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111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 685

[Report No. 111-26]

To require new vessels for carrying oil fuel to have double hulls, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 24, 2009

Mr. LAUTENBERG (for himself, Mr. ROCKFELLER, Ms. CANTWELL, Mrs. BOXER, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JUNE 15, 2009

Reported by Mr. ROCKEFELLER, with amendments

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## A BILL

To require new vessels for carrying oil fuel to have double hulls, 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 “Oil Spill Prevention  
5       Act of 2009”.

1 **SEC. 2. OIL FUEL TANK PROTECTION.**

2 Section 3306 of title 46, United States Code, is  
3 amended by adding at the end the following new sub-  
4 section:

5 “(k)(1) Each vessel of the United States that is con-  
6 structed under a contract entered into after the date of  
7 enactment of the Oil Spill Prevention Act of 2009, or that  
8 is delivered after August 1, 2010, with an aggregate ca-  
9 pacity of 600 cubic meters or more of oil fuel, shall comply  
10 with the requirements of Regulation 12A under Annex I  
11 to the Protocol of 1978 relating to the International Con-  
12 vention for the Prevention of Pollution from Ships, 1973,  
13 entitled ‘Oil Fuel Tank Protection.’

14 “(2) The Secretary may prescribe regulations to  
15 apply the requirements described in Regulation 12A to  
16 vessels described in paragraph (1) that are not otherwise  
17 subject to that convention.

18 “(3) In this subsection the term ‘oil fuel’ means any  
19 oil used as fuel in connection with the propulsion and aux-  
20 iliary machinery of the vessel in which such oil is carried.”.

21 **SEC. 3. MARITIME EMERGENCY PREVENTION.**

22 (a) IN GENERAL.—Section 4(b) of the Ports and Wa-  
23 terways Safety Act of 1972 (33 U.S.C. 1223(b)) is amend-  
24 ed—

1           (1) by striking “operate or” and inserting “op-  
2           erate, including direction to change the vessel’s  
3           heading and speed, or”; and

4           (2) by inserting “emergency or” after “other”  
5           in paragraph (3).

6           (b) REVISION OF VTS POLICY.—The Secretary of the  
7           department in which the Coast guard is operating shall—

8           (1) provide guidance to all vessel traffic per-  
9           sonnel that clearly defines the use of authority to di-  
10          rect or control vessel movement when such direction  
11          or control is justified in the interest of safety; and

12          (2) require vessel traffic personnel communica-  
13          tions to identify the vessel, rather than the pilot,  
14          when vessels are operating in vessel traffic service  
15          pilotage areas.

16          (c) ADEQUACY OF VTS LOCATIONS AND INFRA-  
17          STRUCTURE.—

18          (1) IN GENERAL.—The Secretary of the depart-  
19          ment in which the Coast Guard is operating shall  
20          continue to conduct individual port and waterway  
21          safety assessments under the Ports and Waterways  
22          Safety Act of 1972 (33 U.S.C. 1221 et seq.) to de-  
23          termine and prioritize the United States ports, wa-  
24          terways, and channels that are in need of new, ex-  
25          panded, or improved vessel traffic management risk

1 mitigation measures, including vessel traffic service  
2 systems, by evaluating—

3 (A) the nature, volume, and frequency of  
4 vessel traffic;

5 (B) the risks of collisions, allisions, spills,  
6 and other maritime mishaps associated with  
7 that traffic;

8 (C) the projected impact of installation, ex-  
9 pansion, or improvement of a vessel traffic serv-  
10 ice system or other risk mitigation measures;  
11 and

12 (D) any other relevant data.

13 (2) ANALYSES.—Based on the results of the as-  
14 sessments under paragraph (1), the Secretary shall  
15 identify the requirements for necessary expansion,  
16 improvement, or construction of buildings, networks,  
17 communications, or other infrastructure to improve  
18 the effectiveness of existing vessel traffic service sys-  
19 tems, or necessary to support recommended new ves-  
20 sel traffic service systems, including all necessary  
21 costs for construction, reconstruction, expansion, or  
22 improvement.

