

117TH CONGRESS
2D SESSION

S. 3807

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

MARCH 10 (legislative day, MARCH 7), 2022

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 “Stopping Hindrances
5 to Invigorate Ports and Increase Trade Act” or the
6 “SHIP IT Act”.

7 **SEC. 2. SENSE OF CONGRESS.**

8 It is the sense of Congress that the unprecedented
9 supply chain backlog in the freight network of the United
10 States is a national crisis that warrants congressional au-

1 thorization of short-term Federal emergency actions to
 2 ameliorate that crisis.

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

5 (a) DEFINITIONS.—In this section:

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

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

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

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

21 (B) EXCLUSIONS.—The term “direct as-
 22 sistance to a United States port” does not in-
 23 clude—

24 (i) the transportation of a mixed load
 25 of cargo that includes—

1 (I) cargo that does not originate
2 from a United States port; or

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

5 (ii) any period during which a motor
6 carrier or driver is operating in interstate
7 commerce to transport cargo or provide
8 services not in support of transportation to
9 or from a United States port; or

10 (iii) the period after a motor carrier
11 dispatches the applicable driver or com-
12 mercial motor vehicle of the motor carrier
13 to another location to begin operation in
14 interstate commerce in a manner that is
15 not in support of transportation to or from
16 a United States port.

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

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

21 (B) in the determination of that official, is
22 eligible, in accordance with this section, to re-
23 ceive the waiver.

24 (5) TEMPORARY WAIVER.—The term “tem-
25 porary waiver” means a waiver that expires on the

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

3 (b) FMCSA TEMPORARY WAIVERS.—

4 (1) TEMPORARY WAIVER OF CERTAIN REQUIRE-
5 MENTS.—

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

16 (B) ELIGIBILITY.—An applicant is eligible
17 for a temporary waiver under subparagraph (A)
18 if the applicant is a motor carrier or driver that
19 provides direct assistance to a United States
20 port.

21 (2) TEMPORARY WAIVER OF MINIMUM AGE RE-
22 QUIREMENT.—

23 (A) IN GENERAL.—Not later than 2 days
24 after the date of enactment of this Act, the Ad-
25 ministrator shall issue to each qualified appli-

1 cant a temporary waiver from the requirement
2 of section 391.11(b)(1) of title 49, Code of Fed-
3 eral Regulations (or a successor regulation), for
4 drivers that are at least 18 years old, subject to
5 paragraph (3).

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

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

11 (ii) is directly assuming the commer-
12 cial motor vehicle operations of a driver
13 who has been rerouted to a United States
14 port to provide direct assistance to a
15 United States port.

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

19 (A) the hazardous materials regulations
20 described in subchapters A through C of chap-
21 ter I of subtitle B of title 49, Code of Federal
22 Regulations (or successor regulations);

23 (B) the controlled substances and alcohol
24 use and testing requirements described in part
25 382 of that title (or successor regulations);

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

5 (D) the financial responsibility (including
6 insurance) requirements described in part 387
7 of that title (or successor regulations);

8 (E) the requirement that every commercial
9 motor vehicle shall be operated in accordance
10 with the laws, ordinances, and regulations of
11 the jurisdiction in which the commercial motor
12 vehicle is being operated, including any applica-
13 ble speed limits and other traffic restrictions, as
14 described in the first sentence of section 392.2
15 of that title (or a successor regulation);

16 (F) the prohibition against operating a
17 commercial motor vehicle while the ability of
18 the driver is so impaired, or so likely to become
19 impaired, through fatigue, illness, or any other
20 cause as to make it unsafe for the driver to
21 begin or continue to operate the commercial
22 motor vehicle, as described in section 392.3 of
23 that title (or a successor regulation);

1 (G) the prohibition against texting while
2 driving described in section 392.80 of that title
3 (or a successor regulation);

4 (H) the prohibition against using a hand-
5 held mobile telephone while driving described in
6 section 392.82 of that title (or a successor reg-
7 ulation); or

8 (I) any applicable size or weight require-
9 ment.

10 (4) DRIVER FATIGUE AND SAFETY.—

11 (A) IN GENERAL.—A motor carrier receiv-
12 ing a temporary waiver under paragraph (1) or
13 (2) shall not allow or require a fatigued driver
14 to operate a commercial motor vehicle.

