

117TH CONGRESS
2D SESSION

H. R. 8243

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

JUNE 28, 2022

Mr. GARAMENDI (for himself 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 2022”.

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, or the Tanker
13 Security Fleet under chapter 534;

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

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

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

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

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

11 “(c) AUTHORITY TO COLLECT DATA.—

12 “(1) IN GENERAL.—Each covered port author-
13 ity or marine terminal operator, as applicable, shall
14 submit to the Director of the Bureau of Transpor-
15 tation Statistics such data as the Director deter-
16 mines to be necessary for the implementation of this
17 subsection, subject to subchapter III of chapter 35
18 of title 44.

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

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

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

5 “(i) average percentage of all such
6 vessels’ total carrying capacity by tonnage;
7 and

8 “(ii) the average percentage of all
9 such vessels’ total carrying capacity of 20-
10 foot equivalent units.

11 “(d) RULES OF CONSTRUCTION.—Nothing in this
12 section shall be construed to—

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

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

22 “(e) DEFINITIONS.—In this section:

23 “(1) COVERED PORT AUTHORITY.—The term
24 ‘covered port authority’ means a port authority that

1 receives funding after the date of enactment of this
2 section under—

3 “(A) the port infrastructure development
4 program under section 54301(a); or

5 “(B) the maritime transportation system
6 emergency relief program under section 50308.

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

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

13 (b) DEFINING PREFERENTIAL BERTHING.—Not
14 later than 90 days after the date of enactment of this Act,
15 the Secretary of Transportation shall issue such regula-
16 tions as are necessary to carry out section 50309 of title
17 46, United States Code (as added by this Act), and define
18 “preferential berthing” for the purposes of such section.

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

“50309. Preferential berthing.”.

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

23 (a) ASSESSMENT OF PENALTIES.—Section 41109(c)
24 of title 46, United States Code, is amended by striking

1 “section 41104(1) or (2)” and inserting “paragraph (1)
2 or (2) of section 41104(a)”.

3 (b) NATIONAL SHIPPER ADVISORY COMMITTEE.—
4 Section 42502(c)(3) of title 46, United States Code, is
5 amended by striking “REPRESENTATION” and all that fol-
6 lows through “Members” and inserting “REPRESENTA-
7 TION.—Members”.

8 (c) FEDERAL MARITIME COMMISSION.—The analysis
9 for chapter 461 of title 46, United States Code, is amend-
10 ed by striking the first item relating to chapter 461.

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

17 (e) VESSEL OPERATIONS REVOLVING FUND.—Sec-
18 tion 50301(b) of title 46, United States Code, is amended
19 by striking “(50 App. U.S.C. 1291(a), (c), 1293(c),
20 1294)” and inserting “(50 U.S.C. 4701(a), (c), 4703(c),
21 4704)”.

22 (f) MARITIME TRANSPORTATION SYSTEM EMER-
23 GENCY RELIEF PROGRAM.—Section 50308(a)(2)(B) of
24 title 46, United States Code, is amended by striking “Fed-

1 eral Emergency Management Administration” and insert-
 2 ing “Federal Emergency Management Agency”.

3 (g) PORTS AND WATERWAYS SAFETY.—The analysis
 4 for chapter 700 of title 46, United States Code, is amend-
 5 ed—

6 (1) by striking the item relating to section
 7 70006 and inserting the following:

“70006. Establishment by Secretary of the department in which the Coast
 Guard is operating of anchorage grounds and regulations gen-
 erally.”;

8 and

9 (2) by striking the item relating to subchapter
 10 IV and inserting the following:

“SUBCHAPTER IV—DEFINITIONS, REGULATIONS, ENFORCEMENT,
 INVESTIGATORY POWERS, APPLICABILITY”.

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

15 (i) PORT, HARBOR, AND COASTAL FACILITY SECUR-
 16 ITY.—Section 70116(b)(2) of title 46, United States
 17 Code, is amended by inserting a comma after “acts of ter-
 18 rorism”.

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