23 (3) PERSONNEL.—The Secretary shall—

24 (A) review and validate the recruiting, re-  
25 tention, training, and expansion of the vessel

1 traffic service personnel workforce necessary to  
2 maintain the effectiveness of existing vessel  
3 traffic service systems and to support any ex-  
4 pansion or improvement identified by the Sec-  
5 retary under this section; and

6 (B) require basic navigation training for  
7 vessel traffic service watchstander personnel—

8 (i) to support and complement the ex-  
9 isting mission of the vessel traffic service  
10 to monitor and assess vessel movements  
11 within a vessel traffic service Area;

12 (ii) to exchange information regarding  
13 vessel movements with vessel and shore-  
14 based personnel; and

15 (iii) to provide advisories to vessel  
16 masters.

17 (4) REPORT.—Within 1 year after the date of  
18 enactment of this Act, the Secretary shall submit to  
19 the Congress a report consolidating the results of  
20 the analyses under paragraph (2), together with rec-  
21 ommendations for implementing the study results.

1 **SEC. 4. MERCHANT MARINER MEDICAL ADVISORY COM-**  
 2 **MITTEE, MEDICAL STANDARDS, AND MED-**  
 3 **ICAL REQUIREMENTS.**

4 (a) IN GENERAL.—Chapter 71 of title 46, United  
 5 States Code, is amended by adding at the end thereof the  
 6 following:

7 **“§ 7115. Merchant mariner medical advisory com-**  
 8 **mittee, medical standards, and medical**  
 9 **requirements**

10 “(a) ESTABLISHMENT.—

11 “(1) IN GENERAL.—There is established a Mer-  
 12 chant Mariner Medical Advisory Committee.

13 “(2) FUNCTIONS.—The Committee shall—

14 “(A) advise the Secretary on matters relat-  
 15 ing to—

16 “(i) medical certification determina-  
 17 tions for issuance of merchant mariner cre-  
 18 dentials;

19 “(ii) medical standards and guidelines  
 20 for the physical qualifications of operators  
 21 of commercial vessels;

22 “(iii) medical examiner education; and

23 “(iv) medical research; and,

24 “(B) develop, as appropriate, specific  
 25 courses and materials to be used by medical ex-

1           aminers listed in the national registry estab-  
2           lished under this section.

3           “(3) MEMBERSHIP.—

4                   “(A) IN GENERAL.—The Committee shall  
5           consist of the chief medical examiner and—

6                           “(i) 10 individuals who are health-  
7                           care professionals with particular expertise,  
8                           knowledge, or experience regarding the  
9                           medical examinations of merchant mari-  
10                          ners or occupational medicine; and

11                           “(ii) 4 individuals who are profes-  
12                           sional mariners with knowledge and experi-  
13                           ence in mariner occupational requirements.

14                   “(B) STATUS OF MEMBERS.—Except for  
15           the chief medical examiner, members of the  
16           Committee shall not be considered Federal em-  
17           ployees or otherwise in the service or the em-  
18           ployment of the Federal Government, except  
19           that members shall be considered special Gov-  
20           ernment employees, as defined in section 202(a)  
21           of title 18 and shall be subject to any adminis-  
22           trative standards of conduct applicable to the  
23           employees of the department in which the Coast  
24           Guard is operating.

1                   “(C) COMPENSATION; REIMBURSEMENT.—

2                   Except for the chief medical examiner, members  
3                   of the Committee shall serve without compensa-  
4                   tion, except that, while engaged in the perform-  
5                   ance of duties away from their homes or regular  
6                   places of business of the member, the member  
7                   of the Committee may be allowed travel ex-  
8                   penses, including per diem in lieu of subsist-  
9                   ence, as authorized by section 5703 of title 5.

10                  “(b) APPOINTMENTS; TERMS; VACANCIES; ORGANI-  
11                  ZATION.—

12                   “(1) APPOINTMENT.—The Secretary shall ap-  
13                   point the members of the Committee, and each  
14                   member shall serve at the pleasure of the Secretary.

15                   “(2) TERM OF OFFICE.—The members shall be  
16                   appointed for a term of 4 years, except that, of the  
17                   members first appointed, 4 members shall be ap-  
18                   pointed for a term of 2 years and 4 members shall  
19                   be appointed for a term of 1 year.

20                   “(3) VACANCIES.—Any member appointed to  
21                   fill the vacancy prior to the expiration of the term  
22                   for which such member’s predecessor was appointed  
23                   shall be appointed for the remainder of such term.

