

FEDERAL TEA TASTERS REPEAL ACT OF 1996

FEBRUARY 29, 1996.—Ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means,  
submitted the following

R E P O R T

[To accompany H.R. 2969]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2969) to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

**H.R. 2969, “FEDERAL TEA TASTERS REPEAL ACT OF  
1996”**

**I. INTRODUCTION**

**A. PURPOSE AND SUMMARY**

The “Federal Tea Tasters Act of 1996” would repeal the Tea Importation Act of 1897 (21 U.S.C. 41 et seq.). The bill would eliminate the Board of Tea Experts and related programs which prohibit the importation of tea that is inferior in purity, quality, and fitness for consumption to standards set by the Secretary of Health and Human Services, as well as the inspectional fee assessed on tea imports.

**B. BACKGROUND AND NEED FOR LEGISLATION**

The Tea Importation Act of 1897 (21 U.S.C. 41 et seq.) requires each lot of imported tea to be sampled at the port of entry to ensure that it meets standards recommended to the Secretary of Health and Human Services by the Board of Tea Experts. In fiscal

year 1994, 209 million pounds of tea valued at approximately \$136 million were imported into the United States.

Tea is the only food or beverage for which the Food and Drug Administration (FDA) samples every lot upon entry for comparison to a standard recommended by a federal board. The Committee believes that there is no justification for tea being held to a higher federal standard on behalf of the tea industry, which should assume responsibility for the competitive quality of its products.

### C. LEGISLATIVE HISTORY AND COMMITTEE ACTION

On February 23, 1996, H.R. 2969, the "Federal Tea Repeal Act of 1996," was introduced by Mr. Klug and Mr. Kennedy. On February 28, 1996, the Committee on Ways and Means ordered the bill favorably reported, by voice vote, to the House, without amendment.

## II. EXPLANATION OF THE BILL

### *Present Law*

The Tea Importation Act of 1897 prohibits the importation of tea which is inferior in quality, purity, and fitness for consumption to standards recommended by the Board of Tea Experts. The Board of Tea Experts, required by the Act and chartered under the Federal Advisory Committee Act (FACA), is a permanent FDA advisory committee composed of seven members who serve terms of one year but may be reappointed for each of three succeeding years, not to exceed a total of four years. The Board meets once a year for two days, during which it recommends standards, set by the Secretary of Health and Human Services, for different teas. Board members' expenses to participate in the annual standard-setting meeting are paid by the tea industry. During the year following the meeting, FDA chemists examine, taste, and smell imported teas and reject teas which do not meet the annual standards recommended by the Board. Importers of rejected tea may appeal decisions to the Board of Tea Appeals, composed of three members appointed only when appeals are pending. The Tea Importation Act requires each importer of tea to pay a user fee collected by the Customs Service to cover the costs of tasting, inspection, and grading, in an amount which was increased under the Consolidated Omnibus Budget Reconciliation Act of 1993 from 3.5 cents to 10 cents per hundred-weight. The full amount, however, was never collected by the Customs Service.

### *Explanation of Provision*

H.R. 2969 would repeal the Tea Importation Act of 1897 (21 U.S.C. 41 et seq.) and eliminate the Board of Tea Experts and related programs which prohibit the importation of tea which is inferior in purity, quality, and fitness for consumption to standards set by the Secretary of Health and Human Services. The FDA would still retain the authority under the Federal Food, Drug, and Cosmetic Act of 1938 to examine and sample imported tea for compliance with health and safety standards, but it will not be compared with a quality standard set each year.

*Reason for Change*

Tea is the only food or beverage for which the Food and Drug Administration (FDA) samples every lot upon entry for comparison to a standard recommended by a federal board. There is no justification for tea being held to a higher federal standard on behalf of the tea industry, which should assume responsibility for the competitive quality of its products. The Committee believes that the Board of Tea Experts is outdated and the taxpayer's money could be more efficiently used elsewhere.

*Effective Date*

The bill is effective upon enactment.

**III. VOTES OF THE COMMITTEE**

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee in its consideration of H.R. 2969:

\* \* \* \* \*

**MOTION TO REPORT H.R. 2969**

H.R. 2969 was ordered favorably reported, without amendment, by voice vote on February 28, 1996, with a quorum present.

**IV. BUDGET EFFECTS OF THE BILL****A COMMITTEE ESTIMATE OF BUDGETARY EFFECTS**

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made:

The estimate prepared by the Congressional Budget Office (CBO) is included below.

