

117TH CONGRESS
2D SESSION

S. 3586

To amend title 46 of the United States Code with respect to anti-competitive acts by ocean common carriers or marine terminal operators, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2022

Ms. KLOBUCHAR (for herself and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 46 of the United States Code with respect to anti-competitive acts by ocean common carriers or marine terminal operators, 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 “Ocean Shipping Com-
5 petition Reform Act of 2022”.

6 **SEC. 2. PURPOSES.**

7 Section 40101 of title 46, United States Code, is
8 amended by striking paragraphs (2) through (4) and in-
9 serting the following:

1 “(2) ensure an efficient and competitive trans-
 2 portation system for the common carriage of goods
 3 by water in the foreign commerce of the United
 4 States that is, as far as possible, in harmony with
 5 fair and equitable international shipping practices;
 6 and

7 “(3) support the growth and development of
 8 United States exports through a competitive and ef-
 9 ficient system for the common carriage of goods by
 10 water in the foreign commerce of the United States
 11 and by placing a greater reliance on the market-
 12 place.”.

13 **SEC. 3. REMEDIES.**

14 (a) INJUNCTIVE RELIEF.—Section 41307 of title 46,
 15 United States Code, is amended—

16 (1) in the section heading, by inserting “**or**
 17 **the Antitrust Division of the Department**
 18 **of Justice**” after “**the Commission**”; and

19 (2) in subsection (b)—

20 (A) in paragraph (1)—

21 (i) in the paragraph heading, by in-
 22 serting “OR THE ANTITRUST DIVISION”
 23 after “COMMISSION”;

24 (ii) by striking “title, the Commis-
 25 sion” and inserting “title, the Commission

1 or the Antitrust Division of the Depart-
2 ment of Justice”;

3 (iii) by striking “services, the Com-
4 mission” and inserting “services, the Com-
5 mission or Antitrust Division”; and

6 (iv) by striking “The Commission’s
7 sole remedy” and inserting “The sole rem-
8 edy of the Commission or Antitrust Divi-
9 sion”;

10 (B) in paragraph (2)—

11 (i) in subparagraph (A), by striking
12 “and” after the semicolon;

13 (ii) in subparagraph (B), by striking
14 the period and inserting a semicolon; and

15 (iii) by adding at the end the fol-
16 lowing:

17 “(C) punitive damages in an amount equal
18 to 3 times the damages sustained, and the cost
19 of bringing the suit, including a reasonable at-
20 torney’s fee; and

21 “(D) upon a motion by the Commission or
22 the Antitrust Division (as the case may be), or
23 an intervening party, that is promptly made,
24 simple interest on actual damages for the pe-
25 riod beginning on the date of service of the

pleading by the Commission or the Antitrust Division (as the case may be) that sets forth a claim under this subsection and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances.”;

(C) in paragraph (3)—

(i) in the paragraph heading, by striking “AND THIRD PARTIES”;

(ii) in the first sentence, by striking “the Commission” and inserting “the Commission or Antitrust Division of the Department of Justice”; and

(iii) by striking the second sentence;

(D) in paragraph (4), by striking “the Commission” and inserting “the Commission or Antitrust Division of the Department of Justice”; and

(E) by adding at the end the following:

“(5) THIRD PARTY INTERVENTION.—The court may allow a third party to intervene in a civil action brought under this subsection.”.

1 (b) RELIEF UNDER CLAYTON ACT.—Section
2 40307(d) of title 46, United States Code, is amended by
3 striking “not”.

4 (c) AMENDMENTS TO TABLE OF SECTIONS.—The
5 table of sections for chapter 413 of title 46, United States
6 Code, is amended by striking the item relating to section
7 41307 and inserting the following:

“41307. Injunctive relief sought by the Commission or the Antitrust Division
of the Department of Justice.”.

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