

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. GOOD of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Kaitlyn Roberts, one of his secretaries.

OCEAN SHIPPING REFORM ACT OF 2022

Mr. DEFAZIO. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3580) to amend title 46, United States Code, with respect to prohibited acts by ocean common carriers or marine terminal operators, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ocean Shipping Reform Act of 2022”.

SEC. 2. PURPOSES.

Section 40101 of title 46, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) ensure an efficient, competitive, and economical transportation system in the ocean commerce of the United States;”;

(2) in paragraph (3), by inserting “and supporting commerce” after “needs”; and

(3) by striking paragraph (4) and inserting the following:

“(4) promote the growth and development of United States exports through a competitive and efficient system for the carriage of goods by water in the foreign commerce of the United States, and by placing a greater reliance on the marketplace.”.

SEC. 3. SERVICE CONTRACTS.

Section 40502(c) of title 46, United States Code, is amended—

(1) in paragraph (7), by striking “; and” and inserting a semicolon;

(2) in paragraph (8), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(9) any other essential terms that the Federal Maritime Commission determines necessary or appropriate through a rule-making process.”.

SEC. 4. SHIPPING EXCHANGE REGISTRY.

(a) IN GENERAL.—Chapter 405 of title 46, United States Code, is amended by adding at the end the following:

“§ 40504. Shipping exchange registry

“(a) IN GENERAL.—No person may operate a shipping exchange involving ocean transportation in the foreign commerce of the United States unless the shipping exchange is registered as a national shipping exchange under the terms and conditions provided in this section and the regulations issued pursuant to this section.

“(b) REGISTRATION.—A person shall register a shipping exchange by filing with the Federal Maritime Commission an application for registration in such form as the Commission, by rule, may prescribe, containing the rules of the exchange and such other information and documents as the Commission, by rule, may prescribe as necessary or appropriate to complete a shipping exchange’s registration.

“(c) EXEMPTION.—The Commission may exempt, conditionally or unconditionally, a shipping exchange from registration under this section if the Commission finds that the shipping exchange is subject to comparable, comprehensive supervision and regulation by the appropriate governmental authorities in a foreign country where the shipping exchange is headquartered.

“(d) REGULATIONS.—Not later than 3 years after the date of enactment of the Ocean Shipping Reform Act of 2022, the Commission shall issue regulations pursuant to subsection (a), which shall set standards necessary to carry out subtitle IV of this title for registered national shipping exchanges. For consideration of a service contract entered into by a shipping exchange, the Commission shall be limited to the minimum essential terms for service contracts established under section 40502 of this title.

“(e) DEFINITION OF SHIPPING EXCHANGE.—In this section, the term ‘shipping exchange’ means a platform (digital, over-the-counter, or otherwise) that connects shippers with common carriers for the purpose of entering into underlying agreements or contracts for the transport of cargo, by vessel or other modes of transportation.”.

(b) APPLICABILITY.—The registration requirement under section 40504 of title 46, United States Code (as added by subsection (a)), shall take effect on the date on which the Federal Maritime Commission states the rule is effective in the regulations issued under such section.

(c) CLERICAL AMENDMENT.—The analysis for chapter 405 of title 46, United States Code, is amended by adding at the end the following:

“40504. Shipping exchange registry.”.

SEC. 5. PROHIBITION ON RETALIATION.

Section 41102 of title 46, United States Code, is amended by adding at the end the following:

“(d) RETALIATION AND OTHER DISCRIMINATORY ACTIONS.—A common carrier, marine terminal operator, or ocean transportation intermediary, acting alone or in conjunction with any other person, directly or indirectly, may not—

“(1) retaliate against a shipper, an agent of a shipper, an ocean transportation intermediary, or a motor carrier by refusing, or threatening to refuse, an otherwise-available cargo space accommodation; or

“(2) resort to any other unfair or unjustly discriminatory action for—

“(A) the reason that a shipper, an agent of a shipper, an ocean transportation intermediary, or motor carrier has—

“(i) patronized another carrier; or

“(ii) filed a complaint against the common carrier, marine terminal operator, or ocean transportation intermediary; or

“(B) any other reason.”.

SEC. 6. PUBLIC DISCLOSURE.

Section 46106 of title 46, United States Code, is amended by adding at the end the following:

“(d) PUBLIC DISCLOSURES.—The Federal Maritime Commission shall publish, and annually update, on the website of the Commission—

“(1) all findings by the Commission of false detention and demurrage invoice information by common carriers under section 41104(a)(15) of this title; and

“(2) all penalties imposed or assessed against common carriers, as applicable, under sections 41107, 41108, and 41109, listed by each common carrier.”.

SEC. 7. COMMON CARRIERS.

(a) IN GENERAL.—Section 41104 of title 46, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “may not” and inserting “shall not”;;

(B) by striking paragraph (3) and inserting the following:

“(3) unreasonably refuse cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods;”;

(C) in paragraph (5), by striking “in the matter of rates or charges” and inserting “against any commodity group or type of shipment or in the matter of rates or charges”;;

(D) in paragraph (10), by adding “, including with respect to vessel space accommodations provided by an ocean common carrier” after “negotiate”;;

(E) in paragraph (12) by striking “; or” and inserting a semicolon;

(F) in paragraph (13) by striking the period and inserting a semicolon; and

(G) by adding at the end the following:

“(14) assess any party for a charge that is inconsistent or does not comply with all applicable provisions and regulations, including subsection (c) of section 41102 or part 545 of title 46, Code of Federal Regulations (or successor regulations);

“(15) invoice any party for demurrage or detention charges unless the invoice includes information as described in subsection (d) showing that such charges comply with—

“(A) all provisions of part 545 of title 46, Code of Federal Regulations (or successor regulations); and

“(B) applicable provisions and regulations, including the principles of the final rule published on May 18, 2020, entitled ‘Interpretive Rule on Demurrage and Detention Under the Shipping Act’ (or successor rule); or

“(16) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage against any commodity group or type of shipment.”; and

(2) by adding at the end the following:

“(d) DETENTION AND DEMURRAGE INVOICE INFORMATION.—

“(1) INACCURATE INVOICE.—If the Commission determines, after an investigation in response to a submission under section 41310, that an invoice under subsection (a)(15) was inaccurate or false, penalties or refunds under section 41107 shall be applied.

“(2) CONTENTS OF INVOICE.—An invoice under subsection (a)(15), unless otherwise determined by subsequent Commission rule-making, shall include accurate information on each of the following, as well as minimum information as determined by the Commission:

“(A) Date that container is made available.

“(B) The port of discharge.

“(C) The container number or numbers.

“(D) For exported shipments, the earliest return date.

“(E) The allowed free time in days.

“(F) The start date of free time.

“(G) The end date of free time.

“(H) The applicable detention or demurrage rule on which the daily rate is based.

“(I) The applicable rate or rates per the applicable rule.

“(J) The total amount due.

“(K) The email, telephone number, or other appropriate contact information for questions or requests for mitigation of fees.

“(L) A statement that the charges are consistent with any of Federal Maritime Commission rules with respect to detention and demurrage.

“(M) A statement that the common carrier’s performance did not cause or contribute to the underlying invoiced charges.

