

117TH CONGRESS
1ST SESSION

S. 3252

To address the supply chain backlog in the freight network at United States ports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2021

Mr. LEE (for himself and Ms. LUMMIS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To address the supply chain backlog in the freight network at United States ports, 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 “Surpassing Temporary
5 Obstructions at Ports and Guaranteeing Resources to In-
6 crease the Nation’s Commercial Health Act” or the
7 “STOP the GRINCH Act”.

8 **SEC. 2. SENSE OF CONGRESS.**

9 It is the sense of Congress that the unprecedented
10 supply chain backlog in the freight network of the United

1 States as of November 2021 is a national crisis that war-
2 rants Congressional authorization of short-term Federal
3 emergency actions to ameliorate that crisis.

4 **SEC. 3. ADDRESSING THE SUPPLY CHAIN CRISIS IN THE**
5 **UNITED STATES.**

6 (a) DEFINITIONS.—In this section:

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Federal
9 Motor Carrier Safety Administration.

10 (2) COMMERCIAL MOTOR VEHICLE; DRIVER;
11 MOTOR CARRIER.—The terms “commercial motor ve-
12 hicle”, “driver”, and “motor carrier” have the mean-
13 ings given those terms in section 390.5 of title 49,
14 Code of Federal Regulations (or successor regula-
15 tions).

16 (3) DIRECT ASSISTANCE TO A UNITED STATES
17 PORT.—

18 (A) IN GENERAL.—The term “direct as-
19 sistance to a United States port” means the
20 transportation of cargo directly to or from a
21 United States port.

22 (B) EXCLUSION.—The term “direct assist-
23 ance to a United States port” does not in-
24 clude—

1 (i) the transportation of a mixed load
2 of cargo that includes—

3 (I) cargo that does not originate
4 from a United States port; or

5 (II) a container or cargo that is
6 not bound for a United States port;

7 (ii) any period during which the appli-
8 cable motor carrier or driver is operating
9 in interstate commerce to transport cargo
10 or provide services not in support of trans-
11 portation to or from a United States port;
12 or

13 (iii) the period after the applicable
14 motor carrier dispatches the applicable
15 driver or commercial motor vehicle of the
16 motor carrier to another location to begin
17 operation in interstate commerce in a man-
18 ner that is not in support of transportation
19 to or from a United States port.

20 (4) QUALIFIED APPLICANT.—The term “quali-
21 fied applicant” means a person that—

22 (A) submits to the appropriate official an
23 application for a waiver under this section; and

1 (B) in the determination of that official, is
 2 eligible, in accordance with this section, to re-
 3 ceive the waiver.

4 (5) TEMPORARY WAIVER.—The term “tem-
 5 porary waiver” means a waiver that expires on the
 6 date that is 1 year after the date of enactment of
 7 this Act.

8 (b) FMCSA TEMPORARY WAIVERS.—

9 (1) TEMPORARY WAIVER OF CERTAIN REQUIRE-
 10 MENTS.—

11 (A) IN GENERAL.—Not later than 7 days
 12 after the date of enactment of this Act, the Ad-
 13 ministrator shall issue to each qualified appli-
 14 cant a temporary waiver that, subject to para-
 15 graph (3), waives the requirements of parts 390
 16 through 399 of title 49, Code of Federal Regu-
 17 lations (or successor regulations), with respect
 18 to commercial motor vehicle operations that are
 19 providing direct assistance to a United States
 20 port.

21 (B) ELIGIBILITY.—An applicant is eligible
 22 for a temporary waiver under subparagraph (A)
 23 if the applicant is a motor carrier or driver that
 24 provides direct assistance to a United States
 25 port.

(2) TEMPORARY WAIVER OF MINIMUM AGE REQUIREMENT.—

(A) IN GENERAL.—Not later than 2 days after the date of enactment of this Act, the Administrator shall issue to each qualified applicant a temporary waiver from the requirement of section 391.11(b)(1) of title 49, Code of Federal Regulations (or successor regulations), for drivers that are at least 18 years old, subject to paragraph (3).

(B) ELIGIBILITY.—An applicant is eligible for a temporary waiver under subparagraph (A) if the applicant—

(i) is providing direct assistance to a United States port; or

(ii) is directly assuming the commercial motor vehicle operations of a driver who has been re-routed to a United States port to provide direct assistance to a United States port.

(3) REQUIREMENTS.—A temporary waiver under paragraph (1) or (2) shall not exempt a motor carrier or driver from—

(A) the hazardous materials regulations described in subchapters A through C of chap-

1 ter I of subtitle B of title 49, Code of Federal
2 Regulations (or successor regulations);

3 (B) the controlled substances and alcohol
4 use and testing requirements described in part
5 382 of that title (or successor regulations);

6 (C) except as provided in paragraph (2),
7 the commercial driver's license requirements de-
8 scribed in part 383 of that title (or successor
9 regulations);

10 (D) the financial responsibility (including
11 insurance) requirements described in part 387
12 of that title (or successor regulations);

