

117TH CONGRESS
2D SESSION

H. R. 9102

To reinstate certain laws relating to minimum tonnage of agricultural commodities and products, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2022

Mr. GARAMENDI (for himself, Mr. GIBBS, and Mr. LOWENTHAL) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Transportation and Infrastructure, 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 reinstate certain laws relating to minimum tonnage of agricultural commodities and products, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rebuilding the United
5 States-Flag International Fleet Act”.

1 **SEC. 2. REINSTATEMENTS OF MINIMUM TONNAGE AND**
2 **TRANSPORTATION COSTS REIMBURSEMENT.**

3 (a) REPEAL UNDER MAP-21.—Section 100124 of
4 the Moving Ahead for Progress in the 21st Century Act
5 (Public Law 112-141) is repealed, and any provision of
6 law amended or repealed by such section is restored or
7 revived as if such section were not enacted into law.

8 (b) REPEAL UNDER BIPARTISAN BUDGET ACT OF
9 2013.—Section 602 of the Bipartisan Budget Act of 2013
10 (Public Law 113-67) is repealed, and any provision of law
11 amended or repealed by such section is restored or revived
12 as if such section were not enacted into law.

13 (c) REPORT ON ADMINISTRATION OF PROGRAMS.—

14 (1) IN GENERAL.—Chapter 553 of title 46,
15 United States Code, is amended by inserting before
16 section 55302 the following:

17 **“§ 55301. Report on administration of programs**

18 “(a) IN GENERAL.—The Administrator of the Mari-
19 time Administration shall annually submit to Congress a
20 report on the administration by other Federal depart-
21 ments and agencies of programs subject to section 2631
22 of title 10, United States Code, and that the Adminis-
23 trator determines subject to section 55305 of title 46,
24 United States Code.

25 “(b) CONTENTS.—The report under paragraph (1)
26 shall include—

1 “(1) gross tonnage by department or agency of
 2 cargo (equipment, materials, or agricultural prod-
 3 ucts) and by cargo type transported on United
 4 States flag vessels versus foreign vessels; and

5 “(2) the total number of United States flag ves-
 6 sels versus foreign vessels contracted by each depart-
 7 ment or agency.”.

8 (2) CLERICAL AMENDMENT.—The analysis for
 9 chapter 553 of title 46, United States Code, is
 10 amended by inserting before the item relating to sec-
 11 tion 55302 the following new item:

“55301. Report on administration of programs.”.

12 **SEC. 3. CARGOES PROCURED, FURNISHED, OR FINANCED**
 13 **BY THE UNITED STATES GOVERNMENT.**

14 (a) IN GENERAL.—Section 55305 of title 46, United
 15 States Code, is amended—

16 (1) by striking subsection (a);

17 (2) in subsection (b) by striking “50” and in-
 18 serting “75”;

19 (3) by redesignating subsection (b) as sub-
 20 section (a);

21 (4) by striking subsection (c) and inserting the
 22 following:

23 “(c) WAIVERS.—

24 “(1) IN GENERAL.—Notwithstanding any other
 25 provision of law, when the President, the Secretary

1 of Defense, or the Secretary of Transportation de-
2 clares the existence of an emergency justifying a
3 temporary waiver of this section or section 55314,
4 the President, the Secretary of Defense, or the Sec-
5 retary of Transportation, following a determination
6 by the Maritime Administrator, acting in the Admin-
7 istrator's capacity as Director, National Shipping
8 Authority, of the non-availability of qualified United
9 States flag capacity at fair and reasonable rates for
10 commercial vessels of the United States to meet the
11 requirements of this section or section 55314, may
12 waive compliance with such section to the extent, in
13 the manner, and on the terms the Maritime Admin-
14 istrator, acting in such capacity, prescribes, and no
15 other waivers of the requirements of this section or
16 section 55314 shall be authorized.

17 “(2) DURATION OF WAIVER.—

18 “(A) IN GENERAL.—Subject to subpara-
19 graphs (B) and (C), a waiver issued under this
20 subsection shall be for a period of not more
21 than 60 days.

22 “(B) WAIVER EXTENSION.—Upon termi-
23 nation of the period of a waiver issued under
24 this subsection, the Maritime Administrator
25 may extend the waiver for an additional period

1 of not more than 30 days, if the Maritime Ad-
2 ministrator makes the determinations described
3 in paragraph (1).

4 “(C) AGGREGATE DURATION.—The aggre-
5 gate duration of the period of all waivers and
6 extensions of waivers under this subsection with
7 respect to any one set of events shall not exceed
8 3 months in a fiscal year.

