
HOUSE CONCURRENT RESOLUTION

REQUESTING CONGRESS TO EXEMPT THE NONCONTIGUOUS DOMESTIC TRADES
OF ALASKA, HAWAII, AND PUERTO RICO FROM THE UNITED STATES
BUILD REQUIREMENT OF THE JONES ACT FOR LARGE OCEANGOING
SHIPS.

1 WHEREAS, interstate ocean shipping is a vital economic link
2 between the seven noncontiguous domestic jurisdictions of the
3 United States and the contiguous forty-eight mainland states of
4 the union; and

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6 WHEREAS, Section 27 of the Merchant Marine Act of 1920,
7 P.L. 66-261 (46 U.S.C. 55102), commonly known as the Jones Act,
8 is a federal cabotage law that restricts the carriage of cargo
9 between coastwise points in the United States to vessels that
10 are U.S.-built, U.S.-flag, U.S.-owned and U.S.-crewed; and

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12 WHEREAS, the coastwise laws of the U.S. including the Jones
13 Act, encompass four of the seven noncontiguous domestic
14 jurisdictions, namely, the State of Alaska, the Territory of
15 Guam, the State of Hawaii, and the Commonwealth of Puerto Rico,
16 while the Territory of American Samoa, the Commonwealth of the
17 Northern Mariana Islands, and the Virgin Islands of the United
18 States are fully exempt from the Jones Act as a result of the
19 international treaties associated with their annexation to the
20 U.S.; and

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22 WHEREAS, there is a historical exemption from the U.S.-
23 build requirement of the Jones Act for all commercial vessels
24 engaged in the domestic Guam trade (46 U.S.C. 12111) known as
25 the "Guam Exemption" and the other three noncontiguous
26 jurisdictions encompassed by the coastwise laws, namely Alaska,
27 Hawaii, and Puerto Rico, are now seeking a similar but more
28 limited exemption for large oceangoing ships engaged in their
29 domestic trades; and

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1 WHEREAS, the Guam Exemption is of limited usefulness to the
2 Territory because the natural westbound trade lane from the U.S.
3 West Coast to Guam passes through Hawaii, making it difficult
4 for the ocean common carriers to mount financially viable
5 voyages without carrying cargo to both Hawaii and Guam,
6 effectively shackling Guam's interstate trade to the U.S.-build
7 requirement despite their exemption and causing Guam to support
8 the limited extension of their exemption to the jurisdictions of
9 Alaska, Hawaii, and Puerto Rico proposed herein; and

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11 WHEREAS, the late U.S. Senator Daniel K Inouye inserted in
12 the Omnibus Appropriations Act of 2003 a limited exemption from
13 the U.S.-built requirement of the vessel documentation laws
14 granting three large foreign-built U.S.-flag cruise ships a
15 coastwise endorsement to operate in the Hawaii trade (P.L. 108-
16 7, division B, title II, section 211), known as the "Hawaii
17 Cruise Trade Exemption," recognizing that U.S. shipyards could
18 not successfully construct large specialist cruise ships after
19 the failure of an earlier program to do the same and which
20 Senator Inouye sponsored, known as "Project America" and was
21 contained in the Department of Defense Appropriations Act for
22 Fiscal Year 1998 (P.L. 105-56 section 8109); and

23
24 WHEREAS, current Hawaii Governor Neil Abercrombie in his
25 State of the State address on January 22, 2013, strongly
26 implored the Hawaii State Legislature "to move forward with" him
27 to "embark on a path to LNG (liquefied natural gas) [that] will
28 result in long term avoided costs" and "allow us to purchase
29 fuel from American sources" because "our State, our residents,
30 our constituents, our businesses and communities need relief"
31 while "to do nothing puts everyone in the State at risk"; and

32
33 WHEREAS, the former Governor of Puerto Rico Luis Fortuno
34 established an LNG program, which includes gaining access to
35 domestic sources for the Commonwealth, and his successor
36 Governor Alejandro Garcia Padilla is following suit to reduce
37 their energy costs, and Governor Sean Parnell of Alaska is
38 developing the State's North Slope LNG resources for export
39 primarily to Asia and shipment to Hawaii as well; and

