

Calendar No. 197

117TH CONGRESS
1ST SESSION

S. 576

To amend title 14, United States Code, to require the Coast Guard to conduct icebreaking operations in the Great Lakes to minimize commercial disruption in the winter months, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 2021

Ms. BALDWIN (for herself, Mr. YOUNG, Mr. PETERS, Mr. CASEY, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 16, 2021

Reported by Ms. CANTWELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend title 14, United States Code, to require the Coast Guard to conduct icebreaking operations in the Great Lakes to minimize commercial disruption in the winter months, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Great Lakes Winter
3 Commerce Act of 2021”.

4 **SEC. 2. GREAT LAKES ICEBREAKING OPERATIONS.**

5 (a) IN GENERAL.—Subchapter IV of chapter 5 of
6 title 14, United States Code, is amended by adding at the
7 end the following:

8 **“§ 564. Great Lakes icebreaking operations**

9 “(a) ICEBREAKING OPERATIONS.—The Commandant
10 shall conduct icebreaking operations in the Great Lakes
11 in accordance with the standard for icebreaking operations
12 under subsection (b).

13 “(b) STANDARD FOR ICEBREAKING OPERATIONS.—
14 In carrying out subsection (a)—

15 “(1) except as provided in paragraph (2), the
16 Commandant shall keep ice-covered waterways in the
17 Great Lakes open to navigation not less than 90
18 percent of the hours that commercial vessels and fer-
19 ries attempt to transit such ice-covered waterways;
20 and

21 “(2) in a year in which the Great Lakes are not
22 open to navigation because of ice of a thickness that
23 occurs on average only once every 10 years, the
24 Coast Guard shall keep ice-covered waterways in the
25 Great Lakes open to navigation at least 70 percent

1 of the hours that commercial vessels and ferries at-
 2 tempt to transit such ice-covered waterways.

3 ~~“(c) REPORT TO CONGRESS.—~~

4 ~~“(1) DEADLINE.—Not later than July 1 of each~~
 5 ~~year, the Commandant shall submit to Congress a~~
 6 ~~report on the icebreaking operations conducted by~~
 7 ~~the Coast Guard in the Great Lakes for the fiscal~~
 8 ~~year.~~

9 ~~“(2) CONTENT.—The report required under~~
 10 ~~paragraph (1) shall include the total number of~~
 11 ~~hours that United States icebreakers conducted~~
 12 ~~icebreaking operations in each of the types of Great~~
 13 ~~Lakes waters described in paragraph (3) and the~~
 14 ~~total number of hours that Canadian icebreakers~~
 15 ~~conducted icebreaking operations in the type of~~
 16 ~~Great Lakes waters described in subparagraphs~~
 17 ~~(3)(A) and (3)(C).~~

18 ~~“(3) TYPES OF GREAT LAKES WATERS.—The~~
 19 ~~types of waters described in this paragraph are—~~

20 ~~“(A) United States waters, excluding~~
 21 ~~waters described in subparagraph (C);~~

22 ~~“(B) Canadian waters, excluding waters~~
 23 ~~described in subparagraph (C); and~~

24 ~~“(C) frequent border crossing waters.~~

1 “(d) COORDINATION WITH INDUSTRY.—The Com-
 2 mandant shall coordinate Great Lakes icebreaking oper-
 3 ations with operators of commercial vessels.

4 “(e) DEFINITIONS.—In this section:

5 “(1) COMMERCIAL VESSEL.—The term ‘com-
 6 mercial vessel’ means any privately owned cargo ves-
 7 sel of at least 500 tons, as measured under section
 8 14502 of title 46 or an alternate tonnage measured
 9 under section 14302 of such title as prescribed by
 10 the Secretary under section 14104 of such title, op-
 11 erating in the Great Lakes during the winter season.

12 “(2) GREAT LAKES.—The term ‘Great
 13 Lakes’—

14 “(A) has the meaning given such term in
 15 section 118 of the Federal Water Pollution
 16 Control Act (33 U.S.C. 1268); and

17 “(B) includes harbors.