9 “(3) DETERMINATIONS.—The Maritime Admin-
10 istrator shall—

11 “(A) for each determination referred to in
12 paragraph (1), identify any actions that could
13 be taken to enable qualified United States flag
14 capacity to meet the requirements of this sec-
15 tion or section 55314 at fair and reasonable
16 rates for commercial vessels of the United
17 States;

18 “(B) provide notice of each determination
19 referred to in paragraph (1) to the Secretary of
20 Transportation and, as applicable, the Presi-
21 dent or the Secretary of Defense; and

22 “(C) publish each determination referred
23 to in paragraph (1)—

24 “(i) on the website of the Maritime
25 Administration not later than 24 hours

1 after notice of the determination is pro-
2 vided to the Secretary of Transportation;
3 and

4 “(ii) in the Federal Register.

5 “(4) NOTICE TO CONGRESS.—The Maritime
6 Administrator shall notify—

7 “(A) the Committee on Commerce,
8 Science, and Transportation of the Senate and
9 the Committee on Transportation and Infra-
10 structure of the House of Representatives of—

11 “(i) any request for a waiver (or an
12 extension thereof) made by the Secretary
13 of Transportation of this section or section
14 55314(a) not later than 72 hours after re-
15 ceiving such a request; and

16 “(ii) the issuance of any such waiver
17 (or an extension thereof), and why such
18 waiver or extension was necessary, not
19 later than 72 hours after such issuance;
20 and

21 “(B) the Committee on Commerce,
22 Science, and Transportation and the Committee
23 on Armed Services of the Senate and the Com-
24 mittee on Transportation and Infrastructure

1 and the Committee on Armed Services of the
2 House of Representatives of—

3 “(i) any request for a waiver (or an
4 extension thereof) made by the Secretary
5 of Defense of this section or section
6 55314(a) not later than 72 hours after re-
7 ceiving such a request; and

8 “(ii) the issuance of any such waiver
9 (or an extension thereof), and why such
10 waiver or extension was necessary, not
11 later than 72 hours after such issuance.”;

12 (5) by redesignating subsections (c) through (e)
13 as subsections (d) through (f), respectively;

14 (6) by inserting after subsection (a) the fol-
15 lowing:

16 “(b) ELIGIBLE VESSELS.—To be eligible to carry
17 cargo under this section, a privately-owned commercial
18 vessel—

19 “(1) shall be documented under the laws of the
20 United States for at least 3 years; or

21 “(2) may be documented under the laws of the
22 United States for less than 3 years if—

23 “(A) the vessel owner signs an agreement
24 with the Secretary providing that—

1 “(i) the vessel shall remain docu-
2 mented under the laws of the United
3 States for at least 3 years; and

4 “(ii) the vessel owner shall, upon re-
5 quest of the Secretary, agree to enroll the
6 vessel in an Emergency Preparedness Pro-
7 gram under chapter 531 or voluntary
8 agreement authorize under section 708 of
9 the Defense Production Act of 1950 (50
10 U.S.C. 4558) and shall remain so enrolled
11 until the vessel ceases to be documented
12 under the laws of the United States;

13 “(B) the vessel—

14 “(i) is a tank vessel that is 10 years
15 of age or less on the date the vessel is doc-
16 umented under the laws of the United
17 States; or

18 “(ii) is any other type of vessel that is
19 15 years of age or less on the date the ves-
20 sel is documented under the laws of the
21 United States; and

22 “(C) the vessel was not originally built in
23 a country which is a proscribed country listed
24 pursuant to part 126 of title 22, Code of Fed-
25 eral Regulations, or successor regulations (com-

1 monly known as the ‘International Traffic in
2 Arms Regulations’).

3 “(c) VIOLATION OF AGREEMENT.—

4 “(1) IN GENERAL.—A vessel under an agree-
5 ment described in subsection (b)(2) may be seized by
6 and forfeited to the United States if, in violation of
7 such agreement—

8 “(A) the vessel owner places the vessel
9 under foreign registry; or

10 “(B) a person operates the vessel under
11 the authority of a foreign country.

12 “(2) INAPPLICABILITY OF OTHER LAW.—Sec-
13 tion 12112 of title 46, United States Code, shall not
14 apply to the seizure and forfeiture of a vessel pursu-
15 ant to paragraph (1).”; and

16 (7) by adding at the end the following:

17 “(g) AUDIT AND REPORT.—In carrying out this sec-
18 tion, the Secretary shall annually—

19 “(1) audit the list of vessels that are operating
20 under an agreement described in subsection (b)(2);
21 and

22 “(2) submit to Congress a report describing—

23 “(A) each of the vessels operating under
24 paragraph (2) of section 55305(b) and each

1 agreement signed by the Secretary pursuant to
2 such paragraph;

3 “(B) the results of any audit described in
4 paragraph (1); and

5 “(C) any other pertinent information that
6 the Secretary determines to be of interest to
7 Congress.”.

