

118TH CONGRESS
1ST SESSION

H. R. 1013

To amend title 46, United States Code, to require certain port authorities to provide preferential berthing to certain vessels, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2023

Mr. GARAMENDI (for himself, Mr. PANETTA, and Mr. COSTA) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 46, United States Code, to require certain port authorities to provide preferential berthing to certain vessels, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Port Access
5 Privileges Act of 2023”.

6 **SEC. 2. PORT PRIVILEGE REQUIREMENTS.**

7 (a) IN GENERAL.—Chapter 503 of title 46, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 **“§ 50309. Preferential berthing**

2 “(a) IN GENERAL.—A covered port authority shall
3 provide preferential berthing for loading and unloading
4 vessels that are—

5 “(1) vessels of the United States or under con-
6 tract to the Federal Government, including—

7 “(A) vessels with a coastwise endorsement
8 under chapter 121; and

9 “(B) vessels participating in the Maritime
10 Security Program or the Emergency Prepared-
11 ness Program under chapter 531, the Cable Se-
12 curity Fleet under chapter 532, the Tanker Se-
13 curity Fleet under chapter 534, or the National
14 Defense Reserve Fleet under section 57100;

15 “(2) vessels calling at more than 1 port in the
16 United States (including any territory or possession
17 of the United States) before calling on a foreign
18 port; and

19 “(3) vessels that the ocean common carrier has
20 certified in writing to the covered port authority or
21 marine terminal operator in the United States (in-
22 cluding any territory or possession of the United
23 States) has cargo bookings of U.S. exports that
24 are—

1 “(A) estimated to weigh not less than 51
2 percent of such vessel’s total carrying capacity
3 by tonnage before calling on a foreign port; or

4 “(B) equivalent to 51 percent of such ves-
5 sel’s total carrying capacity of 20-foot equiva-
6 lent units before calling on a foreign port.

7 “(b) REQUIREMENT.—The owner, operator, or agent
8 of a vessel to be provided preference pursuant to para-
9 graphs (2) and (3) of subsection (a) shall inform the re-
10 spective covered port authority or marine terminal oper-
11 ator, as applicable, in writing not less than 7 days before
12 the date on which the vessel calls on the port expected
13 to provide such preference.

14 “(c) FILING CERTIFICATIONS.—Ocean common car-
15 riers shall file with the Federal Maritime Commission any
16 certifications under subsection (a) to a covered port au-
17 thority or marine terminal operators not less frequently
18 than each calendar year.

19 “(d) AUTHORITY TO COLLECT DATA.—

20 “(1) IN GENERAL.—Each covered port author-
21 ity or marine terminal operator, as applicable, shall
22 submit to the Director of the Bureau of Transpor-
23 tation Statistics such data as the Director deter-
24 mines to be necessary for the implementation of this

1 subsection, subject to subchapter III of chapter 35
2 of title 44.

3 “(2) PUBLICATION.—Not less frequently than
4 once each fiscal year, the Director shall publish sta-
5 tistics relating to the vessels provided preference
6 pursuant to paragraphs (2) and (3) of subsection
7 (a), including—

8 “(A) the total number of vessels by reg-
9 istry, class, and type; and

10 “(B) the average percentage of cargo book-
11 ings of U.S. exports reported (by the ocean
12 common carrier) pursuant to paragraph (3) of
13 subsection (a) identified by the—

14 “(i) average percentage of all such
15 vessels’ total carrying capacity by tonnage;
16 and

17 “(ii) the average percentage of all
18 such vessels’ total carrying capacity of 20-
19 foot equivalent units.

20 “(e) RULES OF CONSTRUCTION.—Nothing in this
21 section shall be construed to—

22 “(1) preclude a port authority, marine terminal
23 operator, or vessel from following a direction by the
24 Coast Guard or from the Vessel Traffic Service
25 maintained under subchapter I of chapter 700; or

1 “(2) require a port authority, marine terminal
2 operator, or the operator of a vessel to take any ac-
3 tion prohibited or otherwise in conflict with a bona
4 fide collective bargaining agreement in effect before
5 the date of enactment of this section.