15 (B) REQUIREMENT.—For the period dur-
16 ing which a temporary waiver under paragraph
17 (1) or (2) is in effect, a motor carrier described
18 in subparagraph (A) that receives from a driver
19 notification that the driver is in need of imme-
20 diate rest shall immediately provide the driver
21 with not less than 10 consecutive hours of off-
22 duty time before the driver is required to return
23 to service.

24 (c) TRANSPORTATION WORKER IDENTIFICATION
25 CREDENTIALS.—The Administrator of the Transportation

1 Security Administration and the Commandant of the
 2 Coast Guard shall jointly prioritize and expedite the con-
 3 sideration of applications for a Transportation Worker
 4 Identification Credential with respect to applicants, in-
 5 cluding commercial drivers operating under a temporary
 6 waiver issued under subsection (b)(2), that reasonably
 7 demonstrate that the purpose of the Transportation Work-
 8 er Identification Credential is for providing, within the in-
 9 terior of the United States, direct assistance to a United
 10 States port.

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

13 (1) AUTHORITY.—

14 (A) CERTIFICATE OF COASTWISE EN-
 15 DORSEMENT.—Notwithstanding section 12112
 16 of title 46, United States Code, and any other
 17 requirement under chapter 121 of that title, the
 18 Secretary of the department in which the Coast
 19 Guard is operating (referred to in this sub-
 20 section as the “Secretary”) may issue a certifi-
 21 cate of documentation with a coastwise endorse-
 22 ment under that chapter in accordance with
 23 this subsection for a vessel, without regard to
 24 whether the vessel meets the requirements of
 25 section 12112 of that title, in any case in which

1 the person requesting the certificate reasonably
2 demonstrates the endorsement (or the resulting
3 exemption under subparagraph (B)) is for the
4 purpose of—

5 (i) transporting cargo from a United
6 States port to another United States port
7 in order to relieve any congestion, backlog,
8 or delay at such a port; or

9 (ii) engaging in operations that entail
10 a ship-to-ship transfer of cargo from a ves-
11 sel anchored or located off the coast of the
12 United States to another vessel that trans-
13 ports the cargo to a United States port
14 (commonly known as “lightering oper-
15 ations”).

16 (B) EXEMPTION OF ADDITIONAL REQUIRE-
17 MENTS.—Notwithstanding section 55102 of
18 title 46, United States Code, during the period
19 beginning on the date of enactment of this Act
20 and ending on the expiration date described in
21 paragraph (3), that section shall not apply to
22 any vessel that has been issued a certificate of
23 documentation with a coastwise endorsement
24 under subparagraph (A).

25 (2) TIMING.—

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

6 (i) issue the certificate with the en-
7 dorsement; or

8 (ii)(I) provide to the person request-
9 ing the certificate a detailed description of
10 the reasons for denying the certificate; and

11 (II) publish the denial and description
12 of reasons on the website of the depart-
13 ment in which the Coast Guard is oper-
14 ating.

15 (B) AUTOMATIC ISSUANCE.—In any case
16 in which the Secretary fails to comply with sub-
17 paragraph (A), a certificate of documentation
18 with a coastwise endorsement for the applicable
19 vessel shall be deemed to be issued under para-
20 graph (1)(A).

21 (3) EXPIRATION.—The authority under this
22 subsection, including any certificate of coastwise en-
23 dorsement authorized under this section, shall expire
24 on the date that is 1 year after the date of enact-
25 ment of this Act.

1 (e) CONTAINER OVERFLOW STORAGE.—

2 (1) IN GENERAL.—Not later than 14 days after
3 the date of enactment of this Act, the Secretary of
4 Agriculture, the Secretary of Defense, the Secretary
5 of the Interior, the Secretary of Transportation, and
6 the Administrator of General Services shall jointly
7 consult with representatives of ocean carriers, ports,
8 railroads, and trucking companies—

9 (A) to identify plots of Federal land under
10 the jurisdiction of the Secretary of Agriculture,
11 the Secretary of Defense, the Secretary of the
12 Interior, the Secretary of Transportation, or the
13 Administrator of General Services 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 1
6 year 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 FEDERAL REGISTER.—
13 Each designation of a plot of Federal land under
14 paragraph (1)(B) shall be published in the Federal
15 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 the applicable official described in paragraph (1)(A)
23 having jurisdiction over the plot shall—

24 (A) carefully consider the circumstances of
25 the designation; and

1 (B) determine that no extraordinary cir-
 2 cumstances warranting the preparation of an
 3 environmental assessment or an environmental
 4 impact statement exist.

