

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to treat certain marketplace providers as importers for purposes of the excise tax on sporting goods.

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IN THE SENATE OF THE UNITED STATES

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Mr. TUBERVILLE (for himself and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To amend the Internal Revenue Code of 1986 to treat certain marketplace providers as importers for purposes of the excise tax on sporting goods.

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 “Sporting Goods Excise  
5 Tax Modernization Act”.

1 **SEC. 2. CERTAIN MARKETPLACE PROVIDERS TREATED AS**  
2 **IMPORTERS FOR PURPOSES OF THE EXCISE**  
3 **TAX ON SPORTING GOODS.**

4 (a) IN GENERAL.—Section 4162 of the Internal Rev-  
5 enue Code of 1986 is amended by adding at the end the  
6 following new subsection:

7 “(c) CERTAIN MARKETPLACE PROVIDERS TREATED  
8 AS IMPORTERS.—

9 “(1) IN GENERAL.—In the case of any specified  
10 marketplace sale of a taxable sporting good article,  
11 the marketplace provider with respect to such sale  
12 shall be treated for purposes of section 4161 as the  
13 importer and seller of such article.

14 “(2) SPECIFIED MARKETPLACE SALE.—For  
15 purposes of this subsection, the term ‘specified mar-  
16 ketplace sale’ means, with respect to any article, any  
17 sale if—

18 “(A) a marketplace provider provides the  
19 services described in subparagraphs (A) and  
20 (B) of paragraph (3) with respect to such sale,

21 “(B) such article is transported to the  
22 United States from outside the United States in  
23 connection with (including in anticipation of) a  
24 sale of such article, and

1           “(C) the manufacturer of such article is  
2           not the marketplace provider referred to in sub-  
3           paragraph (A).

4           “(3) MARKETPLACE PROVIDER.—For purposes  
5           of this subsection, the term ‘marketplace provider’  
6           means any person in the trade or business of—

7                   “(A) hosting or facilitating listings, or ad-  
8                   vertisements, of products for sale, and

9                   “(B) collecting gross receipts from the pur-  
10                  chaser and transmitting any portion of such re-  
11                  ceipts to the seller.

12           “(4) TREATMENT OF RELATED PERSONS.—For  
13           purposes of this subsection, related persons (within  
14           the meaning of subsection (b)(3)) shall be treated as  
15           one person for purposes of applying paragraphs (2)  
16           and (3).

17           “(5) TAXABLE SPORTING GOOD ARTICLE.—For  
18           purposes of this subsection, the term ‘taxable sport-  
19           ing good article’ means any article of a type subject  
20           to tax under section 4161.

21           “(6) EXCEPTION IF TAX WOULD OTHERWISE  
22           BE IMPOSED ON PERSON OTHER THAN PUR-  
23           CHASER.—Paragraph (1) shall not apply with re-  
24           spect to any sale if tax under section 4161 would  
25           (without regard to paragraph (1)) be imposed on a

1 person other than the purchaser with respect to such  
2 sale.

3 “(7) REGULATIONS.—The Secretary shall issue  
4 such regulations or other guidance as may be nec-  
5 essary or appropriate to carry out the purposes of  
6 this subsection, including regulations or other guid-  
7 ance specifying, in the case of the application of  
8 paragraph (4), the taxpayer treated as the market-  
9 place provider for purposes of paragraph (1).”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to sales during calendar quarters  
12 beginning after the date that is 60 days after the date  
13 of the enactment of this Act.

14 (c) NO INFERENCE.—Section 4162(c) of the Internal  
15 Revenue Code of 1986 shall not be applied or interpreted  
16 as creating any inference with respect to whether any per-  
17 son not treated as an importer under such section is none-  
18 theless properly treated an importer for purposes of sec-  
19 tion 4161.