



05-21-09

## **Bipartisan Senate group sponsors bill on ag exports to Cuba**

**By Agri-Pulse Staff**

© Copyright Agri-Pulse Communications, Inc.

Six Republican Senators joined 11 Democratic Senators as co-sponsors of legislation to relax U.S. trade restrictions on exports to Cuba. The “Promoting American Agricultural and Medical Exports to Cuba Act of 2009,” S. 1089 would help U.S. farmers and ranchers export ag products to Cuba by allowing timely and direct cash payments for agricultural goods. The bill also requires the Department of Agriculture (USDA) to promote U.S. agricultural exports to Cuba. Additionally, the bill lifts the current travel ban, allowing U.S. citizens and legal residents to travel to Cuba, and it eases restrictions on exports of medicines and medical devices.

The bill’s co-sponsors include:

- Eleven Democratic Senators: Max Baucus (MT), Jeff Bingaman (NM), Maria Cantwell (WA), Byron L. Dorgan (ND), Tom Harkin (IA), Tim Johnson (SD), Mary L. Landrieu (LA), Blanche L. Lincoln (AR), Claire McCaskill (MO), Patty Murray (WA), Mark L. Pryor (AR).
- Six Republican Senators: Christopher S. Bond (MO), Mike Crapo (ID), Michael B.Enzi (WY), Richard G. Lugar (IN), Pat Roberts (KS), Ron Wyden (OR).

The bill would provide:

- **Facilitation of Agricultural Exports.** The bill facilitates cash-in-advance agricultural sales to Cuba, which Congress authorized in 2000 through the Trade Sanctions Reform and Export Enhancement Act (TSREEA). From 2001 until early 2005, under TSREEA, Cuban buyers wired cash payments for U.S. agricultural goods after the goods shipped from a U.S. port, but before receiving title or physical control of the goods. In 2005, however, the Treasury Department issued a rule requiring payment before the goods shipped from a U.S. port, which undermined the intent of TSREEA. If Cuban buyers pay for goods in U.S. ports, the goods could be subject to seizure to satisfy unrelated private claims against the Cuban government. As a result, Cuba has not purchased any U.S. agricultural products on a cash basis since the 2005 rule. Section 2 of this Act restores Congressional intent by defining cash-in-advance as payment before the buyer receives title or physical control of the goods.

- **Authorization of Direct Transfers Between U.S. & Cuban Banks for Agricultural Exports.** In accordance with the Cuban Assets Control Regulations, Cuban buyers must route cash payment for U.S. agricultural goods through third-country banks, which make a commission off of each sale. Section 3 of this Act allows U.S. banks to receive payment directly from Cuban banks for TSREEA-authorized agricultural transactions.
- **Promotion of Agricultural Exports.** Section 4 of this Act requires the USDA to promote U.S. agricultural exports to Cuba and to offer technical assistance to U.S. entities interested in these transactions. Section 5 assesses an additional \$1 tax on all international air travel to and from Cuba for five years, which would be used to pay for USDA's agricultural export promotion activities.
- **Issuance of U.S. Visas Related to Agricultural Exports.** Cuban trade and veterinary officials have expressed interest in visiting a number of our states to inspect agricultural facilities and make purchases. These visits are important for smaller producers unable to travel to Cuba to market and sell their goods. But the State Department has rejected many of the visas that have been requested by Cuban officials. Section 6 of this Act expresses the Sense of the Senate that visas should be issued to Cuban trade officials and inspectors if they have a full itinerary of TSREEA-related activities.
- **Removal of Impediments to Medical Exports.** The 1992 Cuban Democracy Act authorized medicine sales to Cuba, but required U.S. sellers to conduct onsite verification of the Cuban buyer's receipt of the goods. This requirement made medical exports much more costly and difficult, particularly for small exporters. Section 7 of this Act eliminates the onsite verification requirement.
- **Removal of Travel Ban for U.S. Citizens & Legal Residents.** Current law permits travel to Cuba for Cuban-Americans visiting family in Cuba and for other U.S. citizens and legal residents who are licensed to travel by the Treasury Department. But licensing can take months in many cases, which disrupts the legitimate travel of religious, academic, cultural, humanitarian, and other groups to Cuba. Section 8 of this Act lifts all travel restrictions to Cuba by U.S. citizens and legal residents.
- **Adherence to International Intellectual Property Agreements.** Section 211 of the FY 1999 Omnibus Appropriations Act bars U.S. courts from hearing claims by foreign nationals asserting rights to trademarks associated with expropriated property. It also bars the U.S. Patent and Trademark Office from renewing such trademark registrations. In 2001, however, the World Trade Organization (WTO) found that Section 211 violates WTO rules because it applies only to foreign nationals, not to U.S. citizens. Section 211 also violates the Inter-American Convention on reciprocal trademark protections. Section 9 of this Act repeals Section 211 and brings the United States into compliance with its international intellectual property obligations.