18 “(3) ICE-COVERED WATERWAY.—The term ‘ice-
 19 covered waterway’ means any portion of the Great
 20 Lakes in which commercial vessels operate that is 70
 21 percent or greater covered by ice, but does not in-
 22 clude any waters adjacent to piers or docks for
 23 which commercial icebreaking services are available
 24 and adequate for the ice conditions.

1 “(4) OPEN TO NAVIGATION.—The term ‘open to
2 navigation’ means navigable to the extent necessary
3 to meet the reasonable demands of commerce; mini-
4 mize delays to passenger ferries; extricate vessels
5 and persons from danger; prevent damage due to
6 flooding; and conduct other Coast Guard missions as
7 required.

8 “(5) REASONABLE DEMANDS OF COMMERCE.—
9 The term ‘reasonable demands of commerce’ means
10 the safe movement of commercial vessels transiting
11 ice-covered waterways in the Great Lakes; regardless
12 of type of cargo; at a speed consistent with the de-
13 sign capability of Coast Guard icebreakers operating
14 in the Great Lakes.

15 “(6) FREQUENT BORDER CROSSING WATERS.—
16 The term ‘frequent border crossing waters’ means
17 the United States waters and Canadian waters of—

18 “(A) Whitefish Bay in Lake Superior;

19 “(B) the St. Mary’s River;

20 “(C) the Detroit and St. Clair rivers sys-
21 tem; and

22 “(D) Western Lake Erie from the Detroit
23 River to Pelee Passage.”.

1 (b) CLERICAL AMENDMENT.—The table of analysis
 2 for chapter 5 of title 14, United States Code, is amended
 3 by adding at the end the following:

“564. Great Lakes icebreaking operations.”.

4 (c) REPORT.—Not later than the first July 1 after
 5 the first winter in which the Commandant of the Coast
 6 Guard is subject to the requirements of section 564 of title
 7 14, United States Code, the Commandant shall submit to
 8 the Committee on Transportation and Infrastructure of
 9 the House of Representatives and the Committee on Com-
 10 merce, Science, and Transportation of the Senate a report
 11 on the cost to the Coast Guard of meeting the require-
 12 ments of such section.

13 **SEC. 3. GREAT LAKES ICEBREAKER ACQUISITION.**

14 (a) AUTHORIZATION.—Section 8107(a) of the Elijah
 15 E. Cummings Coast Guard Authorization Act of 2020
 16 (Public Law 116–283) is amended by striking
 17 “\$160,000,000” and inserting “\$350,000,000”.

18 (b) EXEMPTION.—Notwithstanding sections
 19 1105(a)(2), 1131, and 1132 of title 14, United States
 20 Code, and the requirements in the Competition in Con-
 21 tracting Act (10 U.S.C. 2304), and subject to the avail-
 22 ability of appropriations, the Commandant shall acquire
 23 the icebreaker described in section 8107(a) of the Elijah
 24 E. Cummings Coast Guard Authorization Act of 2020
 25 (Public Law 116–283) through other than full and open

1 competition in an accelerated timeframe and award the
 2 contract on the basis of contractor qualification and price.

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Great Lakes Winter*
 5 *Commerce Act of 2021”.*

6 **SEC. 2. GREAT LAKES ICEBREAKING OPERATIONS.**

7 *(a) IN GENERAL.—Subchapter IV of chapter 5 of title*
 8 *14, United States Code, is amended by adding at the end*
 9 *the following:*

10 **“§ 564. Great Lakes icebreaking operations**

11 *“(a) GAO REPORT.—*

12 *“(1) IN GENERAL.—Not later than 1 year after*
 13 *the date of the enactment of this section, the Comp-*
 14 *troller General of the United States shall submit to*
 15 *the Committee on Commerce, Science, and Transpor-*
 16 *tation of the Senate and the Committee on Transpor-*
 17 *tation and Infrastructure of the House of Representa-*
 18 *tives a report on the Coast Guard Great Lakes*
 19 *icebreaking program.*

20 *“(2) ELEMENTS.—The report required under*
 21 *paragraph (1) shall include the following:*

22 *“(A) An evaluation of the economic impact*
 23 *related to vessel delays or cancellations associ-*
 24 *ated with ice coverage on the Great Lakes.*