5 (4) TREATMENT.—A plot of Federal land des-
 6 ignated under paragraph (1)(B) shall not, based on
 7 that designation, be considered to be a facility (as
 8 defined in section 70101 of title 46, United States
 9 Code) or a security zone (as defined in section
 10 70131 of that title) for purposes of—

11 (A) chapter 701 of subtitle VII of that
 12 title; or

13 (B) the Maritime Transportation Security
 14 Act of 2002 (Public Law 107–295; 116 Stat.
 15 2064) and the amendments made by that Act.

16 (f) LOAN OF DOD INTERMODAL EQUIPMENT.—

17 (1) DEFINITIONS.—In this subsection:

18 (A) INTERMODAL EQUIPMENT.—The term
 19 “intermodal equipment” has the meaning given
 20 the term in section 390.5 of title 49, Code of
 21 Federal Regulations (or a successor regulation).

22 (B) SECRETARY.—The term “Secretary”
 23 means the Secretary of Defense.

24 (2) INVENTORY OF INTERMODAL EQUIP-
 25 MENT.—Not later than 14 days after the date of en-

1 actment of this Act, the Secretary shall conduct an
2 inventory of intermodal equipment that—

3 (A) is owned by the Department of De-
4 fense;

5 (B) is located within the United States;
6 and

7 (C) could be made available for loan to 1
8 or more trucking companies for the purposes of
9 easing congestion at United States ports.

10 (3) LOAN OF INTERMODAL EQUIPMENT.—

11 (A) PROCESS.—Not later than 7 days after
12 the date on which the inventory under para-
13 graph (2) is complete, the Secretary shall create
14 a process for a trucking company to submit to
15 the Secretary an application requesting the use
16 of intermodal equipment identified in the inven-
17 tory.

18 (B) CONDITIONS.—A loan of intermodal
19 equipment under this subsection shall be sub-
20 ject to the conditions that—

21 (i) the borrowing trucking company
22 shall agree to reimburse the Secretary for
23 any damage caused to the intermodal
24 equipment during the period of the loan;

(ii) the use of the intermodal equipment by the trucking company shall be for a period not longer than 180 days; and

(iii) the use of intermodal equipment by the borrowing trucking company shall 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 a loan of intermodal equipment under this subsection.

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

(I) consults with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Transportation, and the Administrator of General Services; and

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

(iii) AMOUNT.—The amount of a fee under clause (i) shall be based on the market rate for similar loans or rentals of

1 intermodal equipment or similar equipment
2 as of January 1, 2020.

3 (iv) DEPOSIT AND USE.—Any fee col-
4 lected by the Secretary under clause (i)
5 shall be—

6 (I) deposited in the general fund
7 of the Treasury; and

8 (II) made available to the Sec-
9 retary, the Secretary of Agriculture,
10 the Secretary of the Interior, the Sec-
11 retary of Transportation, and the Ad-
12 ministrator of General Services for re-
13 mediation of any Federal land des-
14 ignated under subsection (e)(1)(B).

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

17 (I) until the designation of the
18 applicable plot of Federal land under
19 subsection (e)(1)(B) has expired; or

20 (II) for any purpose other than
21 the remediation of land designated
22 under subsection (e)(1)(B).

23 (4) RECALL OF INTERMODAL EQUIPMENT.—To
24 protect the national security of the United States,
25 the Secretary may recall any intermodal equipment

1 loaned to a trucking company under this subsection
 2 by issuing to the trucking company a notice not
 3 later than 72 hours before the time at which the
 4 intermodal equipment is required to be returned to
 5 the Secretary.