“(e) **SAFE HARBOR.**—If a non-vessel operating common carrier passes through to the relevant shipper an invoice made by the ocean common carrier, and the Commission finds that the non-vessel operating common carrier is not otherwise responsible for the charge, then the ocean common carrier shall be subject to refunds or penalties pursuant to subsection (d)(1).

“(f) **ELIMINATION OF CHARGE OBLIGATION.**—Failure to include the information required under subsection (d) on an invoice with any demurrage or detention charge shall eliminate any obligation of the charged party to pay the applicable charge.”.

(b) **RULEMAKING ON DEMURRAGE OR DETENTION.**—

(1) **IN GENERAL.**—Not later than 45 days after the date of enactment of this Act, the Federal Maritime Commission shall initiate a rulemaking further defining prohibited practices by common carriers, marine terminal operators, shippers, and ocean transportation intermediaries under section 41102(c) of title 46, United States Code, regarding the assessment of demurrage or detention charges. The Federal Maritime Commission shall issue a final rule defining such practices not later than 1 year after the date of enactment of this Act.

(2) **CONTENTS.**—The rule under paragraph (1) shall only seek to further clarify reasonable rules and practices related to the assessment of detention and demurrage charges to address the issues identified in the final rule published on May 18, 2020, entitled “Interpretive Rule on Demurrage and Detention Under the Shipping Act” (or successor rule), including a determination of which parties may be appropriately billed for any demurrage, detention, or other similar per container charges.

(c) **RULEMAKING ON UNFAIR OR UNJUSTLY DISCRIMINATORY METHODS.**—Not later than 60 days after the date of enactment of this Act, the Federal Maritime Commission shall initiate a rulemaking defining unfair or unjustly discriminatory methods under section 41104(a)(3) of title 46, United States Code, as amended by this section. The Federal Maritime Commission shall issue a final rule not later than 1 year after the date of enactment of this Act.

(d) **RULEMAKING ON UNREASONABLE REFUSAL TO DEAL OR NEGOTIATE WITH RESPECT TO VESSEL SPACE ACCOMMODATIONS.**—Not later than 30 days after the date of enactment of this Act, the Federal Maritime Commission, in consultation with the Commandant of the United States Coast Guard, shall initiate a rulemaking defining unreasonable refusal to deal or negotiate with respect to vessel space under section 41104(a)(10) of title 46, as amended by this section. The Federal Maritime Commission shall issue a final rule not later than 6 months after the date of enactment of this Act.

SEC. 8. ASSESSMENT OF PENALTIES OR REFUNDS.

(a) **IN GENERAL.**—Title 46, United States Code, is amended—

(1) in section 41107—

(A) in the section heading, by inserting “or refunds” after “penalties”;

(B) in subsection (a), by inserting “or, in addition to or in lieu of a civil penalty, is liable for the refund of a charge” after “civil penalty”; and

(C) in subsection (b), by inserting “or, in addition to or in lieu of a civil penalty, the

refund of a charge,” after “civil penalty”; and

(2) section 41109 is amended—

(A) by striking subsections (a) and (b) and inserting the following:

“(a) **GENERAL AUTHORITY.**—Until a matter is referred to the Attorney General, the Federal Maritime Commission may—

“(1) after notice and opportunity for a hearing, in accordance with this part—

“(A) assess a civil penalty; or

“(B) in addition to, or in lieu of, assessing a civil penalty under subparagraph (A), order a refund of money (including additional amounts in accordance with section 41305(c)), subject to subsection (b)(2); and

“(2) compromise, modify, or remit, with or without conditions, a civil penalty or refund imposed under paragraph (1).

“(b) **DETERMINATION OF AMOUNT.**—

“(1) **FACTORS FOR CONSIDERATION.**—In determining the amount of a civil penalty assessed or refund of money ordered pursuant to subsection (a), the Federal Maritime Commission shall take into consideration—

“(A) the nature, circumstances, extent, and gravity of the violation committed;

“(B) with respect to the violator—

“(i) the degree of culpability;

“(ii) any history of prior offenses;

“(iii) the ability to pay; and

“(iv) such other matters as justice may require; and

“(C) the amount of any refund of money ordered pursuant to subsection (a)(1)(B).

“(2) **COMMENSURATE REDUCTION IN CIVIL PENALTY.**—

“(A) **IN GENERAL.**—In any case in which the Federal Maritime Commission orders a refund of money pursuant to subsection (a)(1)(B) in addition to assessing a civil penalty pursuant to subsection (a)(1)(A), the amount of the civil penalty assessed shall be decreased by any additional amounts included in the refund of money in excess of the actual injury (as defined in section 41305(a)).

“(B) **TREATMENT OF REFUNDS.**—A refund of money ordered pursuant to subsection (a)(1)(B) shall be—

“(i) considered to be compensation paid to the applicable claimant; and

“(ii) deducted from the total amount of damages awarded to that claimant in a civil action against the violator relating to the applicable violation.”;

(B) in subsection (c), by striking “may not be imposed” and inserting “or refund of money under subparagraph (A) or (B), respectively, of subsection (a)(1) may not be imposed”;

(C) in subsection (e), by inserting “or order a refund of money” after “penalty”;

(D) in subsection (f), by inserting “, or that is ordered to refund money,” after “assessed”; and

(E) in subsection (g), in the first sentence, by inserting “or a refund required under this section” after “penalty”.

SEC. 9. DATA COLLECTION.

(a) **IN GENERAL.**—Chapter 411 of title 46, United States Code, is amended by adding at the end the following:

“§ 41110. Data collection

“The Federal Maritime Commission shall publish on its website a calendar quarterly report that describes the total import and export tonnage and the total loaded and empty 20-foot equivalent units per vessel (making port in the United States, including any territory or possession of the United States) operated by each ocean common carrier covered under this chapter. Ocean common carriers under this chapter shall provide to the Commission all necessary information, as determined by the Commission, for completion of this report.”.

(b) **RULE OF CONSTRUCTION.**—Nothing in this section, and the amendment made by this section, shall be construed to compel the public disclosure of any confidential or proprietary data, in accordance with section 552(b)(4) of title 5, United States Code.

(c) **CLERICAL AMENDMENT.**—The analysis for chapter 411 of title 46, United States Code, is amended by adding at the end the following:

“41110. Data collection.”.

SEC. 10. CHARGE COMPLAINTS.

(a) **IN GENERAL.**—Chapter 413 of title 46, United States Code, is amended by adding at the end the following:

“§ 41310. Charge complaints

“(a) **IN GENERAL.**—A person may submit to the Federal Maritime Commission, and the Commission shall accept, information concerning complaints about charges assessed by a common carrier. The information submitted to the Commission shall include the bill of lading numbers and invoices, and may include any other relevant information.

“(b) **INVESTIGATION.**—Upon receipt of a submission under subsection (a), with respect to a charge assessed by a common carrier, the Commission shall promptly investigate the charge with regard to compliance with section 41104(a) and section 41102. The common carrier shall—

“(1) be provided an opportunity to submit additional information related to the charge in question; and

“(2) bear the burden of establishing the reasonableness of any demurrage or detention charges pursuant to section 545.5 of title 46, Code of Federal Regulations (or successor regulations).

