

ANTI-BDS LABELING ACT

SEPTEMBER 10, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Missouri, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5179]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5179) to require the maintenance of the country of origin markings for imported goods produced in the West Bank or Gaza, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Anti-BDS Labeling Act”.

**SEC. 2. CONTINUATION IN EFFECT OF COUNTRY OF ORIGIN MARKING POLICY FOR IMPORTED GOODS PRODUCED IN THE WEST BANK OR GAZA.**

The policy of the Government of the United States with respect to country of origin marking of imported goods produced in the West Bank or Gaza, notice of which was published by U.S. Customs and Border Protection in the Federal Register on December 23, 2020 (85 Fed. Reg. 83984), shall remain in effect until repealed by an Act of Congress.

**SEC. 3. PROHIBITION ON USE OF FUNDS TO RESCIND OR CHANGE THE COUNTRY OF ORIGIN MARKING POLICY FOR IMPORTED GOODS PRODUCED IN THE WEST BANK OR GAZA.**

Notwithstanding any other provision of law, none of the funds authorized to be appropriated or otherwise made available for the Department of State or U.S. Customs and Border Protection on or after the date of the enactment of this Act may be obligated or expended to prepare or promulgate any policy; guidance; regulation; notice; or Executive order or to otherwise implement, administer, or enforce any policy that rescinds or changes the policy of the Government of the United States with respect to country of origin marking of imported goods produced in the West Bank or Gaza, notice of which was published by U.S. Customs and Border Protection in the Federal Register on December 23, 2020 (85 Fed. Reg. 83984).

## I. SUMMARY AND BACKGROUND

### A. PURPOSE AND SUMMARY

H.R. 5179, the *Anti-BDS Labeling Act*, as ordered reported by the Committee on Ways and Means on April 17, 2024, Codifies the 2020 notice “Country of Origin Marking of Products from the West Bank and Gaza” (85 Fed. Reg. 83984) and prohibits the use of federal funds to reverse or alter the rule.

### B. BACKGROUND AND NEED FOR LEGISLATION

U.S. law, in 19 U.S.C. 1304, requires accurate labeling of an imported product’s country of origin. In 1997, the Palestinian Authority (PA) asked the United States to accept the “West Bank/Gaza” country of origin for goods produced in the West Bank or the Gaza Strip. The PA’s intent with this request was to establish territorial unity between the two areas. In response, the United States issued guidance stating that “West Bank/Gaza” and “West Bank/Gaza Strip” were considered acceptable country of origin markings. On December 1, 2020, the Department of State issued new guidance advising that (1) Israel continues to exercise relevant authority in areas of the West Bank and (2) Gaza and the West Bank are politically and administratively separate. Following this new guidance, CBP issued its notice that goods produced in the territorial areas of the West Bank where Israel continues to exercise relevant authorities must be marked as “Israel,” “Product of Israel,” or “Made in Israel.” CBP’s notice further clarified that goods must be marked, as appropriate, “Product of West Bank,” “Product of Gaza,” or words of similar meaning. Finally, CBP’s notice stated

that goods must not be marked “West Bank/Gaza,” “West Bank/Gaza Strip,” “West Bank and Gaza,” or words of similar meaning.

### C. LEGISLATIVE HISTORY

#### *Background*

H.R. 5179 was introduced on August 8, 2023, by Representative Claudia Tenney and was referred to the Committee on Ways and Means.

#### *Committee Hearing*

On November 15, 2023, the Committee held a hearing entitled “From Ivory Towers to Dark Corners: Investigating the Nexus Between Antisemitism, Tax-Exempt Universities, and Terror Financing.”

#### *Committee Action*

The Committee on Ways and Means marked up H.R. 5179, the “Anti-BDS Labeling Act” on April 17, 2024, and ordered the bill, as amended, favorably reported (with a quorum being present).

### D. DESIGNATED HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop and consider H.R. 5179:

On November 15, 2023, the Committee held a hearing entitled “From Ivory Towers to Dark Corners: Investigating the Nexus Between Antisemitism, Tax-Exempt Universities, and Terror Financing.”