24                   “(4) CHAIRMAN; VICE CHAIRMAN.—The Sec-  
25                   retary shall designate 1 member other than the chief

1 medical examiner as the Chairman and 1 member  
2 other than the chief medical examiner as the Vice  
3 Chairman. The Vice Chairman shall act as Chair-  
4 man in the absence or incapacity of, or in the event  
5 of a vacancy in the office of, the Chairman.

6 “(5) STAFF; SERVICES.—The Secretary shall  
7 furnish to the Committee the personnel and services  
8 as are considered necessary for the conduct of its  
9 business.

10 “(6) MEETINGS.—No later than 6 months after  
11 the date of enactment of the Oil Spill Prevention Act  
12 of 2009, the Committee shall hold its first meeting  
13 and shall meet at least once each fiscal year.

14 “(c) CHIEF MEDICAL EXAMINER.—The Secretary  
15 shall appoint an employee of the Coast Guard who will  
16 serve as a chief medical examiner and who shall hold a  
17 position under section 3104 of title 5 relating to employ-  
18 ment of specially qualified scientific and professional per-  
19 sonnel, and shall be paid under section 5376 of title 5,  
20 relating to pay for certain senior-level positions.

21 “(d) MEDICAL STANDARDS AND REQUIREMENTS.—

22 “(1) IN GENERAL.—The Secretary, with the ad-  
23 vice of the Committee , shall—

24 “(A) establish, review, and revise—

1           “(i) medical standards for merchant  
2           mariners that will ensure that the physical  
3           condition of merchant mariners is adequate  
4           to enable them to safely carry out their du-  
5           ties on board vessels; and

6           “(ii) requirements for periodic phys-  
7           ical examinations of such merchant mari-  
8           ners performed by a medical examiner who  
9           has, at a minimum, self-certified that he or  
10          she has completed training in physical and  
11          medical examination standards and is list-  
12          ed on a registry of medical examiners  
13          maintained in accordance with subsection  
14          (e) of this section;

15          “(B) require each merchant mariner to  
16          have a current valid physical examination;

17          “(C) conduct periodic reviews of a select  
18          number of medical examiners on the national  
19          registry to ensure that proper examinations of  
20          merchant mariners are being conducted;

21          “(D) require each such medical examiner  
22          to, at a minimum, self-certify that he or she has  
23          completed specific training, including refresher  
24          courses, to be listed in the registry;

1           “(E) require medical examiners to submit  
2 all completed medical examination reports as  
3 required under regulations established by the  
4 Secretary; and

5           “(F) periodically review a representative  
6 sample of the medical examiners’ reports associ-  
7 ated with the name and numerical identifiers of  
8 applicants transmitted under subparagraph (E)  
9 for errors, omissions, or other indications of im-  
10 proper certification.

11           “(2) MONITORING PERFORMANCE.—The Sec-  
12 retary shall investigate patterns of errors or im-  
13 proper evaluation by medical examiners. If the Sec-  
14 retary finds that a medical examiner has evaluated  
15 a merchant mariner as being fit for seagoing service  
16 who fails otherwise to meet the applicable standards  
17 at the time of the examination or that a medical ex-  
18 aminer has falsely claimed to have completed train-  
19 ing in physical and medical examination standards  
20 as required by this section, the Secretary may re-  
21 move the name of such medical examiner from the  
22 registry and may void the medical examinations of  
23 the applicant or holder.

1       “(e) NATIONAL REGISTRY OF MEDICAL EXAM-  
2 INERS.—The Secretary, acting through the Commandant  
3 of the Coast Guard—

4               “(1) shall establish and maintain a current na-  
5 tional registry of medical examiners who are quali-  
6 fied to perform examinations;

7               “(2) shall accept as valid only examinations by  
8 persons on the national registry of medical exam-  
9 iners;

10              “(3) shall remove from the registry the name of  
11 any medical examiner who fails to meet or maintain  
12 the qualifications established by the Secretary for  
13 being listed in the registry or otherwise does not  
14 meet the requirements of this section or a regulation  
15 issued under this section;

16              “(4) may make participation of medical exam-  
17 iners in the national registry voluntary if such a  
18 change will enhance the safety of merchant mariners  
19 holding United States Coast Guard credentials; and

20              “(5) may include in the registry established  
21 under paragraph (1) licensed physicians who are cer-  
22 tified by the Secretary of Transportation to perform  
23 medical examinations of operators of commercial  
24 motor vehicles under section 31149 of title 49 and  
25 airmen.