“(c) **REFUND.**—Upon receipt of submissions under subsection (a), if the Commission determines that a charge does not comply with section 41104(a) or 41102, the Commission shall promptly order the refund of charges paid.

“(d) **PENALTIES.**—In the event of a finding that a charge does not comply with section 41104(a) or 41102 after submission under subsection (a), a civil penalty under section 41107 shall be applied to the common carrier making such charge.

“(e) **CONSIDERATIONS.**—If the common carrier assessing the charge is acting in the capacity of a non-vessel-operating common carrier, the Commission shall, while conducting an investigation under subsection (b), consider—

“(1) whether the non-vessel-operating common carrier is responsible for the noncompliant assessment of the charge, in whole or in part; and

“(2) whether another party is ultimately responsible in whole or in part and potentially subject to action under subsections (c) and (d).”.

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 413 of title 46, United States Code, is amended by adding at the end the following:

“41310. Charge complaints.”.

SEC. 11. INVESTIGATIONS.

(a) **AMENDMENTS.**—Section 41302 of title 46, United States Code, is amended—

(1) in subsection (a), in the first sentence, by striking “or agreement” and inserting “agreement, fee, or charge”; and

(2) in subsection (b)—

(A) in the subsection heading, by striking “Agreement” and inserting “Agreement, fee, or charge”; and

(B) by inserting “, fee, or charge” after “agreement”.

(b) **REPORT.**—The Federal Maritime Commission shall publish on a publicly available website of the Commission a report containing the results of the investigation entitled “Fact Finding No. 29, International

Ocean Transportation Supply Chain Engagement”.

SEC. 12. AWARD OF ADDITIONAL AMOUNTS.

Section 41305(c) of title 46, United States Code is amended by striking “41102(b)” and inserting “subsection (b) or (c) of section 41102”.

SEC. 13. ENFORCEMENT OF REPARATION ORDERS.

Section 41309 of title 46, United States Code, is amended—

(1) in subsection (a), by striking “reparation, the person to whom the award was made” and inserting “a refund of money or reparation, the person to which the refund or reparation was awarded”; and

(2) in subsection (b), in the first sentence—
(A) by striking “made an award of reparation” and inserting “ordered a refund of money or any other award of reparation”; and

(B) by inserting “(except for the Commission or any component of the Commission)” after “parties in the order”.

SEC. 14. ANNUAL REPORT TO CONGRESS.

Section 46106(b) of title 46, United States Code, is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(7) an identification of any otherwise concerning practices by ocean common carriers, particularly such carriers that are controlled carriers, that are—

“(A) State-owned or State-controlled enterprises; or

“(B) owned or controlled by, a subsidiary of, or otherwise related legally or financially (other than a minority relationship or investment) to a corporation based in a country—

“(i) identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this paragraph;

“(ii) identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a priority foreign country under subsection (a)(2) of that section; or

“(iii) subject to monitoring by the United States Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).”.

SEC. 15. TECHNICAL AMENDMENTS.

(a) Section 41108(a) of title 46, United States Code, is amended by striking “section 41104(1), (2), or (7)” and inserting “paragraph (1), (2), or (7) of section 41104(a)”.

(b) Section 41109(c) of title 46, United States Code, as amended by section 8 of this Act, is further amended by striking “section 41102(a) or 41104(1) or (2) of this title” and inserting “subsection (a) or (d) of section 41102 or paragraph (1) or (2) of section 41104(a)”.

(c) Section 41305 of title 46, United States Code, as amended by section 12 of this Act, is further amended—

(1) in subsection (c), by striking “41104(3) or (6), or 41105(1) or (3) of this title” and inserting “paragraph (3) or (6) of section 41104(a), or paragraph (1) or (3) of section 41105”; and

(2) in subsection (d), by striking “section 41104(4)(A) or (B) of this title” and inserting “subparagraph (A) or (B) of section 41104(a)(4)”.

SEC. 16. DWELL TIME STATISTICS.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term “Director” means the Director of the Bureau of Transportation Statistics.

(2) MARINE CONTAINER.—The term “marine container” means an intermodal container with a length of—

(A) not less than 20 feet; and

(B) not greater than 45 feet.

(3) OUT OF SERVICE PERCENTAGE.—The term “out of service percentage” means the proportion of the chassis fleet for any defined geographical area that is out of service at any one time.

(4) STREET DWELL TIME.—The term “street dwell time”, with respect to a piece of equipment, means the quantity of time during which the piece of equipment is in use outside of the terminal.

(b) AUTHORITY TO COLLECT DATA.—

(1) IN GENERAL.—Each port, marine terminal operator, and chassis owner or provider with a fleet of over 50 chassis that supply chassis for a fee shall submit to the Director such data as the Director determines to be necessary for the implementation of this section, subject to subchapter III of chapter 35 of title 44, United States Code.

(2) APPROVAL BY OMB.—Subject to the availability of appropriations, not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall approve an information collection for purposes of this section.

(c) PUBLICATION.—Subject to the availability of appropriations, not later than 240 days after the date of enactment of this Act, and not less frequently than monthly thereafter, the Director shall publish statistics relating to the dwell time of equipment used in intermodal transportation at the top 25 ports, including inland ports, by 20-foot equivalent unit, including—

(1) total street dwell time, from all causes, of marine containers and marine container chassis; and

(2) the average out of service percentage, which shall not be identifiable with any particular port, marine terminal operator, or chassis provider.

(d) FACTORS.—Subject to the availability of appropriations, to the maximum extent practicable, the Director shall publish the statistics described in subsection (c) on a local, regional, and national basis.

(e) SUNSET.—The authority under this section shall expire December 31, 2026.

SEC. 17. FEDERAL MARITIME COMMISSION ACTIVITIES.

(a) PUBLIC SUBMISSIONS TO COMMISSION.—The Federal Maritime Commission shall—

(1) establish on the public website of the Commission a webpage that allows for the submission of comments, complaints, concerns, reports of noncompliance, requests for investigation, and requests for alternative dispute resolution; and

(2) direct each submission under the link established under paragraph (1) to the appropriate component office of the Commission.

(b) AUTHORIZATION OF OFFICE OF CONSUMER AFFAIRS AND DISPUTE RESOLUTION SERVICES.—The Commission shall maintain an Office of Consumer Affairs and Dispute Resolution Services to provide nonadjudicative ombuds assistance, mediation, facilitation, and arbitration to resolve challenges and disputes involving cargo shipments, household good shipments, and cruises subject to the jurisdiction of the Commission.

(c) ENHANCING CAPACITY FOR INVESTIGATIONS.—

(1) IN GENERAL.—Pursuant to section 41302 of title 46, United States Code, not later than 18 months after the date of enactment of this Act, the Chairperson of the Commission shall staff within the Bureau of Enforcement, the Bureau of Certification and Licensing, the Office of the Managing Director, the Office of Consumer Affairs and Dispute Resolution Services, and the Bureau of Trade Analysis not fewer than 7 total positions to assist in investigations and oversight, in addition to the positions within the Bureau of Enforcement, the Bureau of Certification and Licensing, the Office of the Managing

Director, the Office of Consumer Affairs and Dispute Resolution Services, and the Bureau of Trade Analysis on that date of enactment.