8 (b) TECHNICAL AMENDMENT.—

9 (1) CHAPTER ANALYSIS.—The analysis for
10 chapter 553 of title 46, United States Code, is
11 amended by striking the item relating to subchapter
12 I and inserting the following:

“SUBCHAPTER I—GOVERNMENT IMPELLED TRANSPORTATION”.

13 (2) CARGOES PROCURED, FURNISHED, OR FI-
14 NANCED BY THE UNITED STATES GOVERNMENT.—
15 Section 55305(d)(2)(D) of title 46, United States
16 Code, is amended by striking “section 25(c)(1) of
17 the Office of Federal Procurement Policy Act (41
18 U.S.C. 1303(a)(1))” and inserting “section
19 1303(a)(1) of title 41, United States Code,”.

20 **SEC. 4. TRANSPORTATION REQUIREMENTS FOR CERTAIN**
21 **EXPORTS SPONSORED BY THE SECRETARY**
22 **OF AGRICULTURE.**

23 Section 55314 of title 46, United States Code, is
24 amended—

25 (1) in subsection (b)—

1 (A) in paragraph (1) by inserting “titles I,
2 II, or III of” after “carried out under”;

3 (B) in paragraph (4) by striking “agricul-
4 tural commodities or their products” and in-
5 serting “agricultural products”;

6 (C) in paragraph (5) by striking “agricul-
7 tural commodities or their products” and in-
8 serting “agricultural products”;

9 (D) in paragraph (6) by striking “agricul-
10 tural commodities or their products” and in-
11 serting “agricultural products”;

12 (E) in paragraph (7) by striking “agricul-
13 tural commodities” and inserting “agricultural
14 products”;

15 (F) by redesignating paragraphs (4), (5),
16 (6), and (7) as paragraphs (6), (7), (8), and
17 (9), respectively; and

18 (G) by inserting after paragraph (3) the
19 following:

20 “(4) carried out under the Food for Progress
21 Act of 1985 (7 U.S.C. 1736o);

22 “(5) carried out under the McGovern-Dole
23 International Food for Education and Child Nutri-
24 tion Program under section 3107 of the Farm Secu-

1 rity and Rural Investment Act of 2002 (7 U.S.C.
2 1736o–1);” and

3 (2) by adding at the end the following:

4 “(d) SUBMISSION TO CONGRESS.—At least once each
5 fiscal year, the Secretary of Agriculture or the Adminis-
6 trator of the United States Agency for International De-
7 velopment, as applicable, shall submit to the appropriate
8 congressional committees, in writing, a notice of any waiv-
9 er of the requirements of this section and the reasons for
10 granting such waiver.

11 “(e) AGRICULTURAL PRODUCT DEFINED.—In this
12 section, the term ‘agricultural product’ means any food
13 product, including an agricultural commodity (as such
14 term is defined in section 402 of the Food for Peace Act
15 (7 U.S.C. 1732(2))), specialty crop (as such term is de-
16 fined in section 3(1) of the Specialty Crops Competitive-
17 ness Act of 2004 (7 U.S.C. 1621 note)), or processed food
18 product, exported from the United States.”.

19 **SEC. 5. REPORT ON IMPLEMENTATION.**

20 Not later than 180 days after the date of enactment
21 of this Act, the Secretary of Defense shall submit to Con-
22 gress a report on the implementation by the Department
23 of Defense of the amendments to section 2631 of title 10,
24 United States Code, made by section 1024 of the William

1 M. (Mac) Thornberry National Defense Authorization Act
2 for Fiscal Year 2021 (Public Law 116–283).

3 **SEC. 6. REGULATIONS AND GUIDANCE.**

4 Not later than 180 days after the date of enactment
5 of this Act, the Administrator of the Maritime Administra-
6 tion shall—

7 (1) promulgate regulations under subchapter
8 III of chapter 5 of title 5, United States Code, to
9 fully implement and ensure compliance with section
10 2631 of title 10, United States Code, and section
11 55305 of title 46, United States Code; and

12 (2) issue interagency guidance to other Federal
13 departments and agencies on how to administer the
14 programs in accordance with such Acts and the
15 amendments made by the this Act, which shall in-
16 clude publication in the Federal Register and on the
17 website of the Maritime Administration.

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