CBO estimates that the bill results in decreased revenues of \$200,000 per year based on a Customs inspection fee of 10 cents per hundredweight of tea. It should be noted that the Customs Service continues to collect 3.5 cents per hundredweight. The actual decrease in revenues is therefore \$70,000 per year. However, discretionary savings should be realized by reducing or reallocating FTE's to other functions, resulting in overall savings to the federal government and improved government operations.

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

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 2969 results in no new budget authority and a decrease of \$200,000 each year in revenues.

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

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives requiring a cost estimate prepared by the

Congressional Budget Office, the following report prepared by CBO is provided.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 29, 1996.*

Hon. BILL ARCHER,  
*Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2969, the Federal Tea Tasters Repeal Act of 1996, as ordered reported by the Ways and Means Committee on February 28, 1996. CBO estimates that the bill would reduce governmental receipts by less than \$500,000 in each of the fiscal years 1996 through 2000. Because enacting H.R. 2969 would affect receipts, pay-as-you-go procedures would apply to the bill. H.R. 2969 contains no intergovernmental or private sector mandates as defined in Public Law 104-4 and would impose no direct costs on state, local, or tribal governments.

The Tea Importation Act of 1897 requires tea to be examined upon import of the United States, and establishes an examination fee to be paid by the importer. H.R. 2969 repeals the Tea Importation Act of 1897, eliminating the examination requirement and the corresponding fee. Under Public Law 103-66, signed August 10, 1993, the amount of the fee for the examination of tea imports was raised from 3.5 cents per hundred weight to 10 cents per hundred weight of tea imported. However, due to an oversight in the Harmonized Tariff Schedule, U.S. Customs has continued to charge a rate of 3.5 cents per hundred weight of the tea, collecting about \$70,000 in each of the fiscal years 1994 and 1995. Based on information from Customs, CBO assumes that this discrepancy will be corrected and that Customs will begin collecting the fee at the statutory rate of 10 cents per hundred weight. CBO estimates that collections of the fee at the 10 cent rate would be approximately \$200,000 annually. Enacting H.R. 2969 would therefore result in a negligible loss of revenue from fee collections.

If you wish further details, please feel free to contact me or your staff may wish to contact Stephanie Weiner.

Sincerely,

JUNE E. O'NEILL, *Director.*

## **V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

### **A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that due to the non-controversial nature of the legislation, as well as the bipartisan support, the Committee favorably reported the bill without oversight hearings on this topic.

**B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE  
GOVERNMENT REFORM AND OVERSIGHT COMMITTEE**

In compliance with clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee states that no oversight findings or recommendations have been submitted by the Committee on Government Reform and Oversight regarding H.R. 2969.

**C. INFLATIONARY IMPACT STATEMENT**

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the provisions of the bill are not expected to have an overall inflationary impact on the economy.

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

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, existing law in which no change is proposed is shown in roman):

**TEA IMPORTATION ACT**

**[SEC. 1.** It shall be unlawful for any person or persons or corporation to import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 43 of this title, and the importation of all such merchandise is prohibited, except as provided in the Harmonized Tariff Schedule of the United States.

**[SEC. 2.** On or before February 15 of each year, the Secretary of Health, Education, and Welfare shall appoint a board, to consist of seven members, each of whom shall be an expert in teas, and who shall prepare and submit to him standard samples of tea. The persons so appointed shall be at all times subject to removal by the said Secretary and shall serve for the term of one year. Vacancies in the said board occurring by removal, death, resignation, or any other cause shall be forthwith filled by the Secretary of Health, Education, and Welfare by appointment, such appointee to hold for the unexpired term. Said board shall appoint a presiding officer, who shall be the medium of all communications to or from such board. Each member of said board shall receive as compensation the sum of \$50 per annum, which, together with all necessary expenses while engaged upon the duty herein provided, shall be paid by the Secretary.

**[SEC. 3.** The Secretary of Health, Education, and Welfare, upon the recommendation of the board of experts provided in section 42 of this title, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States, and shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as he may determine, duplicate samples of such standards. Said Administrator shall procure a sufficient number of other duplicate samples of such standards to supply the importers

and dealers in tea at all ports desiring the same at cost. All teas, or merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of section 41 of this title.