(2) DUTIES.—The additional staff appointed under paragraph (1) shall provide support—

(A) to Area Representatives of the Bureau of Enforcement;

(B) to attorneys of the Bureau of Enforcement in enforcing the laws and regulations subject to the jurisdiction of the Commission;

(C) for the alternative dispute resolution services of the Commission; or

(D) for the review of agreements and activities subject to the authority of the Commission.

SEC. 18. TEMPORARY EMERGENCY AUTHORITY.

(a) DEFINITIONS.—In this section:

(1) COMMON CARRIER.—The term “common carrier” has the meaning given the term in section 40102 of title 46, United States Code.

(2) MOTOR CARRIER.—The term “motor carrier” has the meaning given the term in section 13102 of title 49, United States Code.

(3) RAIL CARRIER.—The term “rail carrier” has the meaning given the term in section 10102 of title 49, United States Code.

(4) SHIPPER.—The term “shipper” has the meaning given the term in section 40102 of title 46, United States Code.

(b) PUBLIC INPUT ON INFORMATION SHARING.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Federal Maritime Commission shall issue a request for information, seeking public comment regarding—

(A) whether congestion of the carriage of goods has created an emergency situation of a magnitude such that there exists a substantial, adverse effect on the competitiveness and reliability of the international ocean transportation supply system;

(B) whether an emergency order under this section would alleviate such an emergency situation; and

(C) the appropriate scope of such an emergency order, if applicable.

(2) CONSULTATION.—During the public comment period under paragraph (1), the Commission may consult, as the Commission determines to be appropriate, with—

(A) other Federal departments and agencies; and

(B) persons with expertise relating to maritime and freight operations.

(c) AUTHORITY TO REQUIRE INFORMATION SHARING.—On making a unanimous determination described in subsection (d), the Commission may issue an emergency order requiring any common carrier or marine terminal operator to share directly with relevant shippers, rail carriers, or motor carriers information relating to cargo throughput and availability, in order to ensure the efficient transportation, loading, and unloading of cargo to or from—

(1) any inland destination or point of origin;

(2) any vessel; or

(3) any point on a wharf or terminal.

(d) DESCRIPTION OF DETERMINATION.—

(1) IN GENERAL.—A determination referred to in subsection (c) is a unanimous determination by the commissioners on the Commission that congestion of carriage of goods has created an emergency situation of a magnitude such that there exists a substantial, adverse effect on the competitiveness and reliability of the international ocean transportation supply system.

(2) FACTORS FOR CONSIDERATION.—In issuing an emergency order pursuant to subsection (c), the Commission shall tailor the emergency order with respect to temporal and geographic scope, taking into consideration the likely burdens on common carriers and

marine terminal operators and the likely benefits on congestion relating to the purposes described in section 40101 of title 46, United States Code.

(e) PETITIONS FOR EXCEPTION.—

(1) IN GENERAL.—A common carrier or marine terminal operator subject to an emergency order issued pursuant to this section may submit to the Commission a petition for exception from 1 or more requirements of the emergency order, based on a showing of undue hardship or other condition rendering compliance with such a requirement impracticable.

(2) DETERMINATION.—The Commission shall make a determination regarding a petition for exception under paragraph (1) by—

(A) majority vote; and

(B) not later than 21 days after the date on which the petition is submitted.

(3) INAPPLICABILITY PENDING REVIEW.—The requirements of an emergency order that is the subject of a petition for exception under this subsection shall not apply to the petitioner during the period for which the petition is pending.

(f) LIMITATIONS.—

(1) TERM.—An emergency order issued pursuant to this section—

(A) shall remain in effect for a period of not longer than 60 days; but

(B) may be renewed by a unanimous determination of the Commission.

(2) SUNSET.—The authority provided by this section shall terminate on the date that is 18 months after the date of enactment of this Act.

(3) INVESTIGATIVE AUTHORITY UNAFFECTED.—Nothing in this section shall affect the investigative authorities of the Commission as described in subpart R of part 502 of title 46, Code of Federal Regulations.

SEC. 19. BEST PRACTICES FOR CHASSIS POOLS.

(a) IN GENERAL.—Not later than April 1, 2023, the Federal Maritime Commission shall enter into an agreement with the Transportation Research Board of the National Academies of Sciences, Engineering, and Medicine under which the Transportation Research Board shall carry out a study and develop best practices for on-terminal or near-terminal chassis pools that provide service to marine terminal operators, motor carriers, railroads, and other stakeholders that use the chassis pools, with the goal of optimizing supply chain efficiency and effectiveness.

(b) REQUIREMENTS.—In developing best practices under subsection (a), the Transportation Research Board shall—

(1) take into consideration—

(A) practical obstacles to the implementation of chassis pools; and

(B) potential solutions to those obstacles; and

(2) address relevant communication practices, information sharing, and knowledge management.

(c) PUBLICATION.—The Commission shall publish the best practices developed under this section on a publicly available website by not later than April 1, 2024.

(d) FUNDING.—Subject to appropriations, the Commission may expend such sums as are necessary, but not to exceed \$500,000, to carry out this section.

SEC. 20. LICENSING TESTING.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Motor Carrier Safety Administration (referred to in this section as the “Administrator”) shall conduct a review of the discretionary waiver authority described in the document issued by the Administrator entitled “Waiver for States Concerning Third Party CDL Skills Test Examiners In Response to the COVID-19 Emergency” and dated August 31, 2021, for safety concerns.

(b) PERMANENT WAIVER.—If the Administrator finds no safety concerns after conducting a review under subsection (a), the Administrator shall—

(1) notwithstanding any other provision of law, make the waiver permanent; and

(2) not later than 90 days after completing the review under subsection (a), revise section 384.228 of title 49, Code of Federal Regulations, to provide that the discretionary waiver authority referred to in subsection (a) shall be permanent.

(c) REPORT.—If the Administrator declines to move forward with a rulemaking for revision under subsection (b), the Administrator shall explain the reasons for declining to move forward with the rulemaking in a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 21. PLANNING.

(a) AMENDMENT.—Section 6702(g) of title 49, United States Code, is amended—

(1) by striking “Of the amounts” and inserting the following:

“(1) IN GENERAL.—Of the amounts”; and

(2) by adding at the end the following:

“(2) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Subparagraphs (A) and (B) of subsection (c)(2) shall not apply with respect to amounts made available for planning, preparation, or design under paragraph (1).”.

(b) EMERGENCY DESIGNATION.—Amounts for which outlays are affected under the amendments made by subsection (a) that were previously designated by the Congress as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 are designated by the Congress as an emergency requirement pursuant to section 4001(a)(1) and section 4001(b) of S. Con. Res. 14 (117th Congress), the concurrent resolution on the budget for fiscal year 2022.

SEC. 22. REVIEW OF POTENTIAL DISCRIMINATION AGAINST TRANSPORTATION OF QUALIFIED HAZARDOUS MATERIALS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Comptroller General of the United States shall initiate a review of whether there have been any systemic decisions by ocean common carriers to discriminate against maritime transport of qualified hazardous materials by unreasonably denying vessel space accommodations, equipment, or other instrumentalities needed to transport such materials. The Comptroller General shall take into account any applicable safety and pollution regulations.