## II. EXPLANATION OF THE BILL

### PRESENT LAW

No current statute addresses the issue that is the focus of this bill.

### REASON FOR CHANGE

U.S. law, in 19 U.S.C. 1304, requires accurate labeling of an imported product’s country of origin. H.R. 5179 codifies the U.S. Customs and Border Protection Notice “Country of Origin Marking of Products from the West Bank and Gaza” (85 Fed. Reg. 83984) to ensure that products made in Israeli-controlled areas of the West Bank be marked as originating from “Israel” and that products made in Gaza or Palestinian-controlled areas of the West Bank be labeled as either made in “Gaza” or the “West Bank.”

### EXPLANATION OF PROVISIONS

#### *Section 1. Short Title*

The short title of this Act is the “Anti-BDS Labeling Act.”

#### *Section 2. Continuation in Effect of Country of Origin Marking Policy for Imported Goods Produced in the West Bank or Gaza*

This section codifies United States policy with respect to country of origin marking of imported goods produced in the West Bank or Gaza (85 Fed. Reg. 83984).

*Section 3. Prohibition on use of Funds to Rescind or Change the Country of Origin Marking Policy for Imported Goods Produced in the West Bank or Gaza*

This section prohibits the Department of State and U.S. Customs and Border Protection from obligating or expending funds to rescind or change the country of origin marking policies codified in Section 2.

EFFECTIVE DATE

The effective date is the date of enactment.

**III. VOTE OF THE COMMITTEE**

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 5179, the “Anti-BDS Labeling Act,” on April 17, 2024.

H.R. 5179 was ordered favorably reported to the House of Representatives as amended by a roll call vote of 25 yeas to 17 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO) .....	X	.....	.....	Mr. Neal .....	.....	X	.....
Mr. Buchanan .....	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Smith (NE) .....	X	.....	.....	Mr. Thompson .....	.....	X	.....
Mr. Kelly .....	X	.....	.....	Mr. Larson .....	.....	.....	.....
Mr. Schweikert .....	X	.....	.....	Mr. Blumenauer .....	.....	X	.....
Mr. LaHood .....	X	.....	.....	Mr. Pascrell .....	.....	X	.....
Dr. Wenstrup .....	X	.....	.....	Mr. Davis .....	.....	X	.....
Mr. Arrington .....	X	.....	.....	Ms. Sánchez .....	.....	X	.....
Dr. Ferguson .....	X	.....	.....	Ms. Sewell .....	.....	X	.....
Mr. Estes .....	X	.....	.....	Ms. DelBene .....	.....	X	.....
Mr. Smucker .....	X	.....	.....	Ms. Chu .....	.....	X	.....
Mr. Hern .....	X	.....	.....	Ms. Moore .....	.....	X	.....
Ms. Miller .....	X	.....	.....	Mr. Kildee .....	.....	X	.....
Dr. Murphy .....	X	.....	.....	Mr. Beyer .....	.....	X	.....
Mr. Kustoff .....	X	.....	.....	Mr. Evans .....	.....	X	.....
Mr. Fitzpatrick .....	X	.....	.....	Mr. Schneider .....	.....	X	.....
Mr. Steube .....	X	.....	.....	Mr. Panetta .....	.....	X	.....
Ms. Tenney .....	X	.....	.....	Mr. Gomez .....	.....	X	.....
Mrs. Fischbach .....	X	.....	.....				
Mr. Moore .....	X	.....	.....				
Mrs. Steel .....	X	.....	.....				
Ms. Van Duyne .....	X	.....	.....				
Mr. Feenstra .....	X	.....	.....				
Ms. Malliotakis .....	X	.....	.....				
Mr. Carey .....	X	.....	.....				

**IV. BUDGET EFFECTS OF THE BILL**

**A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS**

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 5179, as reported. The estimate prepared by the Congressional Budget Office (CBO) is included below.