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41 WHEREAS, the ocean shipment of LNG requires specialist
42 tanker ships known as "LNG Carriers", none of which have been
43 built in the U.S. since the mid-1970's, and new construction in
44 the U.S. would be cost prohibitive and potentially result in



1 failure as did Project America denying Hawaii and Puerto Rico
2 access to U.S. LNG sources and Alaska from supplying LNG to
3 other States unless the noncontiguous trades are exempted from
4 the U.S. built requirement; and
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6 WHEREAS, the noncontiguous jurisdictions are completely
7 dependent on ocean shipping for interstate surface
8 transportation and their geography precludes access to
9 alternatives such as interstate railroad, highway, and pipeline
10 transportation that are readily available and provide
11 competitive carriage within the contiguous United States; and
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13 WHEREAS, the Jones Act generally restricts competition in
14 the domestic ocean shipping industry, has led to monopoly-like
15 shipping markets for interstate ocean common carrier
16 transportation in the coastwise noncontiguous domestic trades,
17 and has left many shippers in the contract carriage (non-common
18 carrier) sectors of those trades without access to the kinds of
19 efficient ocean transportation for commodities - such as bulk
20 grains and livestock - which are readily available to the rest
21 of the world; and
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23 WHEREAS, the U.S.-build requirement of the Jones Act in
24 particular creates an artificial scarcity of major capital
25 ships, erects substantial barriers to entry for domestic trades,
26 and severely restricts the contestability of the domestic ocean
27 transportation markets; and
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29 WHEREAS, U.S. deep-draft ship construction is typically
30 three or more times the cost in Japan and South Korea and U.S.
31 ship production is very limited - building on average fewer than
32 three deep draft merchant ships annually in the U.S. since the
33 mid-1980's - putting the major U.S. shipbuilding yards at a
34 distinct disadvantage in terms of economies of scale adversely
35 affecting their ability to apply new technology, expertise, and
36 experience in the construction of large modern oceangoing ships
37 as compared to their international peers; and
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39 WHEREAS, the high cost and low production of the U.S.
40 shipbuilding industry has resulted in an aging and inefficient
41 deep-sea Jones Act fleet that disproportionately imposes a
42 considerable economic cost on, and adversely affects, the
43 noncontiguous jurisdictions; and
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1 WHEREAS, the average age of the Jones Act containerships
2 employed in the coastwise noncontiguous domestic trades is
3 twenty-eight years compared to the international average of
4 twelve years for containerships, and international maritime
5 insurance data clearly shows that ship accident rates correlate
6 to the age of ships spiking after twenty years; and
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8 WHEREAS, foreign and U.S.-built ships alike are designed
9 and built to the universal standards established by the nearly
10 50 international conventions and agreements and numerous
11 protocols and amendments administered by the United Nation's
12 International Maritime Organization (IMO), which have been
13 ratified by the United States and made part of U.S. law; and
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15 WHEREAS, the United States Coast Guard (USCG) inspects all
16 foreign-built ships seeking to become registered vessels of the
17 United States to ensure that they comply with all U.S. ship
18 construction and safety laws and regulations; and
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20 WHEREAS, the U.S.-build requirement of the Jones Act for
21 large oceangoing ships in noncontiguous domestic trades is not
22 essential for the national defense of the United States because
23 the remaining eight major domestic shipbuilding yards capable of
24 constructing large oceangoing ships primarily build naval ships
25 and produce so few merchant ships each year that this activity
26 does not represent sufficient shipbuilding capacity to begin
27 addressing the shipbuilding requirements of a major war time
28 contingency and sustains a limited industrial base unable to
29 support ongoing naval construction programs; and
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31 WHEREAS, more than half of the large oceangoing Jones Act
32 fleet is employed in the coastwise noncontiguous domestic
33 trades, thus imposing more than fifty per cent of the additional
34 cost burden of operating large oceangoing Jones Act ships on
35 less than two per cent of the U.S. population; and
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37 WHEREAS, all other modes of domestic transportation in the
38 U.S. are permitted to use foreign manufactured equipment for
39 commercial operation without restriction including aircraft,
40 railroad cars and locomotives, trucks, automobiles, and mass
41 transit vehicles; and
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43 WHEREAS, in December 1994, the U.S. signed the Organization
44 for Economic Cooperation and Development's final act of the



