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## HOUSE RESOLUTION

REQUESTING CONGRESS TO EXEMPT HAWAII (JOINED BY PUERTO RICO AND ALASKA) FROM THE U.S. BUILD REQUIREMENT OF THE JONES ACT FOR LARGE OCEANGOING SHIPS.

1           WHEREAS, interstate ocean shipping is a vital economic link  
2 between the seven (7) noncontiguous domestic jurisdictions of  
3 the United States and the contiguous forty-eight (48) mainland  
4 states of the union; and

5  
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  
8 Act, is a federal cabotage law that restricts the carriage of  
9 cargo between coastwise points in the United States to vessels  
10 that are U.S.-built, U.S.-flag, U.S.-owned and U.S.-crewed; and

11  
12           WHEREAS, the coastwise laws of the U.S. including the Jones  
13 Act encompass four (4) of the seven (7) 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

21  
22           WHEREAS, there is historical exemption from the U.S.-build  
23 requirement of the Jones Act for all commercial vessels engaged  
24 in the domestic Guam trade (46 U.S.C. § 12111) known as the "Guam  
25 Exemption" and the other three (3) noncontiguous jurisdictions  
26 encompassed by the coastwise laws, namely Hawaii, joined by  
27 Alaska and Puerto Rico, are seeking a more limited, similar,  
28 exemption; and

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30           WHEREAS, the Guam Exemption is of limited utility to Guam  
31 because the natural westbound trade lane from the U.S. West  
32 Coast to Guam passes through Hawaii making it difficult for  
33 ocean common carriers to mount financially viable voyages  
34 without carrying cargo to both Hawaii and Guam effectively  
35 binding Guam's interstate trade to the U.S.-build requirement



1 despite its exemption and prompting Guam to support the limited  
2 extension of their exemption to Hawaii; and

3  
4 WHEREAS, the late U.S. Senator Daniel K. Inouye inserted a  
5 limited exemption from the U.S.-built requirement of the vessel  
6 documentation laws granting three large foreign-built U.S.-flag  
7 cruise ships a coastwise endorsement to operate in the Hawaii  
8 trade into the Omnibus Appropriations Act of 2003, known as the  
9 "Hawaii Cruise Trade Exemption" (P.L. 108-7, Div. B, title II §  
10 211) recognizing that U.S. shipyards could not successfully  
11 construct large specialist cruise ships after the failure of an  
12 earlier program to do just that and which Senator Inouye  
13 sponsored, known as "Project America" contained in the  
14 Department of Defense Appropriations Act for Fiscal year 1998  
15 (P.L. 105-56 § 8109); and

16  
17 WHEREAS, current Hawaii Governor Neil Abercrombie in his  
18 State of the State address on January 21, 2013, strongly  
19 implored the Hawaii State Legislature to "move forward with" him  
20 to "embark on a path to LNG (liquefied natural gas)[that] will  
21 result in long term avoided costs" and "allow us to purchase  
22 fuel from American sources" because "our state, our residents,  
23 our constituents, our businesses and communities need relief"  
24 while "to do nothing puts everyone in the state at risk;" and

25  
26 WHEREAS, the former Governor of Puerto Rico, Luis Fortuno,  
27 established an LNG program which includes gaining access to  
28 domestic sources, for the Commonwealth and his successor  
29 Governor Alejandro Garcia Padilla is following suit to reduce  
30 their energy costs; and Governor Sean Parnell of Alaska is  
31 developing the State's North Slope LNG resources for export  
32 primarily to Asia and shipment to Hawaii too; and

33  
34 WHEREAS, the ocean shipment of LNG requires specialist  
35 tanker ships known as "LNG Carriers" none of which have been  
36 built in the U.S. since the mid-1970's and new construction in  
37 the U.S. would be cost prohibitive and potentially result in  
38 failure as did Project America denying Hawaii access to U.S. LNG  
39 sources unless the noncontiguous trades are exempted from the  
40 U.S.-built requirement; and

41  
42 WHEREAS, the U.S.-build requirement of the Jones Act  
43 creates an artificial scarcity of major capital ships, erects  
44 substantial barriers to entry domestic trades, and severely



1 restricts the contestability of the domestic ocean  
2 transportation markets; and

3  
4 WHEREAS, U.S. deep-draft construction is typically three or  
5 more times the cost than ships built in Japan or South Korea and  
6 U.S. ship production is very limited - building an average of  
7 less than three deep draft merchant ships annually in the U.S.  
8 since the mid-1980's - putting the major U.S. shipbuilding yards  
9 at a distinct disadvantage in terms of economies of scale  
10 adversely affecting their ability to apply new technology,  
11 expertise and experience in the construction of large modern  
12 oceangoing ships as compared to their international peers; and  
13

14 WHEREAS, the high cost and low production of the U.S.  
15 shipbuilding industry has resulted in an ageing and inefficient  
16 deep-sea Jones Act fleet that disproportionately imposes an  
17 economic burden on and adversely affects Hawaii and the other  
18 noncontiguous jurisdictions; and  
19

20 WHEREAS, the average age of containerships employed in  
21 noncontiguous trade is twenty-eight years compared to the  
22 international average of twelve years, and international  
23 maritime insurance data show that accident rates increase with  
24 increasing ship-age spiking after twenty years; and  
25

26 WHEREAS, foreign and U.S.-built ships alike are designed  
27 and built to the universal standards established by the nearly  
28 50 international conventions and agreements, and numerous  
29 protocols and amendments administered by the United Nation  
30 (UN)'s International Maritime Organization (IMO), which have  
31 been ratified by the United States and made part of U.S. law;  
32 and  
33

