions in the United States economy,” and inserting “its findings on the public health and welfare, the United States economy (including competitive conditions),”;

and

(D) by inserting “by the complainant and its licensees” after “the production of like or directly competitive articles in the United States”.

(4) Subsection (d)(1) is amended by striking the first sentence and inserting the following: “(1) If the Commission determines, as a result of an investigation under this section, that there is both (A) a violation of this section and (B) exclusion of the articles concerned is in the interest of the public, after considering the nature of the articles concerned and the effect of such exclusion upon the public health and welfare, the United States economy (including competitive conditions), the production of like or directly competitive articles in the United States”.
States by complainant and its licensees, and United
States consumers, then the Commission shall direct
that the articles concerned that are imported by any
person violating the provisions of this section be ex-
cluded from entry into the United States.”.

(5) Subsection (e)(1) is amended by striking
the first sentence and inserting the following: “If,
during the course of an investigation under this sec-
tion, the Commission determines that there is reason
to believe that there is a violation of this section and
that exclusion of the articles concerned would be in
the interest of the public, the Commission may di-
rect that the articles concerned that are imported by
any person with respect to whom there is reason to
believe that such person is violating this section be
excluded from entry into the United States, after
considering the nature of the articles concerned and
the effect of such exclusion upon the public health
and welfare, the United States economy (including
competitive conditions), the production of like or di-
rectly competitive articles in the United States by
the complainant and its licensees, and United States
consumers.”.

(6) Subsection (f)(1) is amended by striking the
first sentence and inserting the following: “In addi-
tion to, or in lieu of, taking action under subsection (d) or (e), the Commission may issue and cause to be served on any person violating this section, or believed to be violating this section, as the case may be, an order directing such person to cease and desist from engaging in the unfair methods or acts involved, after considering the nature of the articles concerned and the effect of such order upon the public health and welfare, the United States economy (including competitive conditions), the production of like or directly competitive articles in the United States by complainant and its licensees and United States consumers.’’.

(7) Subsection (g)(1) is amended by amending the matter following subparagraph (E) to read as follows:

“the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, limited to that person, after considering the nature of the articles concerned and the effect of such exclusion or order upon the public health and welfare, the United States economy (including competitive conditions), the production of like or directly competitive articles in the United
States by the complainant and its licensees and United States consumers.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to complaints filed under section 337 of the Tariff Act of 1930 on or after the date of the enactment of this Act.