1       “(f) ~~MEDICAL EXAMINER DEFINED.~~—In this section,  
2 the term ‘medical examiner’ means an individual reg-  
3 istered in accordance with the regulations issued by the  
4 Secretary as a medical examiner.

5       “(f) *USE OF MEDICAL EXAMINERS NOT ON THE NA-*  
6 *TIONAL REGISTRY.*—*The Secretary shall accept examina-*  
7 *tions of merchant mariners conducted by medical examiners*  
8 *not listed on the national registry if such examinations*  
9 *meet specifications (including standards of review) estab-*  
10 *lished by the Secretary in consultation with the Merchant*  
11 *Mariner Medical Advisory Committee.*

12       “(g) *MEDICAL EXAMINER DEFINED.*—*In this section,*  
13 *the term ‘medical examiner’ means a licensed physician,*  
14 *physician’s assistant, or nurse practitioner who complies*  
15 *with the regulations issued by the Secretary for medical ex-*  
16 *aminers conducting examinations of merchant mariners.*

17       “(g) (h) *COORDINATION.*—The Secretary, in coordi-  
18 nation with the Secretary of Transportation, shall utilize  
19 the systems, processes, and procedures established for the  
20 administration of the Federal Motor Carrier Safety Ad-  
21 ministration’s Medical Program authorized under section  
22 31149 of title 49 and the Federal Aviation Administra-  
23 tion’s Office of Aerospace Medicine authorized under sec-  
24 tion 44702 of that title where synergies exist between such  
25 systems, processes, and procedures.

1       “~~(h)~~ (i) REGULATIONS.—The Secretary may issue  
2 such regulations as may be necessary to carry out this  
3 section.”.

4       (b) CLERICAL AMENDMENT.—The chapter analysis  
5 for chapter 71 of title 46, United States Code, is amended  
6 by adding at the end the following:

“7115. Merchant mariner medical advisory committee, medical standards, and  
medical requirements.”.

7 **SEC. 5. STUDY OF MARINE CASUALTY CAUSATION.**

8       (a) OBJECTIVES.—The Secretary of the department  
9 in which the Coast Guard is operating shall conduct a  
10 comprehensive study that will identify data requirements  
11 and collection procedures, reports, and other measures  
12 that will improve the department’s ability—

13               (1) to determine the causes of, and contributing  
14 factors (including fatigue) to, marine casualties;

15               (2) to prevent marine casualties and threats to  
16 the environment;

17               (3) to minimize the impacts of marine casual-  
18 ties and environmental threats;

19               (4) to maximize the lives and property saved  
20 and environment protected in the event of a marine  
21 casualty;

22               (5) to evaluate future marine casualties;

23               (6) to monitor trends to identify causes and  
24 contributing factors; and

1           (7) to develop effective safety improvement poli-  
2           cies, including workload, manning and medical re-  
3           view provisions, and programs.

4           (b) DESIGN.—The study shall employ standard re-  
5           search methods and statistical analysis and be designed  
6           to yield information that ~~will~~— *will help the department*  
7           *assess the role that human factors, mechanical or equipment*  
8           *failure, and environmental factors play in marine casualty*  
9           *causation. Among other issues, the study will—*

10           (1) help the department assess the role that  
11           workload and fatigue play in marine casualty causa-  
12           tion;

13           (2) help the department assess the role that  
14           manning, particularly a one man bridge operation,  
15           plays in marine casualty causation;

16           (3) help the department assess the role that the  
17           medical condition of merchant mariners plays in ma-  
18           rine casualty causation;

19           (4) *help the department assess the efficacy of*  
20           *safety management systems in preventing marine cas-*  
21           *ualties;*

22           ~~(4)~~ (5) help the department to identify activities  
23           and other measures likely to lead to significant re-  
24           ductions in the frequency and severity of marine cas-  
25           ualties; and

1           ~~(5)~~ (6) to the extent practicable, rank such ac-  
2           tivities and measures by the reductions each would  
3           likely achieve if implemented.