(b) CONSULTATION.—The Comptroller General of the United States may consult with the Commandant of the Coast Guard and the Chair of the Federal Maritime Commission in conducting the review under this section.

(c) DEFINITIONS.—In this section:

(1) HAZARDOUS MATERIALS.—The term “hazardous materials” includes dangerous goods, as defined by the International Maritime Dangerous Goods Code.

(2) OCEAN COMMON CARRIER.—The term “ocean common carrier” has the meaning given such term in section 40102 of title 46, United States Code.

(3) QUALIFIED HAZARDOUS MATERIALS.—The term “qualified hazardous materials” means hazardous materials for which the shipper has certified to the ocean common carrier that such materials have been or will be tendered in accordance with applicable safety laws, including regulations.

(4) SHIPPER.—The term “shipper” has the meaning given such term in section 40102 of title 46, United States Code.

SEC. 23. TRANSPORTATION WORKER IDENTIFICATION CREDENTIALS.

(a) DEFINITION OF DIRECT ASSISTANCE TO A UNITED STATES PORT.—In this section:

(1) IN GENERAL.—The term “direct assistance to a United States port” means the transportation of cargo directly to or from a United States port.

(2) EXCLUSIONS.—The term “direct assistance to a United States port” does not include—

(A) the transportation of a mixed load of cargo that includes—

(i) cargo that does not originate from a United States port; or

(ii) a container or cargo that is not bound for a United States port;

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

(C) the period after a motor carrier dispatches the applicable driver or commercial motor vehicle of the motor carrier to another location to begin operation in interstate commerce in a manner that is not in support of transportation to or from a United States port.

(b) TRANSPORTATION WORKER IDENTIFICATION CREDENTIALS.—The Administrator of the Transportation Security Administration and the Commandant of the Coast Guard shall jointly prioritize and expedite the consideration of applications for a Transportation Worker Identification Credential with respect to applicants that reasonably demonstrate that the purpose of the Transportation Worker Identification Credential is for providing, within the interior of the United States, direct assistance to a United States port.

SEC. 24. USE OF UNITED STATES INLAND PORTS FOR STORAGE AND TRANSFER OF CARGO CONTAINERS.

(a) MEETING.—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary for Transportation Policy, in consultation with the Administrator of the Maritime Administration and the Chairperson of the Federal Maritime Commission, shall convene a meeting of representatives of entities described in subsection (b) to discuss the feasibility of, and strategies for, identifying Federal and non-Federal land, including inland ports, for the purposes of storage and transfer of cargo containers due to port congestion.

(b) DESCRIPTION OF ENTITIES.—The entities referred to in subsection (a) are—

(1) representatives of United States major gateway ports, inland ports, and export terminals;

(2) ocean carriers;

(3) railroads;

(4) trucking companies;

(5) port workforce, including organized labor; and

(6) such other stakeholders as the Secretary of Transportation, in consultation with the Chairperson of the Federal Maritime Commission, determines to be appropriate.

(c) REPORT TO CONGRESS.—As soon as practicable after the date of the meeting convened under subsection (a), the Assistant Secretary for Transportation Policy, in consultation with the Administrator of the Maritime Administration and the Chairperson of the Federal Maritime Commission, shall submit to Congress a report describing—

(1) the results of the meeting;

(2) the feasibility of identifying land or property under the jurisdiction of United States, or ports in the United States, for storage and transfer of cargo containers; and

(3) recommendations relating to the meeting, if any.

(d) SAVINGS PROVISION.—No authorization contained in this section may be acted on in a manner that jeopardizes or negatively impacts the national security or defense readiness of the United States.

SEC. 25. REPORT ON ADOPTION OF TECHNOLOGY AT UNITED STATES PORTS.

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

(1) the technological capabilities of United States ports, as compared to foreign ports;

(2) an assessment of whether the adoption of technology at United States ports could lower the costs of cargo handling;

(3) an assessment of regulatory and other barriers to the adoption of technology at United States ports; and

(4) an assessment of technology and the workforce.

SEC. 26. AUTHORIZATION OF APPROPRIATIONS.

Section 46108 of title 46, United States Code, is amended by striking “\$29,086,888 for fiscal year 2020 and \$29,639,538 for fiscal year 2021” and inserting “\$32,869,000 for fiscal year 2022, \$38,260,000 for fiscal year 2023, \$43,720,000 for fiscal year 2024, and \$49,200,000 for fiscal year 2025”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from South Dakota (Mr. JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from Oregon.

GENERAL LEAVE

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 3580.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DEFAZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 3580, the Ocean Shipping Reform Act of 2022, bipartisan and bicameral legislation to strengthen our Nation's supply chain and address unfair shipping practices, which became broadly apparent during the pandemic.

Once again, we have come together to find common ground to address the needs of the American people. I particularly want to express great appreciation for the extraordinary leadership of my colleague from California, JOHN GARAMENDI, and DUSTY JOHNSON, for their tireless work fighting for this legislation.

I would also like to acknowledge SAM GRAVES, the ranking member of the Transportation and Infrastructure Committee, Coast Guard and Maritime Transportation Subcommittee Chairman SALUD CARBAJAL, and Coast Guard and Maritime Transportation Subcommittee Ranking Member BOB GIBBS. Their contributions were many, and I appreciate the time they took to work with all the stakeholders.

The COVID-19 pandemic has altered the practice of business worldwide, per-

haps permanently. It shuttered factories, changed consumer demand, and inundated our ports with containers. In no other time have we had such an unprecedented need for a resilient supply chain, yet if anything, the trials of the past 2 years have highlighted the inefficiencies of our transportation system, both domestically and internationally.

One response will be, hopefully, with the COMPETES Act, to onshore critical industries and components in the future. But the other is to deal with the inefficiencies of the existing system during that transition.

The importance of the maritime sector as part of America's supply chain cannot be overstated. \$4.6 trillion in activity takes place annually at all the U.S. seaports.

Despite historic demand and profit levels, we have been alerted to instances of large ocean carrier conglomerates taking advantage of American exporters and importers. In fact, the three largest shipping conglomerates in the world enjoyed more profits last year than the total of their profits in the previous decade. We might call that price gouging.

Foreign-flag commercial carriers transport more than 98 percent of U.S. foreign commerce. Again, we need more significant steps to rebuild a U.S. maritime industry so, as a maritime nation, we are not dependent upon Communist China and other places, a whole bunch of developing or even non-existent countries with flags of convenience that are substantially under the thumb of the Chinese.

Foreign-flag commercial carriers transport 98 percent, as I said, which means we must be robust in our approach to the oversight and enforcement of trade to secure fairness and economic prosperity.

The Ocean Shipping Reform Act of 2022 gives the Federal Maritime Commission updated authority to protect exporters, importers, and consumers from unfair practices by expanding its oversight and enforcement capabilities, and it amends title 46 to increase penalties for retaliation against shippers and encourage reciprocal trade. It ensures that ocean carriers cannot refuse U.S. export cargo bookings for arbitrary reasons and makes several reforms to the way carriers levy detention and demurrage charges.