1 "Agreement Respecting Normal Competitive Conditions in the
2 Commercial Shipbuilding and Repair Industry" (known as the OECD
3 Shipbuilding Agreement) that would allow certain foreign built
4 ships in the domestic Jones Act trades, but it has not been
5 ratified by the U.S. Congress; and
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7 WHEREAS, the U.S. domestic build provisions of the Jones
8 Act do not comply with ongoing Multilateral Trade Negotiations
9 that began under the General Agreement on Tariffs and Trade and
10 continues with the World Trade Organization; and
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12 WHEREAS, the U.S.-build requirement of the Jones Act is an
13 absolute merchandise import restriction contrary to
14 international trade agreements; and
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16 WHEREAS, the residents of the coastwise noncontiguous
17 jurisdictions subsidize an inefficient and commercially
18 uncompetitive U.S. major ship building industry; and
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20 WHEREAS, the exemption described herein is a limited and
21 narrowly targeted reform of the Jones Act that would not change
22 the existing U.S.-flag, U.S.-ownership and U.S.-crew provisions
23 of the Jones Act as they currently apply to the coastwise
24 noncontiguous domestic trades, would not allow foreign-seamen or
25 foreign-shipowners in any domestic trade where they are not
26 currently allowed, would not apply to the domestic tug and barge
27 industry anywhere in the U.S. including in the Jones Act
28 noncontiguous jurisdictions, would not affect any domestic
29 shipping along the coasts of the contiguous U.S. mainland, in
30 the intercoastal trades, on the inland waterways, or on the
31 Great Lakes, and would not negatively impact any maritime
32 industry jobs in the noncontiguous jurisdictions; and
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34 WHEREAS, the passage of federal legislation exempting the
35 noncontiguous domestic trades from the U.S.-build requirement
36 for large self-propelled ships would revitalize U.S.-flag
37 shipping by allowing new foreign-built ships into the
38 noncontiguous domestic trade, removing barriers to entry and
39 encouraging more effective competition in those trades, and
40 generally making more U.S.-flag merchant ships available to
41 support military operations; now, therefore,
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43 BE IT RESOLVED by the House of Representatives of the
44 Twenty-seventh Legislature of the State of Hawaii, Regular



H.C.R. NO. 150

1 Session of 2013, the Senate concurring, that this body
 2 respectfully requests the Congress of the United States to pass
 3 legislation granting an exemption from the U.S.-build
 4 requirement of the Jones Act in the noncontiguous domestic
 5 trades of Alaska, Hawaii, and Puerto Rico for large self-
 6 propelled oceangoing ships; and

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 8 BE IT FURTHER RESOLVED that this body respectfully requests
 9 the President of the United States and his administration to
 10 support the congressional legislation requested herein; and

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 12 BE IT FURTHER RESOLVED that the Hawaii congressional
 13 delegation is urged to request Congress to exempt Alaska,
 14 Hawaii, and Puerto Rico from the U.S. build requirement of the
 15 Jones Act for large self-propelled oceangoing ships; and

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 17 BE IT FURTHER RESOLVED that certified copies of this
 18 Concurrent Resolution be transmitted to the President of the
 19 United States, the President of the United States Senate, the
 20 Speaker of the United States House of Representatives, the
 21 Secretary of the United States Department of Transportation,
 22 members of Alaska, Guam, Hawaii, and Puerto Rico's congressional
 23 delegations, and to the Governors of Alaska, Guam, Hawaii and
 24 Puerto Rico.

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OFFERED BY:

The block contains four handwritten signatures stacked vertically. The first signature is 'Fred Ward', the second is 'Cindy Evans', the third is 'John M. Meyer', and the fourth is 'Jim W. Clark'. Each signature is written in black ink and is positioned to the right of the 'OFFERED BY:' text.

MAR 13 2013