34 WHEREAS, the United States Coast Guard (USCG) inspects all  
35 foreign-built ships seeking to become registered vessels of the  
36 United States to ensure that they comply with all U.S. ship  
37 construction, safety laws and regulations; and  
38

39 WHEREAS the U.S.-build requirement of the Jones Act for  
40 large oceangoing ships in noncontiguous domestic trades is not  
41 essential for the national defense of the United States because  
42 the remaining eight domestic shipbuilding yards capable of  
43 constructing large oceangoing ships mainly build naval ships and  
44 produce so few merchant ships each year that this activity does



1 not represent sufficient shipbuilding capacity to address the  
2 shipbuilding needs of a major war time contingency and sustains  
3 a limited industrial base unable to support ongoing naval  
4 construction programs; and

5  
6 WHEREAS, granting an exemption to the U.S.-build  
7 requirement allows aging ships to be more quickly and  
8 economically replaced by less expensive and more fuel efficient  
9 ships in accordance with efforts to conserve resources and  
10 protect the environment; and

11  
12 WHEREAS, more than half of the large oceangoing Jones Act  
13 fleet is employed in the coastwise noncontiguous domestic  
14 trades, thus imposing more than 50% of the additional cost  
15 burden of operating Jones Act ships on less than 2% of the U.S.  
16 population; and

17  
18 WHEREAS, all other modes of domestic transportation in the  
19 U.S. are permitted to use foreign manufactured equipment for  
20 commercial operation without restriction including aircraft,  
21 railroad cars and locomotives, trucks, automobiles and mass  
22 transit vehicles; and

23  
24 WHEREAS, in December 1994, the United States signed the  
25 Organization for Economic Cooperation and Development (OECD)'s  
26 final act of the "Agreement Respecting Normal Competitive  
27 Conditions in the Commercial Shipbuilding and Repair Industry"  
28 (known as the OECD Shipbuilding Agreement) that would allow  
29 certain foreign built ships in the domestic Jones Act trades,  
30 but it has not been ratified by the U.S. Congress; and

31  
32 WHEREAS, the U.S. domestic build provisions of the Jones  
33 Act do not comply with ongoing Multilateral Trade Negotiations  
34 (MTN) that began under the General Agreement on Tariffs and  
35 Trade (GATT) and continues with the World Trade Organization  
36 (WTO); and

37  
38 WHEREAS, U.S.-build requirement of the Jones Act is an  
39 absolute merchandise import restriction contrary to  
40 international trade agreements; and

41  
42 WHEREAS, the residents of Hawaii and the other coastwise  
43 noncontiguous jurisdictions subsidize an inefficient and



1 commercially uncompetitive U.S. major ship building industry;  
2 and

3  
4 WHEREAS, the exemption described herein is a limited and  
5 narrowly targeted reform of the Jones Act that would not change  
6 the existing U.S.-flag, U.S.-ownership and U.S.-crew provisions  
7 of the Jones Act as they currently apply to the coastwise  
8 noncontiguous domestic trades, would not allow foreign seamen or  
9 foreign ship-owners in any domestic trade where they are not  
10 currently allowed, would not apply to the domestic tug and barge  
11 industry anywhere in the U.S. including in the Jones Act  
12 noncontiguous jurisdictions, would not affect any domestic  
13 shipping along the coasts of the contiguous U.S. mainland, in  
14 the intercoastal trades, on the inland waterways or on the Great  
15 lakes, and would not negatively impact any maritime industry  
16 jobs in the noncontiguous jurisdictions; and

17  
18 WHEREAS, the passage of federal legislation exempting the  
19 noncontiguous domestic trades from the U.S.-build requirement  
20 for large self-propelled ships would revitalize U.S.-flag  
21 shipping by allowing foreign-built ships into, removing barriers  
22 to entry and encouraging more effective competition in those  
23 trades, and generally making more U.S.-flag merchant ships  
24 available to support military operations; and

25  
26 BE IT RESOLVED by the House of Representatives of the  
27 Twenty-seventh Legislature of the State of Hawaii, Regular  
28 Session of 2014, that this body respectfully requests the  
29 Congress of the United States to pass legislation granting an  
30 exemption from the U.S.-build requirement of the Jones Act in  
31 the noncontiguous domestic trade of Hawaii for large self-  
32 propelled oceangoing ships (Alaska and Puerto Rico support and  
33 seek the same exemption); and

34  
35 BE IT FURTHER RESOLVED that the Hawaii State House of  
36 Representatives respectfully requests the President of the  
37 United States and his administration to support the  
38 congressional legislation requested herein; and

39  
40 BE IT FURTHER RESOLVED that Hawaii's congressional  
41 delegation is urged to work with their colleagues from Alaska,  
42 Guam and Puerto Rico to introduce in Congress federal  
43 legislation that would exempt the Hawaii and other noncontiguous



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1 trades from the U.S.-build requirement of the Jones Act for  
2 large oceangoing ships; and  
3

4 BE IT FURTHER RESOLVED that the Hawaii congressional  
5 delegation is urged to request Congress to exempt Hawaii, along  
6 with Alaska and Puerto Rico, from the U.S.-build requirement of  
7 the Jones Act for large self-propelled oceangoing ships; and  
8

9 BE IT FURTHER RESOLVED that certified copies of this  
10 Resolution be transmitted to the President of the United States,  
11 the President of the United States Senate, the Speaker of the  
12 United States House of Representatives, the Secretary of the  
13 United States Department of Transportation, members of Hawaii's  
14 congressional delegation, members of Alaska, Guam, and Puerto  
15 Rico's congressional delegations, and the Governors of Alaska,  
16 Guam, Hawaii and Puerto Rico.  
17  
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OFFERED BY:

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