These reforms include requiring written confirmation that the fees charged are fair and comply with Federal regulations and establishing that shippers have straightforward and appropriate recourse in the event of improper detention and demurrage charges or other unfair shipping practices.

This legislation also authorizes funding levels that would adequately equip the Federal Maritime Commission to utilize its expanded oversight and enforcement capabilities. Specifically, the legislation increases the FMC's authorization from \$32.9 million in 2022 to \$49.2 million in fiscal year 2025, a 50 percent increase over 4 years.

This increase would ensure that key leadership positions remain filled at a time when one in five current FMC employees are eligible to retire and allow for the hiring of additional staff to improve the Commission's enforcement actions and provide timely informational and dispute resolution assistance to consumers.

The Transportation and Infrastructure Committee has held multiple hearings focusing on relieving the strain on our supply chain. One recommendation we heard repeatedly is that increased data transparency and information sharing are essential to reducing lag time at trade-off points in the supply chain.

The supply chain consists of thousands of moving pieces—vessels, trucks, trains, planes—that are controlled by small teams of people making their decisions about cargo loading, timing, and routes based on weather, pricing, and other factors. We need to make it easier for all players in this system to talk to each other and share real-time information with their supply chain partners so that the goods keep flowing even when a shipper's transit plans change.

This bill works in harmony with actions taken by President Biden, the Department of Transportation, and the Department of Homeland Security to make pathways for the shipping community to improve its internal communication and, in turn, relieve congestion at ports.

In closing, I stress that this legislation is vital for ensuring fair and efficient shipping, which is integral to the well-being of our economy.

Allow me, once again, to thank Representatives GARAMENDI and JOHNSON for their leadership. I look forward to unanimous passage in the House, even if a vote is called for.

Mr. Speaker, I reserve the balance of my time.

Mr. JOHNSON of South Dakota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of my favorite movies is the 1993 comedy starring Bill Murray, “Groundhog Day.” In that movie, every day when Bill Murray wakes up, he goes through the same set of activities and processes. I can't help but feel a little bit like Bill Murray, given that this is the fourth time this body is taking up the Ocean Shipping Reform Act, but I think we are going to get it done this time.

We first passed it in December as a standalone bill with strong bipartisan vote totals. Then, in January, it was attached to a larger bill. A few weeks later, it was attached to yet another larger package of legislation.

Now, we have before us the Senate bill, and I do think that we are well positioned to get this across the finish line.

I thank the chairman for his kind words earlier. He mentioned the word “tireless.” When it comes to talking about Mr. GARAMENDI, I would also use

the word “tenacious.” He was a wonderful partner to try to actually get something done.

There are so many Members of Congress that are more interested in complaining about problems or about having the hot tweet of the day. But in JOHN GARAMENDI, there is a Member who actually wants to get things done. What a delightful characteristic to have in a Member of Congress.

Our version of H.R. 4996, of course, I thought it was the perfect piece of legislation. But the Senate is entitled to their own opinions, so we will bring up their version.

I think it is worth us reminding ourselves, how did we get here? We talk about a supply chain crunch. We talk about a supply chain crisis. How did we get here, and will this bill actually help?

The influx of Federal dollars injected into the economy and the way in which the pandemic shifted consumer spending has forced U.S. ports to face unprecedented volumes of cargo, just stuff incoming, nonstop, at a level at which this country has not seen.

This pressure on our ports has trickled down to other parts of the supply chain that has led to delays in product arrivals. It has led to product shortages, just as all the capacity in our system has been overwhelmed.

Those soaring freight rates and capacity shortages have made it difficult not only to receive imports but also to get our American agriculture and manufactured goods exported for timely delivery abroad. U.S. importers and exporters, U.S. consumers, have been hit on both fronts.

Some might be wondering why a Congressman from South Dakota cares so much about maritime law. The reality is that 60 percent of South Dakota's soybeans are exported, as are a tremendous amount of dairy, beef, and corn.

This is not just a coastal issue. This impacts lives from the farm gate to Main Street. Whether people realize it or not, this supply chain crunch is impacting them.

I got most involved in this issue when I heard from South Dakota businesses like Strider Bikes, out of Rapid City, or Valley Queen Cheese, out of Milbank, about how their ability to do business was seriously impacted by the crunch at the ports.

□ 1545

Valley Queen Cheese had 2 million pounds of lactose. It already had a buyer in Asia. They couldn't get it on a container. At a time when 60 percent of containers going back to Asia were going back empty, they couldn't get space on a container headed back to their customers. Strider couldn't get the parts they needed so that they would be able to sell finished products to American consumers and consumers elsewhere.

These are real impacts that take millions and billions of dollars out of the American economy. The American

Farm Bureau estimates that more than \$25 billion of ag sales have been forgone because of this problem at the ports. One industry, the U.S. dairy industry, in just 6 months last year, experienced a \$1.6 billion hit.

So, Mr. Speaker, the Ocean Shipping Reform Act addresses these problems in a few ways. It addresses the supply chain bottlenecks, it promotes American competitiveness, and it holds foreign-flagged ocean carriers accountable for any unfair practices that they engage in.

I just said that this bill is about U.S. competitiveness, and that is exactly right. My sense is that if you are a foreign-flagged ocean carrier, and you are using U.S. ports, you need to submit yourself to some basic rules of the road.

This legislation provides the appropriate authority to the Federal Maritime Commission so that they can better protect U.S. shippers who import and export items. They should be able to do that free from unreasonable anti-competitive actions.

So this bill does a lot, Mr. Speaker, but I want to hit just on three that I think are most noteworthy. First off, under this legislation, the FMC will be able to set minimum contract standards for ocean shipping service contracts. That is critically important. Again, those are the basic rules of the road we need to make sure are in place.

Secondly, it increases protections for U.S. shippers from retaliation if the shippers file a complaint with the FMC. There has been a fair amount of discussion in committee about how loath shippers are to file complaints against carriers because of concerns about retaliation.

Third, this bill sets standards for detention and demurrage charges levied by foreign ocean carriers. These are perfectly reasonable requirements. This bill says that the charges must be accurate, and of course, they should be, and the bill sets penalties for false or inaccurate fees.

The House-passed bill placed even more weapons in the FMC's arsenal. Again, the Senate version is not quite that robust, but Mr. Speaker, I see no value in us having perfect be the enemy of the good. This does move us in the right direction, so I would ask my colleagues to vote for S. 3580, the Ocean Shipping Reform Act of 2022.

A “yes” vote is a vote to put U.S. shippers, farmers, manufacturers, truckers, retailers, and consumers first. I support this crucial legislation, and I reserve the balance of my time.

Mr. DEFAZIO. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. GARAMENDI), who played a very principal role in this legislation.

Mr. GARAMENDI. Mr. Speaker, thank you so very much for the opportunity to present this.

First, let me throw back comments that Mr. JOHNSON made. I would say it precisely the same. Far too kind, but as they apply to you, certainly in order, each and every one of them.

The pleasure of working across the aisle, but really in common, on a set of problems that plague our constituents, and frankly, the constituents of every Representative, perhaps that is why we had such unanimous or nearly unanimous support here on our legislation which, correctly, you said, will now pass this House four times.