25 *“(B) An evaluation of mission needs.*

1 “(C) *An evaluation of the impact that the*
 2 *proposed standards described in subsection (b)*
 3 *would have on—*

4 “(i) *Coast Guard operations in the*
 5 *Great Lakes;*

6 “(ii) *Northeast icebreaking missions;*
 7 *and*

8 “(iii) *inland waterway operations.*

9 “(D) *A fleet mix analysis for meeting such*
 10 *proposed standards.*

11 “(E) *A description of any resources nec-*
 12 *essary to support the fleet mix resulting from*
 13 *such fleet mix analysis, including for crew and*
 14 *operating costs.*

15 “(F) *Recommendations to the Commandant*
 16 *for improvements to the Great Lakes icebreaking*
 17 *program, including with respect to facilitating*
 18 *commerce and meeting all Coast Guard mission*
 19 *needs.*

20 “(b) *PROPOSED STANDARDS FOR ICEBREAKING OPER-*
 21 *ATIONS.—The proposed standards described in this sub-*
 22 *section are the following:*

23 “(1) *Except as provided in paragraph (2), the*
 24 *Commandant shall keep ice-covered waterways in the*
 25 *Great Lakes open to navigation not less than 90 per-*

1 *cent of the hours that commercial vessels and ferries*
 2 *attempt to transit such ice-covered waterways.*

3 *“(2) In a year in which the Great Lakes are not*
 4 *open to navigation because of ice of a thickness that*
 5 *occurs on average only once every 10 years, the Com-*
 6 *mandant shall keep ice-covered waterways in the*
 7 *Great Lakes open to navigation at least 70 percent of*
 8 *the hours that commercial vessels and ferries attempt*
 9 *to transit such ice-covered waterways.*

10 *“(c) REPORT BY COMMANDANT.—Not later than 90*
 11 *days after the date on which the Comptroller General sub-*
 12 *mits the report under subsection (a), the Commandant shall*
 13 *submit to the Committee on Commerce, Science, and Trans-*
 14 *portation of the Senate and the Committee on Transpor-*
 15 *tation and Infrastructure of the House of Representatives*
 16 *a report that includes the following:*

17 *“(1) A plan for Coast Guard implementation of*
 18 *any recommendation made by the Comptroller Gen-*
 19 *eral under subparagraph (F) of subsection (a)(2) the*
 20 *Commandant considers appropriate.*

21 *“(2) With respect to any recommendation made*
 22 *under such subparagraph that the Commandant de-*
 23 *clines to implement, a justification for such decision.*

1 “(3) *A review of, and a proposed implementation*
 2 *plan for, the results of the fleet mix analysis under*
 3 *subparagraph (D) of that subsection.*

4 “(4) *Any proposed modifications to the stand-*
 5 *ards for icebreaking operations in the Great Lakes.”.*

6 **(b) CLERICAL AMENDMENT.**—*The table of analysis for*
 7 *chapter 5 of title 14, United States Code, is amended by*
 8 *adding at the end the following:*

“564. Great Lakes icebreaking operations.”.

9 **SEC. 3. DATABASE ON ICEBREAKING OPERATIONS IN THE**
 10 **GREAT LAKES.**

11 **(a) IN GENERAL.**—*The Commandant of the Coast*
 12 *Guard (referred to in this Act as the “Commandant”) shall*
 13 *establish and maintain a database for collecting, archiving,*
 14 *and disseminating data on icebreaking operations and com-*
 15 *mercial vessel transit in the Great Lakes during ice season.*

16 **(b) ELEMENTS.**—*The database required under sub-*
 17 *section (a) shall include the following:*

18 (1) *Attempts by commercial vessels and ferries to*
 19 *transit ice-covered waterways in the Great Lakes that*
 20 *are unsuccessful because of inadequate icebreaking.*

21 (2) *The period of time that each commercial ves-*
 22 *sel or ferry was unsuccessful at transiting due to in-*
 23 *adequate icebreaking.*

24 (3) *The amount of time elapsed before each such*
 25 *commercial vessel or ferry was successfully broken out*

1 *of the ice and whether it was accomplished by the*
 2 *Coast Guard or commercial icebreaking assets.*

