

SENATE JOINT RESOLUTION NO. 11

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY SENATOR EGAN

Introduced: 3/13/13

Referred: State Affairs, Labor and Commerce

A RESOLUTION

1 **Urging the federal government to enforce certain provisions of the Immigration and**
2 **Nationality Act and reform or repeal certain other provisions of the Act to ensure that**
3 **longshore work in the state and the coastal waters of the state is performed by United**
4 **States longshore workers.**

5 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 **WHEREAS**, under 8 U.S.C. 1288(b) (sec. 258(a), Immigration and Nationality Act),
7 "longshore work" is defined as "any activity relating to the loading or unloading of cargo, the
8 operation of cargo-related equipment (whether or not integral to the vessel), and the handling
9 of mooring lines on the dock when the vessel is made fast or let go, in the United States or the
10 coastal waters thereof"; and

11 **WHEREAS** the Pacific Coast Longshore Contract Document, the Pacific Coast
12 Longshore and Clerks' Agreement, and the All Alaska Longshore Agreement are collective
13 bargaining agreements that reaffirm the right of members of the International Longshore and
14 Warehouse Union to perform all longshore work under the Immigration and Nationality Act
15 in the state and in federal coastal waters of the state; and

1 **WHEREAS** enforcement by the United States Secretary of Labor of the longshore
2 provisions of the Immigration and Nationality Act that limit performance of longshore work
3 by alien crewmen is inadequate; and

4 **WHEREAS** the United States Secretary of Labor too often fails to respond in a timely
5 fashion to reports of illegal longshore work by alien crewmen; and

6 **WHEREAS** the United States Customs and Border Protection Agency of the United
7 States Department of Homeland Security has not been staffing port areas in the state
8 sufficiently to enforce the longshore provisions of the Immigration and Nationality Act for
9 which the agency is responsible and has not been issuing cease and desist orders to halt
10 known ongoing violations of the Act; and

11 **WHEREAS** an Alaska exception in 8 U.S.C. 1288(d) (sec. 258(d), Immigration and
12 Nationality Act) allows an employer of alien crewmen to use an alien crewmember to perform
13 longshore work in the state or in federal coastal waters of the state if the employer attests to
14 the federal government, in as little as 24 hours in advance, that the employer tried but was not
15 able to hire a United States longshore worker to perform the work; and

16 **WHEREAS** employers of alien crewmen misuse the Alaska exception for the purpose
17 of hiring alien crewmen instead of United States longshore workers to perform longshore
18 work; and

19 **WHEREAS** the United States Secretary of Labor often fails to act against employers
20 who misuse the Alaska exception; and

21 **WHEREAS** a reciprocity exception under 8 U.S.C. 1288(e) (sec. 258(e), Immigration
22 and Nationality Act) allows alien crewmen to perform longshore work defined in 8 U.S.C.
23 1288(b) (sec. 258(a), Immigration and Nationality Act) under certain circumstances in the
24 state or in federal coastal waters of the state, depending on the nationality of the alien
25 crewmember and the country in which the vessel is registered; and

26 **WHEREAS** 8 U.S.C. 1281 and 1288 (secs. 251 and 258, Immigration and Nationality
27 Act) establish legally enforceable limitations on the performance of longshore work by alien
28 crewmen and provide for legally enforceable penalties for violations of those limitations; and

29 **WHEREAS**, for the protection of United States longshore workers, limitations on the
30 performance of longshore work by alien crewmen and penalties for violating those limitations
31 should be enforced;

1 **BE IT RESOLVED** that the Alaska State Legislature urges the United States
2 Department of Labor to enforce 8 U.S.C. 1288 (sec. 258, Immigration and Nationality Act) to
3 ensure that longshore work in the state or in federal coastal waters of the state is performed by
4 United States longshore workers; and be it

5 **FURTHER RESOLVED** that the Alaska State Legislature urges the United States
6 Department of Homeland Security to enforce 8 U.S.C. 1281 (sec. 251, Immigration and
7 Nationality Act) to ensure that longshore work in the state and in federal coastal waters of the
8 state is performed by United States longshore workers; and be it

9 **FURTHER RESOLVED** that the Alaska State Legislature urges the United States
10 Congress to repeal the reciprocity exception under 8 U.S.C. 1288(e) (sec. 258(e), Immigration
11 and Nationality Act) to ensure that longshore work in the state or in federal coastal waters of
12 the state is performed by United States longshore workers; and be it

13 **FURTHER RESOLVED** that the Alaska State Legislature urges the United States
14 Congress and the President of the United States to reform the Alaska exception in 8 U.S.C.
15 1288(d) (sec. 258(d), Immigration and Nationality Act) to ensure that longshore work in the
16 state and in federal coastal waters of the state is performed by United States longshore
17 workers.

18 **COPIES** of this resolution shall be sent to the Honorable Barack Obama, President of
19 the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and
20 President of the U.S. Senate; the Honorable Seth D. Harris, acting United States Secretary of
21 Labor; the Honorable Janet A. Napolitano, United States Secretary of Homeland Security; and
22 the Honorable Lisa Murkowski and the Honorable Mark Begich, U.S. Senators, and the
23 Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.