[SEC. 4. On making entry at the customhouse of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption. For the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each and every part of the invoice and accord with the specifications therein contained; or in the discretion of the Secretary of Health, Education, and Welfare, such samples shall be obtained by the examiner and compared by him with the standards established by sections 41-46 and 47-50 of this title. In cases where said tea, or merchandise described as tea, is entered at ports where there is no qualified examiner as provided in section 46 of this title, the consignee or importer shall in the manner aforesaid furnish under oath a sample of each line of tea to the collector or other revenue officer to whom is committed the collection of duties, and said officer shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in said section. The bond required by this section shall also be conditioned for the payment of all customhouse charges which may attach to such merchandise prior to its being released or destroyed (as the case may be) under the provisions of sections 41-46 and 47-50 of this title.

[SEC. 5. If, after an examination as provided in section 44 of this title, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards provided in sections 41-44 of this title, and no reexamination shall be demanded by the collector as provided in section 47 of this title, a permit shall at once be granted to importer or consignee declaring the tea free from the control of the customs authorities; but if on examination such tea, or merchandise described as tea, is found, in the opinion of the examiner, to be inferior in purity, quality, and fitness for consumption to the said standards the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the customhouse, unless on a reexamination called for by the importer or consignee the finding of the examiner shall be found to be erroneous. Should a portion of the invoice be passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in said section 47.

[SEC. 6. In case the collector, importer, or consignee shall protest against the finding of the examiner, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals, to consist of three employees of the Department of Health, Education, and Welfare to be designated by the Secretary of Health, Education, and Welfare. If such board shall, after due examination,

find the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, a permit shall be issued by the collector for its release and delivery to the importer; but if upon such final reexamination by such board the tea shall be found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of six months after such final reexamination; and if the same shall not have been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.

[SEC. 7. The examination provided for by sections 41-46 and 47-50 of this title shall be made by a duly qualified examiner at a port where standard samples are established, and where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and that for this purpose samples of the merchandise, obtained in the manner prescribed by section 44 of this title, shall be forwarded to the proper port by the collector or chief officer at the port of entry. In all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or the United States Board of Tea Appeals under the provisions of this chapter, the purity, quality, and fitness for consumption of the same shall be tested according to the usage and customs of the tea trade, including the testing of an infusion of the same in boiling water, and, if necessary, chemical analysis.

[SEC. 8. In cases of reexamination of teas, or merchandise described as teas, by the United States Board of Tea Appeals in pursuance of the provisions of sections 41-46 and 47-50 of this title, samples of the tea, or merchandise described as tea, in dispute, for transmission to such board for its decision, shall be put up and sealed by the examiner in the presence of the importer or consignee if he so desires, and transmitted to such board, together with a copy of the finding of the examiner, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same, such samples, and the papers therewith, to be distinguished by such mark that the same may be identified. The decision of such board shall be in writing, signed by them, and transmitted, together with the record and samples, within three days after the rendition thereof, to the collector, who shall forthwith furnish the examiner and the importer or consignee with a copy of said decision or finding. The United States Board of Tea Appeals shall be authorized to obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding \$5.

[SEC. 9. No imported teas which have been rejected by a customs examiner or by the United States Board of Tea Appeals, and exported under the provisions of sections 41-46 and 47-50 of this title, shall be reimported into the United States under the penalty of forfeiture for a violation of this prohibition.

**[SEC. 10. The Secretary of Health, Education, and Welfare shall have the power to enforce the provisions of sections 41-46 and 47-50 of this title by appropriate regulations.]**

**[SEC. 11. That teas actually on shipboard for shipment to the United States at the time of the passage of this Act shall not be subject to the prohibition hereof, but the provisions of the Act entitled "An Act to prevent the importation of adulterated and spurious teas," approved March second, eighteen hundred and eighty-three, shall be applicable thereto.]**

**[SEC. 12. That the Act entitled "An Act to prevent the importation of adulterated and spurious teas," approved March second, eighteen hundred and eighty-three, is hereby repealed, such repeal to take effect on the date on which this Act goes into effect.]**

**[SEC. 13. No tea or merchandise described as tea shall be examined for importation into the United States, or released by the Customs Service, under the Tea Importation Act unless the importer or consignee of such tea or merchandise has paid, before the examination, a fee in an amount equal to—**

**[(1) 10 cents for each hundred weight or fraction thereof of the tea or merchandise; or**

**[(2) the approximate cost of the examinations; whichever amount is less. Such fee shall be deposited into the Treasury of the United States as miscellaneous receipts.]**