13 (E) the requirement that every commercial
14 motor vehicle shall be operated in accordance
15 with the laws, ordinances, and regulations of
16 the jurisdiction in which the commercial motor
17 vehicle is being operated, which shall include
18 any applicable speed limits and other traffic re-
19 strictions, as described in the first sentence of
20 section 392.2 of that title (or successor regula-
21 tions);

22 (F) the prohibition against operating a
23 commercial motor vehicle while the ability of
24 the driver is so impaired, or so likely to become
25 impaired, through fatigue, illness, or any other

1 cause, as to make it unsafe for the driver to
 2 begin or continue to operate the commercial
 3 motor vehicle, as described in section 392.3 of
 4 that title (or successor regulations);

5 (G) the prohibition against texting while
 6 driving described in section 392.80 of that title
 7 (or successor regulations);

8 (H) the prohibition against using a hand-
 9 held mobile telephone while driving described in
 10 section 392.82 of that title (or successor regula-
 11 tions); or

12 (I) any applicable size and weight require-
 13 ments.

14 (4) DRIVER FATIGUE AND SAFETY.—

15 (A) IN GENERAL.—A motor carrier receiv-
 16 ing a temporary waiver under paragraph (1) or
 17 (2) shall not allow or require a fatigued driver
 18 to operate a commercial motor vehicle.

19 (B) REQUIREMENT.—For the period dur-
 20 ing which a temporary waiver under paragraph
 21 (1) or (2) is effective, a motor carrier described
 22 in subparagraph (A) that receives from a driver
 23 notification that the driver is in need of imme-
 24 diate rest shall immediately provide the driver
 25 with not less than 10 consecutive hours of off-

1 duty time before the driver is required to return
 2 to service.

3 (c) TRANSPORTATION WORKER IDENTIFICATION
 4 CREDENTIALS.—The Administrator of the Transportation
 5 Security Administration and the Commandant of the
 6 Coast Guard shall jointly prioritize and expedite the con-
 7 sideration of applications for a Transportation Worker
 8 Identification Credential with respect to applicants, in-
 9 cluding commercial drivers who are operating under a
 10 temporary waiver issued under subsection (b)(2), who rea-
 11 sonably demonstrate that the purpose of the Transpor-
 12 tation Worker Identification Credential is for providing,
 13 within the interior of the United States, direct assistance
 14 to a United States port.

15 (d) TEMPORARY WAIVER OF JONES ACT REQUIRE-
 16 MENTS FOR CERTAIN VESSELS TRANSPORTING CARGO.—

17 (1) AUTHORITY.—

18 (A) CERTIFICATE OF COASTWISE EN-
 19 DORSEMENT.—Notwithstanding the require-
 20 ments under section 12112 of title 46, United
 21 States Code, and any other requirement under
 22 chapter 121 of such title, the Secretary of the
 23 department in which the Coast Guard is oper-
 24 ating (referred to in this subsection as the
 25 “Secretary”) may issue a certificate of docu-

1 mentation with a coastwise endorsement under
2 such chapter 121 in accordance with this sub-
3 section for a vessel, without regard to whether
4 the vessel meets the requirements of such sec-
5 tion 12112, in a case that the person requesting
6 such certificate reasonably demonstrates the en-
7 dorsement (or the resulting exemption under
8 subparagraph (B)) is for the purpose of—

9 (i) transporting cargo from a United
10 States port to another United States port
11 in order to relieve any congestion, backlog,
12 or delay at such a port; or

13 (ii) engaging in lightering operations,
14 which entail a ship-to-ship transfer of
15 cargo from a vessel anchored or located off
16 the coast of the United States to another
17 vessel that transports such cargo to a
18 United States port.

19 (B) EXEMPTION OF ADDITIONAL REQUIRE-
20 MENTS.—Until the expiration under paragraph
21 (3) of the authority under this subsection, not-
22 withstanding section 55102 of title 46, United
23 States Code, such section 55102 shall not apply
24 to any vessel that has been issued a certificate

1 of documentation with a coastwise endorsement
2 under subparagraph (A).

3 (2) TIMING.—

4 (A) IN GENERAL.—Not later than 48
5 hours after receiving a request for a certificate
6 of documentation with a coastwise endorsement
7 under paragraph (1)(A), the Secretary shall—

8 (i) issue the certificate with such en-
9 dorsement; or

10 (ii)(I) submit detailed reasons for de-
11 nying the certificate to the person request-
12 ing the certificate; and

13 (II) post such denial and reasons to
14 the public on the website of the Depart-
15 ment in which the Coast Guard is oper-
16 ating.

17 (B) AUTOMATIC ISSUANCE.—In the case
18 that the Secretary does not comply with sub-
19 paragraph (A), a certificate of documentation
20 with a coastwise endorsement for such vessel
21 shall be deemed issued under paragraph (1)(A).

22 (3) EXPIRATION.—The authority under this
23 subsection, including any coastwise endorsement au-
24 thorized under this section, shall expire on the date

1 that is 1 year after the date of enactment of this
2 Act.