This bill attacks inflation, and it will reduce consumer costs. It is not going to solve every problem in the supply chain or every problem for U.S. exporters, but it will make a very real difference for American businesses and consumers by lowering the exorbitant ocean shipping costs and prohibiting unfair business practices by foreign-flagged ocean carriers.

Let me continue with a few thanks. Mr. DEFAZIO, heads up. Pay attention. You and your staff and Mr. GRAVES and his staff deserve extraordinary thanks here for really putting together some of the details and pushing this bill along.

Also, Mr. CARBAJAL, the maritime staff, both minority and majority for their work on it, and, of course, the author of this bill on the Senate side, Senator KLOBUCHAR. Mr. JOHNSON's staff and ours—and others—worked with her early on in the process as she was preparing to introduce the Senate version of the House version of the Ocean Shipping Reform Act.

So where do we go? It was almost 12 months to the day, June 15, that I reached out across the aisle on the Ocean Shipping Reform Act to work with my friend, Congressman DUSTY JOHNSON.

It is 12 months later, and I am thrilled that the House is passing this bill. In a conversation I had earlier last Friday with President Biden, he wants to sign this bill as soon as it could possibly get to his desk.

The Ocean Shipping Reform Act, S. 3580, is the first major overhaul of our Nation's laws and Federal regulations for the international ocean shipping industry since 1998. For decades, the United States has run a significant trade imbalance, due in large part to export-driven, non-market economies like mainland China.

In late 2001, the People's Republic of China was granted permanent, normal trade relations with the United States, the so-called most-favored-nation status—certainly favorable to China, but not to the United States—following that country's admission to the World Trade Organization.

The United States' trade imbalance with the People's Republic of China in 2001 was approximately \$83 billion. In 2020, our trade imbalance with mainland China was \$310 billion in nominal dollars, having increased almost every year.

Concurrently, the ocean shipping industry underwent considerable consolidation, coinciding with the continual decline of U.S.-flagged international fleet in favor of foreign flags of convenience—another way of saying, “do it on the cheap.”

Some nine foreign-flagged carriers now dominate the global ocean shipping industry, several of which are effectively controlled by foreign governments or foreign state-owned enterprises.

These foreign-flagged ocean carriers have an alliance with each other. They are not subject to the normal American laws of anticompetitive behavior so they go about their business. In that business, we have found the American consumer and the American exporter are at a disadvantage.

The global COVID-19 pandemic made all of these longstanding issues in the ocean shipping industry and highlighted the staggering vulnerabilities in the integrated supply chain that drives global commerce.

According to The Journal of Commerce, the foreign-flagged ocean carriers made a record profit of \$150 billion—in 2021, compared to just \$25.4 billion in 2022.

Even after more than quintupling their profits during the height of the pandemic, an independent analysis by the maritime research consultancy, Drewry, projects that the foreign-flagged ocean carriers will best their 2021 record profits in 2022, and I might add, at the expense of American consumers and at the expense of American exporters.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. DEFAZIO. Mr. Speaker, I yield an additional 2 minutes to the gentleman.

Mr. GARAMENDI. Mr. Speaker, I better get on with it.

For every American shopper, shipper, agricultural exporter, manufacturer, retailer, or small business struggling with skyrocketing ocean shipping costs, I am saying this bill will be help on the way.

The Ocean Shipping Reform Act cracks down on many of the issues. The Federal Maritime Commission is empowered.

The bill shifts the burden of proof regarding reasonableness to the ocean carriers, so if they want detention and demurrage, they have to prove it.

The bill also requires ocean carriers or their billing agencies to ensure that those charges comply with Federal regulations.

Third: The bill increases the antiretaliation protections for shippers.

Fourth: The bill establishes a new exception in Federal law that ocean carriers make a good-faith effort to negotiate vessel space and accommodate the cargo bookings for U.S. exports.

The bill authorizes the Federal Maritime Commission to regulate shipping exchanges.

Finally, this is one fine piece of legislation, and I urge its passage.

Mr. DEFAZIO. Mr. Speaker, I reserve the balance of my time.

Mr. JOHNSON of South Dakota. Mr. Speaker, I yield myself such time as I may consume.

I would like to engage in a brief colloquy with my majority colleague to ensure that we agree on section 7(b)(1) of S. 3580.

I would ask Chairman DEFAZIO: Section 7(b)(1) of the bill requires the FMC to initiate a rulemaking “further” defining prohibited practices by common carriers, marine terminal operators, and ocean transportation intermediaries under section 41102(c) of title 46, United States Code.

Section 7(b)(2) states that the contents of the additional rule required under paragraph 1, “shall only seek to further clarify reasonable rules and practices related to the assessment of detention and demurrage charges to address the issues identified in the final rule published”—by the FMC—“on May 18, 2020, entitled, ‘Interpretive Rule on Demurrage and Detention Under the Shipping Act.’”

So, Mr. Chairman, my understanding is that any rule prepared under paragraph 1 of section 7(b) is subject to the limitation set in paragraph 2, and such rule shall only clarify the May 18, 2020 rule.

I also understand that any rule prepared under section 7 shall be in addition to, not in place of, the May 2020 rule and that that May 18 rule shall remain in place during the preparation of the additional rule after the promulgation of such an additional rule unless the FMC chooses, unrelated to the requirements of section 7, to undertake any amendment to the May 18, 2020 rule.

Finally, Mr. Speaker, it is my understanding that, though characterized as an “interpretive rule,” this final rule was promulgated through notice and comment and is changing ocean carrier behavior with respect to these fees and has already led to enforcement cases by the Commission to address unreasonable detention and demurrage charges.

Does the Chair share my understandings with respect to section 7? Of course, I yield time for the gentleman to respond.

Mr. DEFAZIO. Will the gentleman yield?

Mr. JOHNSON of South Dakota. Mr. Speaker, I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman. I thank him for the colloquy.

Yes, I totally agree with the gentleman from South Dakota's understandings with respect to any additional promulgated rules pursuant to section 7 and to the May 18, 2020 rule now in place.

Mr. Speaker, I yield back to the gentleman.

Mr. JOHNSON of South Dakota. Mr. Speaker, reclaiming my time.

I appreciate the gentleman's comments, our agreement as well as your engagement.

Mr. Speaker, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Speaker, I reserve the balance of my time because I had

one additional speaker, but I think he is delayed in transit.

□ 1600

Mr. JOHNSON of South Dakota. Mr. Speaker, I yield myself such time as I may consume.

It has been a bit of a journey. The gentleman from California was right, it is almost a year to the day, but we are here, and we are about ready to punch this into the end zone.

Mr. Speaker, S. 3580 provides the FMC the crucial tools they need to help protect U.S. shippers. Both Mr. GARAMENDI and myself are former regulators at the State level, and we had shared that it is unusual in this kind of a highly complex and sophisticated commerce environment that the FMC has lacked these basic authorities in the past.

This bill moves us in the right direction. It is going to help during this current crisis. And even more importantly, Mr. Speaker, it will make a future crisis less likely. People will understand that the cop on the beat, the FMC, has the authority they need to shave the most jagged edges off of unreasonable behavior from these foreign-flagged ocean carriers.

