H. R. 525

To modify the prohibition on United States assistance and financing for certain exports to Cuba under the Trade Sanctions Reform and Export Enhancement Act of 2000, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2017

Mr. CRAWFORD (for himself, Mr. CONAWAY, Mr. ABRAHAM, Mr. POE of Texas, Mr. COMER, Ms. LEE, Ms. KELLY of Illinois, Ms. DELBENE, Mr. FARENTHOLO, Mr. THOMPSON of Mississippi, Mr. MOULTON, Mr. EMMER, Ms. MCCOLLUM, Ms. CASTOR of Florida, Mr. HARPER, Mr. WESTERMAN, Mr. ROKITA, Mr. MARSHALL, Mr. SMITH of Missouri, Mr. RODNEY DAVIS of Illinois, Mr. PALAZZO, Mr. YOUNG of Alaska, Mr. THOMPSON of Pennsylvania, Mr. BANKS of Indiana, Mrs. BUSTOS, Mr. BEYER, and Mr. JONES) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To modify the prohibition on United States assistance and financing for certain exports to Cuba under the Trade Sanctions Reform and Export Enhancement Act of 2000, and for other purposes.

1. Be it enacted by the Senate and House of Representa-
2. tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Cuba Agricultural Exports Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States has a long history of providing safe and reliable exports. Close proximity to Cuba lends itself to low transportation costs for United States goods exported to Cuba. The United States is geographically poised to be a significant trading partner in agricultural commodities.

(2) Cuba imports approximately 80 percent of its food, with global agricultural exports to Cuba doubling over the past decade to $1,900,000,000.

(3) In 2005, the United States Department of the Treasury published a final rule narrowing the definition of “cash in advance” for trading with Cuba, requiring that cash payments must be made before United States products leave United States ports, rather than the more customary payment upon delivery. United States firms are precluded from offering credit to ALIMPORT, a state-owned and state-controlled entity that makes all decisions regarding United States exports to the Cuban market, resulting in declining United States agricultural exports to Cuba. Notably, rice exports fell from a
value of $64,000,000 in 2004 to essentially $0 in 2009 and subsequent years.

(4) Recent action by the Obama administration reversed that change to the definition of cash in advance, but United States agricultural exporters are still not permitted to extend credit to Cuban buyers, a key disadvantage relative to other exporting countries.

(5) In addition, there is no opportunity for United States agricultural businesses to trade directly with the Cuban people and there is no Cuban market; United States businesses have only one venue to trade with Cuba and that is through ALIMPORT, the state-owned and state-controlled entity described in paragraph (3).

(6) Despite these restrictions, the United States has been the largest exporter of agricultural goods to Cuba over the last decade. However, the United States slipped to being the second leading exporter of agricultural goods to Cuba in 2013 and the third leading exporter of agricultural goods to Cuba in 2014.

(7) While trade opportunities exist, Cuba remains an undemocratic autocracy that oppresses its own people and restricts freedom.
(8) With these cautionary factors in mind, it is important to provide United States farmers and ranchers additional opportunities to benefit from trade with Cuba.

SEC. 3. MODIFICATION OF PROHIBITION ON UNITED STATES ASSISTANCE AND FINANCING FOR CERTAIN EXPORTS TO CUBA UNDER THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000.

Section 908 of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207) is amended as follows:

(1) In the section heading, by striking “AND FINANCING”.

(2) In subsection (a), by adding at the end the following:

“(4) EXCEPTION FOR CERTAIN PROGRAMS.—

“(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) shall not apply with respect to—

5623), or section 702 of the Agricultural Trade Act of 1978 (7 U.S.C. 5722); or

“(ii) any obligation or expenditure of funds to promote trade with Cuba by Federal commodity promotion programs established in accordance with a commodity promotion law, as defined by section 501(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401(a)).

“(B) Restriction on certain recipients.—The exceptions under subparagraph (A) shall not apply if the recipient of the United States assistance would be an entity controlled by the Government of Cuba, including the Revolutionary Armed Forces of Cuba, the Ministry of the Interior of Cuba, and any subdivision of either such governmental entity.”.

(3) In subsection (b), to read as follows:

“(b) Financing of sales of agricultural commodities to Cuba.—

“(1) In General.—A person subject to the jurisdiction of the United States may provide payment or financing for sales of agricultural commodities to Cuba or to an individual or entity in Cuba.

“(2) Definitions.—In this section:
“(A) AGRICULTURAL COMMODITY.—The term ‘agricultural commodity’ has the meaning given that term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

“(B) FINANCING.—The term ‘financing’ includes any loan or extension of credit.”

SEC. 4. AUTHORITY OF PERSONS SUBJECT TO THE JURISDICTION OF THE UNITED STATES TO INVEST WITH RESPECT TO CERTAIN AGRICULTURAL BUSINESS IN CUBA.

(a) IN GENERAL.—Notwithstanding any other provision of law, a person subject to the jurisdiction of the United States may make an investment with respect to the development of an agricultural business in Cuba if the Secretary of State and Secretary of Agriculture jointly determine that—

(1) the agricultural business is not controlled by the Government of Cuba, including the Revolutionary Armed Forces of Cuba, the Ministry of the Interior of Cuba, or any subdivision of either such governmental entity; and

(2) the agricultural business does not traffic in the property of persons subject to the jurisdiction of the United States that was confiscated by the Cuban Government on or after January 1, 1959.
(b) Definitions.—In this section:

(1) Agricultural business.—The term “agricultural business” means any entity involved in the production, manufacture, or distribution of agricultural products (as such term is defined in section 207 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1626)).

(2) Confiscated, Cuban Government, property, and traffic.—The terms “confiscated”, “Cuban Government”, “property”, and “traffic” have the meanings given such terms in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6023).

(3) Investment.—The term “investment”, with respect to the development of an agricultural business in Cuba, means—

(A) entry into a contract involving the purchase of a share of ownership, including an equity interest, in the development of the agricultural business;

(B) entry into a contract providing for participation in royalties, earnings, or profits in the development of the agricultural business; or
(C) entry into, or performance or financing of, a contract to sell goods, services, or technology relating to the agricultural business.