

H.R. 4996 – Ocean Shipping Reform Act of 2021

Section-by-Section

Section 1. Short Title

This Act may be cited as the “Ocean Shipping Reform Act of 2021.”

Section 2. Purposes

This section amends section 40101 of title 46, United States Code, also known as the Shipping Act, to clarify the purposes of the Shipping Act.

Section 3. Service Contracts

This section amends section 40502 of title 46, United States Code, to authorize the Federal Maritime Commission (FMC) to stipulate additional minimum requirements for service contracts by ocean common carriers.

Section 4. Shipping Exchange Registry

This section establishes a new shipping exchange registry and licensing requirement for registered exchanges to operate.

Section 5. Data Collection

This section requires ocean common carriers to report to the FMC total import/export tonnage and twenty-foot equivalent units (loaded/empty) per vessel that make port in the United States each quarter.

Section 6. National Shipper Advisory Committee

This section clarifies that shippers using customs brokers and freight forwarders may be appointed to the National Shipper Advisory Committee.

Section 7. Annual Report and Public Disclosures

This section requires the FMC to add information on anti-competitive business practices, nonreciprocal trade practices, or other factors exacerbating the United States’ trade imbalance with foreign exporting countries to its annual report to Congress. The section also directs the FMC to examine foreign state control or undue influence over ocean carriers’ business practices. The section further requires the FMC to publicly disclose all findings of false certifications for demurrage and detention charges and any resulting penalties imposed.

Section 8. General Prohibitions

This section amends section 41102 of title 46, United States Code, to prohibit retaliation by a regulated entity against a shipper for filing a complaint, patronizing another carrier, or for any other reason. The section also requires ocean common carriers and marine terminal operators to certify that any demurrage or detention charge complies with FMC regulations.

Section 9. Prohibition on Unreasonably Declining Cargo

This section amends section 41104 of title 46, United States Code, to prohibit ocean common carriers from unreasonably declining export cargo bookings if the cargo can be loaded in a safe and timely manner, unreasonably reducing shipper accessibility to equipment, or failing to furnish containers or other equipment needed to perform transportation services.

Section 10. Detention and Demurrage

This section absolves a charged party from paying any demurrage or detention charge if the certification required in Section 8 is not attached to the invoice. This section also requires ocean carriers and marine terminal operators to maintain all records regarding invoiced demurrage or detention charges for at least five years and provide such records to the FMC or invoiced party on request.

Section 11. Assessment of Penalties

This section amends Section 41109 of title 46, United States Code, to allow the FMC to order reimbursements of charges in addition to civil penalties. This section also provides for increased penalties for retaliation against a shipper.

Section 12. Investigations

This section amends section 41302 of title 46, United States Code, to authorize the FMC to self-initiate investigations of a fee or charge it believes may be in violation of the Shipping Act.

Section 13. Injunctive Relief

This section amends Section 41307(b) of title 46, United States Code, to permit third-party intervenors in court proceedings initiated by the FMC seeking injunctive relief against agreements that reduce competition in the ocean shipping industry.

Section 14. Technical Amendments

This section makes technical edits to title 46.

Section 15. Authorization of Appropriations

This section amends Section 46108 of title 46, United States Code, to authorize appropriations of \$32.6 million for fiscal year 2022 and \$35.8 million for fiscal year 2023 for the Federal Maritime Commission.

Section 16. NAS Study on Supply Chain Industry

This section directs the Secretary of Transportation to contract with the National Academy of Sciences to conduct a study identifying data constraints and their impact on the flow of cargo. The study shall offer recommendations for implementing a supply chain system that better streamlines information sharing domestically. The study shall also identify bottlenecks, how data is stored and disseminated at U.S. ports, and analyze overall access to commercial data.

Section 17. Temporary Emergency Authority

This section directs the FMC, upon a unanimous determination, to issue a 60-day emergency order requiring information sharing amongst specified supply chain agents and allows for petitions for exception upon a showing of undue hardship.