3 (4) *Relevant communications of each such com-*
 4 *mercial vessel or ferry with the Coast Guard and*
 5 *commercial icebreaking services during such period.*

6 (5) *A description of any mitigating cir-*
 7 *cumstance, such as Coast Guard icebreaker diversions*
 8 *to higher priority missions that may have contributed*
 9 *to the amount of time described in paragraph (3).*

10 (c) *VOLUNTARY REPORTING.*—*Any reporting by opera-*
 11 *tors of commercial vessels or ferries under this Act shall*
 12 *be voluntary.*

13 (d) *PUBLIC AVAILABILITY.*—*The Commandant shall*
 14 *make the database available to the public on a publicly ac-*
 15 *cessible internet website of the Coast Guard.*

16 (e) *CONSULTATION WITH INDUSTRY.*—*With respect to*
 17 *the Great Lakes icebreaking operations of the Coast Guard*
 18 *and the development of the database required under sub-*
 19 *section (a), the Commandant shall consult operators of com-*
 20 *mercial vessels and ferries.*

21 (f) *DEFINITIONS.*—*In this section:*

22 (1) *COMMERCIAL VESSEL.*—*The term “commer-*
 23 *cial vessel” means any privately owned cargo vessel*
 24 *of at least 500 tons, as measured under section 14502*
 25 *of title 46, or an alternate tonnage measured under*

1 *section 14302 of such title as prescribed by the Sec-*
 2 *retary under section 14104 of such title, operating in*
 3 *the Great Lakes during the winter season.*

4 (2) *GREAT LAKES.*—*The term “Great Lakes”*
 5 *means the United States waters of Lake Superior,*
 6 *Lake Michigan, Lake Huron, Lake Erie, and Lake*
 7 *Ontario, their connecting waterways, and their adja-*
 8 *cent harbors.*

9 (3) *ICE-COVERED WATERWAY.*—*The term “ice-*
 10 *covered waterway” means any portion of the Great*
 11 *Lakes in which commercial vessels operate that is 70*
 12 *percent or greater covered by ice, but does not include*
 13 *any waters adjacent to piers or docks for which com-*
 14 *mercial icebreaking services are available and ade-*
 15 *quate for the ice conditions.*

16 (4) *OPEN TO NAVIGATION.*—*The term “open to*
 17 *navigation” means navigable to the extent necessary*
 18 *to meet the reasonable demands of commerce, mini-*
 19 *mize delays to passenger ferries, extricate vessels and*
 20 *persons from danger, prevent damage due to flooding,*
 21 *and conduct other Coast Guard missions as required.*

22 (5) *REASONABLE DEMANDS OF COMMERCE.*—*The*
 23 *term “reasonable demands of commerce” means the*
 24 *safe movement of commercial vessels transiting ice-*
 25 *covered waterways in the Great Lakes, regardless of*

1 *type of cargo, at a speed consistent with the design*
 2 *capability of Coast Guard icebreakers operating in*
 3 *the Great Lakes.*

4 *(g) PUBLIC BRIEFING.—Not later than the first July*
 5 *1 after the first winter in which the Commandant is subject*
 6 *to the requirements of section 564 of title 14, United States*
 7 *Code, the Commandant shall publish on a publicly acces-*
 8 *sible internet website of the Coast Guard a briefing on the*
 9 *cost to the Coast Guard of meeting the requirements of such*
 10 *section.*

11 **SEC. 4. GREAT LAKES ICEBREAKER ACQUISITION.**

12 *Of the amounts authorized to be appropriated by sec-*
 13 *tion 4902(2)(A)(ii) of title 14, United States Code,*
 14 *\$350,000,000 shall be made available to the Commandant*
 15 *for fiscal year 2022 for the acquisition of a Great Lakes*
 16 *icebreaker at least as capable as Coast Guard Cutter Macki-*
 17 *naw (WLBB–30).*

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S. 576

A BILL

To amend title 14, United States Code, to require the Coast Guard to conduct icebreaking operations in the Great Lakes to minimize commercial disruption in the winter months, and for other purposes.

DECEMBER 16, 2021

Reported with an amendment