6 “(f) DEFINITIONS.—In this section:

7 “(1) COVERED PORT AUTHORITY.—The term
8 ‘covered port authority’ means a port authority that
9 receives funding after the date of enactment of this
10 section under—

11 “(A) the port infrastructure development
12 program under section 54301(a); or

13 “(B) the maritime transportation system
14 emergency relief program under section 50308.

15 “(2) MARINE TERMINAL OPERATOR.—The term
16 ‘marine terminal operator’ has the meaning given
17 such term in section 40102.

18 “(3) OCEAN COMMON CARRIER.—The term
19 ‘ocean common carrier’ has the meaning given such
20 term in section 40102.”.

21 (b) DEFINING PREFERENTIAL BERTHING.—Not
22 later than 90 days after the date of enactment of this Act,
23 the Secretary of Transportation shall issue such regula-
24 tions as are necessary to carry out section 50309 of title

1 46, United States Code (as added by this Act), and define
2 “preferential berthing” for the purposes of such section.

3 (c) CLERICAL AMENDMENT.—The analysis for chap-
4 ter 503 of title 46, United States Code, is amended by
5 adding at the end the following:

“50309. Preferential berthing.”.

6 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

7 (a) CHAPTER ANALYSIS.—The analysis for chapter
8 503 of title 46, United States Code, is amended in the
9 item relating to section 50308 by striking “Port develop-
10 ment; maritime transportation system emergency relief
11 program” and inserting “Maritime transportation system
12 emergency relief program”.

13 (b) VESSEL OPERATIONS REVOLVING FUND.—Sec-
14 tion 50301(b) of title 46, United States Code, is amended
15 by striking “(50 App. U.S.C. 1291(a), (c), 1293(c),
16 1294)” and inserting “(50 U.S.C. 4701(a), (c), 4703(c),
17 4704)”.

18 (c) MARITIME TRANSPORTATION SYSTEM EMER-
19 GENCY RELIEF PROGRAM.—Section 50308(a)(2)(B) of
20 title 46, United States Code, is amended—

21 (1) in subsection (a)(2)(B) by striking “Federal
22 Emergency Management Administration” and in-
23 serting “Federal Emergency Management Agency”;
24 and

1 (2) in subsection (j)(4)(C) by striking “Federal
2 Emergency Management Administration” and in-
3 serting “Federal Emergency Management Agency”.

4 (d) **MERCHANT MARINE**.—The analysis for subtitle
5 V of title 46, United States Code, is amended in the item
6 relating to chapter 556 by striking “**SHORT SEA**
7 **TRANSPORTATION**” and inserting “**MARINE**
8 **HIGHWAYS**”.

9 (e) **PROHIBITION ON ENTRY AND OPERATION**.—Sec-
10 tion 70022(b)(1) of title 46, United States Code, is
11 amended by striking “Federal Register” and inserting
12 “the Federal Register”.

13 (f) **DEFINITIONS**.—Section 70101(2) of title 46,
14 United States Code, is amended by striking “section 227
15 of the Homeland Security Act of 2002 (6 U.S.C. 148)”
16 and inserting “section 659(a) of title 6”.

17 (g) **PORT, HARBOR, AND COASTAL FACILITY SECUR-**
18 **RITY**.—Section 70116(b) of title 46, United States Code,
19 is amended—

20 (1) in paragraph (1) by striking “terrorism
21 cyber” and inserting “terrorism, cyber”; and

22 (2) in paragraph (2) by inserting a comma
23 after “acts of terrorism”.

1 (h) ENFORCEMENT BY STATE AND LOCAL OFFI-
2 CERS.—Section 70118(a) of title 46, United States Code,
3 is amended—

4 (1) by striking “section 1 of title II of the Act
5 of June 15, 1917 (chapter 30; 50 U.S.C. 191)” and
6 inserting “section 70051”; and

7 (2) by striking “section 7(b) of the Ports and
8 Waterways Safety Act (33 U.S.C. 1226(b))” and in-
9 serting “section 70116(b)”.

10 (i) CHAPTER 701 DEFINITIONS.—Section 70131(2)
11 of title 46, United States Code, is amended—

12 (1) by striking “section 1 of title II of the Act
13 of June 15, 1917 (50 U.S.C. 191)” and inserting
14 “section 70051”; and

15 (2) by striking “section 7(b) of the Ports and
16 Waterways Safety Act (33 U.S.C. 1226(b))” and in-
17 serting “section 70116(b)”.

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