Mr. Speaker, I sincerely thank my colleagues across the aisle for working with so many of us on this side on this important legislation. It is a strongly bipartisan and strongly bicameral success. I think this time we are going to get it across the finish line, signed into law by the President. I urge support.

Mr. Speaker, I yield back the balance of my time.

Mr. DEFAZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will just expand a little bit on the gentleman from California when he raised the MFN for China in 1990, most-favored-nation status. Until then, we had been able, on an annual basis, to threaten China with substantial retaliation restrictions if they violated international norms in trade.

The Clinton administration mistakenly felt that if the Chinese were given most-favored-nation status and put into the World Trade Organization that somehow they would reform their practices. They haven't; they didn't; they won't.

Interestingly, I was cleaning out a drawer in my desk today and came across a headline story where it said, “DeFazio predicts the largest export to China will be U.S. jobs,” and it has been. We have hemorrhaged hundreds of thousands, millions of good, family-wage manufacturing jobs in this country, developed extraordinary dependence.

The Senate version of the COMPETES Act, thanks to Senator TOOMEY, would actually make us more dependent on China, do away with all tariffs, including on medical protective gear and other things.

Did we learn nothing during this pandemic?

This bill is just one first step in beginning to reestablish the United States' competitive position in the world with free and "fair" trade—fair, underlined eight times—including the shipping companies and those who utilize or dominate those shipping companies.

This is critical legislation. I am hoping that we can make even more progress in the COMPETES Act on the Senate side and not adopt their pathetic, total kowtowing to China.

Mr. Speaker, I urge my colleagues to support this legislation, and I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I stand in support of S. 3580 to defend the right of American business owners and farmers to receive fair pricing for the exportation of their valuable products across the world.

Since the COVID-19 pandemic brought the world to a halt, the international exchange of goods has struggled to recover.

Many Americans have felt the impact of the supply chain disruption in their homes and pockets.

Products manufactured in factories overseas take too long to arrive at our ports.

When they do arrive, they spend days docked on shore before distribution to American warehouses.

However, the true crime in this broken system has been the theft of economic opportunity to American exporters.

In the months of October and November 2021, when the global supply chain was at its most unstable, shipping carriers had the gall to arrive on U.S. soil, deposit foreign products and then reject the exports of American farmers and business owners.

In these two months, ocean carriers turned away more than 175,000 containers from ports in California, New Jersey, and New York.

According to some reports, nearly 40 percent of scheduled pickups of U.S. agricultural exports were cancelled or simply not completed.

Three out of four shipping containers left American ports empty.

That's a loss of over \$630 million for American businesses.

When shipping containers were available for export, price gouging ate into already small profit margins of our hard-working farmers.

In just two years the price of a shipping container leaving the U.S. quadrupled.

Our business owners, our producers, our farmers are being robbed.

Foreign shipping companies should not be making all time high profits off the backs of American business owners.

The Ocean Shipping Competition Reform Act will empower the Federal Maritime Commission to ensure that American companies stand on equal footing with foreign manufacturers and that these unjust practices come to an end.

S. 3580 will ensure that shipping companies commit to fair and equitable pricing practices.

S. 3580 will support the American economy and will empower our business owners and agricultural leaders to compete on an even playing field on the international stage.

That is why I stand in support of the Ocean Shipping Competition Reform Act of 2022, and why I encourage my colleagues to do the same.

Mr. CARBAJAL. Mr. Speaker, I would like to express my support for the Ocean Shipping Reform Act of 2022. I want to especially commend Reps. GARAMENDI and JOHNSON, on their tremendous work cultivating a bipartisan agreement to address supply chain issues and unfair practices in the shipping industry.

I would also like to thank my colleagues for working with me and Chair DEFAZIO on this legislation.

Mr. Speaker, the need for this legislation is clear by the fact that every American now knows the phrase 'supply chain disruption'.

Whether its delayed shipments of agricultural goods or the current infant formula shortage, every family in America has been touched in some way by these bottlenecks and kinks in our supply chain.

We need robust solutions to address this crisis.

This bill is the first step in doing so.

It eases our stressed supply chain by creating more transparency within our intermodal system and improves efficiency in transporting goods at a time when supply chain congestion is severe.

The increase in funding for the Federal Maritime Commission in this 4-year authorization is indicative of Congress's strong support for finding an effective solution to the supply chain crisis. Now is the time to ensure that the Commission has the ability to enforce fairness in ocean shipping practices.

I am pleased that the bill contains a number of provisions aimed at addressing wrongfully issued detention and demurrage charges. This includes holding shipping companies responsible for proving the reasonableness of the charges when challenged.

To optimize supply chain efficiency and streamline operations, the bill calls for a study to develop best practices for chassis pools that provide service to different types of stakeholders in the intermodal transportation system.

It also authorizes the collection and publication of equipment dwell time statistics at the top 25 ports.

I am proud of the Committee's work on this important legislation, and I look forward to seeing it signed into law.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. DEFAZIO) that the House suspend the rules and pass the bill, S. 3580.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. GOOD of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 4 o'clock and 4 minutes p.m.), the House stood in recess.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. COURTNEY) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

S. 3580;
H.R. 6270; and
H.R. 2020.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

OCEAN SHIPPING REFORM ACT OF 2022

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on the motion to suspend the rules and pass the bill (S. 3580) to amend title 46, United States Code, with respect to prohibited acts by ocean common carriers or marine terminal operators, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. DEFAZIO) that the House suspend the rules and pass the bill.

The vote was taken by electronic device, and there were—yeas 369, nays 42, not voting 16, as follows:

[Roll No. 256]

YEAS—369

Adams	Brown (MD)	Cole
Aderholt	Brown (OH)	Connolly
Aguilar	Brownley	Cooper
Allen	Buchanan	Correa
Allred	Buck	Costa
Amodei	Bucshon	Courtney
Armstrong	Budd	Craig
Arrington	Bush	Crawford
Auchincloss	Bustos	Crenshaw
Axne	Butterfield	Crist
Babin	Calvert	Crow
Bacon	Cammack	Cuellar
Baird	Carbajal	Curtis
Balderson	Cárdenas	Davis, Danny K.
Banks	Carey	Davis, Rodney
Barr	Carl	Dean
Barragán	Carson	DeFazio
Bass	Carter (GA)	DeGette
Beatty	Carter (LA)	DeLauro
Bentz	Carter (TX)	DeBene
Bera	Cartwright	Demings
Bergman	Case	DeSaulnier
Beyer	Castor (FL)	DesJarlais
Bice (OK)	Castro (TX)	Diaz-Balart
Bilirakis	Chabot	Dingell
Bishop (GA)	Cheney	Doggett
Bishop (NC)	Cherfilus-	Doyle, Michael
Blumenauer	McCormick	F.
Blunt Rochester	Chu	Duncan
Bonamici	Cielline	Dunn
Bost	Clark (MA)	Ellzey
Bourdeaux	Clarke (NY)	Emmer
Bowman	Cleaver	Escobar
Boyle, Brendan	Cloud	Eshoo
F.	Cohen	Espallat