3 (e) CONTAINER OVERFLOW STORAGE.—

4 (1) IN GENERAL.—Not later than 14 days after
5 the date of enactment of this Act, the Secretary of
6 Agriculture, the Secretary of the Interior, and the
7 Secretary of Transportation shall jointly consult
8 with representatives of ocean carriers, ports, rail-
9 roads, and truckers—

10 (A) to identify plots of Federal land under
11 the jurisdiction of the Secretary of Agriculture,
12 the Secretary of the Interior, or the Secretary
13 of Transportation that—

14 (i) are located within a 150 air-mile
15 radius of a United States port; and

16 (ii) could temporarily be used as an
17 overflow area for the storage and transfer
18 of empty cargo containers in order to ease
19 the congestion and backlog at United
20 States ports; and

21 (B) to designate not fewer than 2 plots of
22 Federal land identified under subparagraph (A)
23 for the use described in clause (ii) of that sub-
24 paragraph, subject to the conditions that—

1 (i) each specific plot so designated
2 shall be not more than 500 acres;

3 (ii) the stacking of containers shall be
4 permitted at each specific plot so des-
5 ignated for a period of not more than 6
6 months beginning on the date on which the
7 designation of the plot is published in the
8 Federal Register under paragraph (2); and

9 (iii) containers shall not be stacked
10 more than 6 high at any plot so des-
11 ignated.

12 (2) PUBLICATION IN THE FEDERAL REG-
13 ISTER.—The designation of a plot of Federal land
14 under paragraph (1)(B) shall be published in the
15 Federal Register.

16 (3) CATEGORICAL EXCLUSION.—The designa-
17 tion of a plot of Federal land under paragraph
18 (1)(B) shall be categorically excluded from the re-
19 quirements of the National Environmental Policy
20 Act of 1969 (42 U.S.C. 4321 et seq.), subject to the
21 condition that, prior to the designation of the plot
22 of Federal land under that paragraph, the applicable
23 Secretary described in paragraph (1)(A) having ju-
24 risdiction over the plot carefully considers the cir-
25 cumstances of the designation and determines that

1 there are no extraordinary circumstances that war-
 2 rant the preparation of an environmental assessment
 3 or an environmental impact statement.

4 (f) LOAN OF DOD INTERMODAL EQUIPMENT.—

5 (1) DEFINITIONS.—In this subsection:

6 (A) INTERMODAL EQUIPMENT.—The term
 7 “intermodal equipment” has the meaning given
 8 the term in section 390.5 of title 49, Code of
 9 Federal Regulations (or successor regulations).

10 (B) SECRETARY.—The term “Secretary”
 11 means the Secretary of Defense.

12 (2) INVENTORY OF INTERMODAL EQUIP-
 13 MENT.—Not later than 14 days after the date of en-
 14 actment of this Act, the Secretary shall conduct an
 15 inventory of intermodal equipment that—

16 (A) is owned by the Department of De-
 17 fense;

18 (B) is located within the United States;
 19 and

20 (C) could be made available for loan to
 21 truck companies for the purposes of easing con-
 22 gestion at United States ports.

23 (3) LOAN OF INTERMODAL EQUIPMENT.—

24 (A) PROCESS.—Not later than 7 days after
 25 the date on which the inventory under para-

graph (2) is complete, the Secretary shall create a process for a truck company to submit an application requesting the use of intermodal equipment identified in that inventory.

(B) CONDITIONS.—The loan of intermodal equipment under this subsection shall be subject to the conditions that—

(i) the truck company agrees to reimburse the Secretary for any damage caused to the intermodal equipment while the intermodal equipment is loaned to the truck company;

(ii) the use of the intermodal equipment by the truck company is for a period not longer than 6 months; and

(iii) the use of the intermodal equipment by the truck company will not affect the national security of the United States.

(C) FEES.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Secretary may charge a reasonable fee for the loan of intermodal equipment under this subsection.

1 (ii) CONSULTATION.—The Secretary
2 may charge a fee under clause (i) if the
3 Secretary—

4 (I) consults with the Secretary of
5 Agriculture, the Secretary of the Inte-
6 rior, and the Secretary of Transpor-
7 tation; and

8 (II) determines that charging a
9 fee would be appropriate.

10 (iii) AMOUNT.—The amount of a fee
11 under clause (i) shall be based on the mar-
12 ket rate for similar loans or rentals of
13 intermodal equipment or similar equipment
14 as of January 1, 2020.

15 (iv) DEPOSIT AND USE.—Any fee col-
16 lected by the Secretary under clause (i)
17 shall be deposited in the general fund of
18 the Treasury and made available to the
19 Secretary of Agriculture, the Secretary of
20 the Interior, and the Secretary of Trans-
21 portation for remediation of any Federal
22 land designated under subsection (e).

23 (v) RESTRICTIONS.—A fee collected
24 under clause (i) may not be used—

1 (I) until the designation of the
2 applicable plot of Federal land under
3 subsection (e) has expired; or

4 (II) for any purpose other than
5 the remediation of land designated
6 under subsection (e).

7 (4) RECALL OF INTERMODAL EQUIPMENT.—To
8 protect the national security of the United States,
9 the Secretary may recall any intermodal equipment
10 on loan to a truck company under this subsection by
11 issuing a notice to the truck company 72 hours be-
12 fore the time at which the intermodal equipment is
13 required to be returned to the Secretary.

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