6 **SEC. 4. DUTY-FREE TREATMENT OF CHASSIS IMPORTED**
 7 **FROM COUNTRIES WITH COLLECTIVE DE-**
 8 **FENSE ARRANGEMENTS WITH UNITED**
 9 **STATES.**

10 During the 2-year period beginning on the date of
 11 enactment of this Act, a finished or unfinished chassis
 12 classified under statistical reporting number
 13 8716.39.0090, 8716.90.5010, or 8716.90.5060 of the
 14 Harmonized Tariff Schedule of the United States and im-
 15 ported from a country with which the United States has
 16 in effect a collective defense arrangement as of such date
 17 of enactment shall enter the United States free of duty.

18 **SEC. 5. USE OF UNITED STATES INLAND PORTS FOR STOR-**
 19 **AGE AND TRANSFER OF CARGO.**

20 (a) MEETING.—Not later than 90 days after the date
 21 of enactment of this Act, the Administrator of the Mari-
 22 time Administration and the Chairperson of the Federal
 23 Maritime Commission, acting jointly, shall convene a
 24 meeting of representatives of entities described in sub-
 25 section (b) to discuss the long-term feasibility of, and

1 strategies for, using land or property under the jurisdic-
2 tion of United States inland ports for the storage and
3 transfer of cargo containers.

4 (b) DESCRIPTION OF ENTITIES.—The entities re-
5 ferred to in subsection (a) are—

- 6 (1) major gateway ports in the United States;
- 7 (2) ocean carriers;
- 8 (3) railroads;
- 9 (4) trucking companies; and
- 10 (5) United States inland port authorities.

11 **SEC. 6. REPORT ON ADOPTION OF TECHNOLOGY AT**
12 **UNITED STATES PORTS.**

13 Not later than 1 year after the date of enactment
14 of this Act, the Comptroller General of the United States
15 shall submit to Congress a report describing the adoption
16 of technology at United States ports, as compared to that
17 adoption at foreign ports, including—

- 18 (1) the technological capabilities of United
19 States ports, including the use of automated tech-
20 nology, as compared to foreign ports;
- 21 (2) an assessment of whether the adoption of
22 automated technology at United States ports could
23 lower the costs of cargo handling; and

1 (3) an assessment of regulatory and other bar-
 2 riers to the adoption of automated technology at
 3 United States ports.

4 **SEC. 7. ALLIED PARTNERSHIP AND PORT MODERNIZATION.**

5 (a) DREDGING.—Section 55109 of title 46, United
 6 States Code, is amended—

7 (1) in subsection (a), in the matter preceding
 8 paragraph (1), by striking “subsection (b)” and in-
 9 serting “subsections (b) and (c)”;

10 (2) by redesignating subsection (c) as sub-
 11 section (d); and

12 (3) by inserting after subsection (b) the fol-
 13 lowing:

14 “(c) DREDGING BY NATO-AFFILIATED VESSELS.—

15 “(1) IN GENERAL.—A vessel described in para-
 16 graph (2) may engage in dredging in the navigable
 17 waters of the United States.

18 “(2) DESCRIPTION OF VESSELS.—A vessel re-
 19 ferred to in paragraph (1) is a vessel—

20 “(A) documented under the laws of a coun-
 21 try that is a member of the North Atlantic
 22 Treaty Organization;

23 “(B) built by—

24 “(i) a country that is a member of the
 25 North Atlantic Treaty Organization; or

1 “(ii) a major non-NATO ally (as de-
 2 fined in section 2350a(i) of title 10); and
 3 “(C) a majority of the owners and opera-
 4 tors of which are entities incorporated in a
 5 country that is a member of the North Atlantic
 6 Treaty Organization.”.

7 (b) EXCLUDING DREDGED MATERIAL FROM TRANS-
 8 PORTATION REQUIREMENTS.—

9 (1) IN GENERAL.—Section 55110 of title 46,
 10 United States Code, is amended—

11 (A) in the section heading, by striking “**or**
 12 **dredged material**” and inserting “**(ex-**
 13 **cluding dredged material)**”; and

14 (B) by striking “or dredged material” and
 15 inserting “(excluding dredged material)”.

16 (2) CONFORMING AMENDMENT.—The analysis
 17 for chapter 551 of title 46, United States Code, is
 18 amended by striking the item relating to section
 19 55110 and inserting the following:

“55110. Transportation of valueless material (excluding dredged material).”.

○