**B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX  
EXPENDITURES BUDGET AUTHORITY**

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the bill involves no new or increased tax expenditures.

**V. COST ESTIMATE PREPARED BY THE CONGRESSIONAL  
BUDGET OFFICE**

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

<b>H.R. 5179, Anti-BDS Labeling Act</b>			
As ordered reported by the House Committee on Ways and Means on April 17, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	0	0
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply? No	
		<b>Mandate Effects</b>	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate? No	
		Contains private-sector mandate? No	

H.R. 5179 would codify the Department of Homeland Security (DHS) regulation, published in the *Federal Register* on December 23, 2020, that specifies how goods produced in Israel, Gaza, and the West Bank are to be labeled with respect to laws about country-of-origin markings. The bill also would prohibit the use of any funds provided to the Department of State or U.S. Customs and Border Protection after enactment to amend or repeal this policy.

Since H.R. 5179 codifies an existing federal regulation, CBO estimates that enacting the bill would have no federal cost.

The CBO staff contact for this estimate is Margot Berman. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,  
*Director, Congressional Budget Office.*

**VI. OTHER MATTERS TO BE DISCUSSED UNDER THE  
RULES OF THE HOUSE**

**A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

**B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES**

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

**C. INFORMATION RELATING TO UNFUNDED MANDATES**

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4). The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

**D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS**

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

**E. DUPLICATION OF FEDERAL PROGRAMS**

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95-220, as amended by Pub. L. No. 98-169).

**VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

The bill, as reported, does not propose to repeal or amend a statute or part thereof.

## VIII. DISSENTING VIEWS

Committee Democrats agree with the need to stand by Israel—a great ally and partner of the United States. However, H.R. 5179 would not strengthen economic and security ties with Israel. Instead, the legislation would seriously impair the ability of the Biden administration to pursue a viable two-state solution for Israel and the Palestinian territories.

H.R. 5179 would require continuation of a country of origin marking policy for imported goods produced in the West Bank or Gaza as set forth by U.S. Customs and Border Protection in the Federal Register on December 23, 2020 (85 Fed. Reg. 83984), during the Trump administration, to remain in effect until repealed by an Act of Congress.

This legislation seriously interferes with the prerogatives of the President to ensure labeling of imported products is consistent with U.S. foreign policy. The bill would also hinder the U.S. Department of State's ability to carry out other foreign policy priorities, including the support of a viable two-state solution for Israel and the Palestinian territories. The legislation does not provide the flexibility necessary to permit the administration to align policy with respect to country of origin marking for imported goods with adjustments in U.S. foreign policy in the future. The U.S. Department of State has identified policy flexibility as critical to ensuring both peace and security for Israelis and Palestinians.

Committee Democrats present at the markup unanimously opposed favorably reporting H.R. 5179, as amended, to the House of Representatives.

Sincerely,

RICHARD E. NEAL,  
*Ranking Member.*

## DISSENTING VIEWS

In the months that have followed Hamas's unthinkable war on Israel, House Democrats have been calling for a national security supplemental to stand with our ally and friend in a time of need. The partnership between the United States and Israel is strong, and built on our unwavering commitment to democracy, economic prosperity, and regional security.

In fact, we were the first country to recognize Israel as a state in 1948 and signed its first free trade agreement in 1985. This agreement continues to serve as the foundation for expanding trade and investment between the United States and Israel.

The bill offered by Republicans today does nothing to strengthen our economic and security ties with Israel. The path for meaningful action is clear—let's act on the need at hand instead of needlessly interfering with existing practices.

It's past time for Republicans to bring the Senate National Security Supplemental to the floor. If we want to stand with Israel, that's how best to do it. With that bill, we can provide security assistance to Israel and humanitarian assistance to those in need in Gaza and the West Bank, along with Ukraine, and others caught in conflict around the world.

With that, I yield back the balance of my time.

RICHARD E. NEAL,  
*Ranking Member.*

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