4           (c) CONSULTATION.—In designing and conducting  
5 the study, the Secretary shall—

6           (1) consult with persons with expertise on ma-  
7           rine casualty causation and prevention;

8           (2) consult with merchant mariners, ship man-  
9           agers, professional maritime associations, human  
10          factors professionals, occupational medicine special-  
11          ists, and providers of medical review services to the  
12          maritime industry;

13          (3) *consult with Federal advisory committees, in-*  
14          *cluding the Merchant Marine Personnel Advisory*  
15          *Committee and the Towing Safety Advisory Com-*  
16          *mittee;*

17          ~~(3)~~ (4) consult with academic institutions, do-  
18          mestic and foreign, with particular experience and  
19          expertise in workload and fatigue, safe manning, and  
20          the medical condition of merchant mariners in the  
21          maritime ~~environment~~; *environment and safety man-*  
22          *agement systems;* and

23          ~~(4)~~ (5) review the relevant literature available  
24          on previous studies from domestic and foreign  
25          sources.

1 (d) COMPARISON WITH NTSB.—The Secretary shall,  
2 in cooperation with the Chairman of the National Trans-  
3 portation Safety Board, compare and contrast the proce-  
4 dures and processes employed by the Coast Guard and the  
5 National Transportation Safety Board with particular at-  
6 tention to—

7 (1) preventing marine casualties and threats to  
8 the environment;

9 (2) minimizing the impacts of marine casualties  
10 and environmental threats; and

11 (3) maximizing the number of lives saved, the  
12 amount of property saved, and the environment pro-  
13 tected in the event of a marine casualty.

14 (e) PUBLIC COMMENT.—The Secretary shall make  
15 available for public comment information about the objec-  
16 tives, methodology, implementation, findings, and other  
17 aspects of the study.

18 (f) REPORTS.—

19 (1) IN GENERAL.—The Secretary shall prompt-  
20 ly transmit to Congress the results of the study, to-  
21 gether with any legislative recommendations.

22 (2) REVIEW AND UPDATE.—The Secretary shall  
23 review the study at least once every 5 years and up-  
24 date the study and report as necessary.

1 **SEC. 6. COAST GUARD STUDY ON USE OF TRACTOR TUGS.**

2 (a) STUDY.—The Commandant of the Coast Guard  
3 shall conduct a comprehensive review of existing studies  
4 of the need for tractor tug escorts to be used by vessels  
5 carrying petroleum products or with large supplies of fuel  
6 onboard in the 5 largest United States ports, by volume  
7 of petroleum product, where the use of such tugs by those  
8 vessels is not otherwise required by State law or Captain-  
9 of-the-Port order, identify any gaps or other unaddressed  
10 issues, and conduct a study that—

11 (1) consolidates the information contained in  
12 the existing studies and addresses any such gaps or  
13 issues that need to be addressed; and

14 (2) to the extent such issues are not satisfac-  
15 torily addressed in the existing studies, includes—

16 (A) an evaluation of the necessary power  
17 requirements of such tractor tug escorts;

18 (B) an analysis of the appropriate pas-  
19 sages for the use of such tractor tug escorts;

20 (C) an inventory and analysis of the exist-  
21 ing use of tractor tug escorts in United States  
22 ports; and

23 (D) an analysis of which vessel types in the  
24 ports studied should be required to have tractor  
25 tug escorts and a statement of the reason for  
26 recommending such a requirement.

1 (b) REPORT.—Within 1 year after the date of enact-  
2 ment of this Act, the Commandant shall submit the re-  
3 port, together with any findings, conclusions, and rec-  
4 ommendations the Commandant deems appropriate, to the  
5 Senate Committee on Commerce, Science, and Transpor-  
6 tation.

7 **SEC. 7. TRAINED POLLUTION INVESTIGATORS.**

8 To the extent practicable, the Commandant of the  
9 Coast Guard shall ensure that there is at least 1 trained  
10 and experienced pollution investigator on duty, or in an  
11 on-call status, at all times for each Coast Guard Sector  
12 Command.

13 **SEC. 8. DURATION OF CREDENTIALS.**

14 (a) MERCHANT MARINER'S DOCUMENTS.—Section  
15 7302(f) of title 46, United States Code, is amended to  
16 read as follows:

17 “(f) PERIODS OF VALIDITY AND RENEWAL OF MER-  
18 CHANT MARINERS' DOCUMENTS.—

19 “(1) IN GENERAL.—Except as provided in sub-  
20 section (g), a merchant mariner's document issued  
21 under this chapter is valid for a 5-year period and  
22 may be renewed for additional 5-year periods.

23 “(2) ADVANCE RENEWALS.—A renewed mer-  
24 chant mariner's document may be issued under this  
25 chapter up to 8 months in advance but is not effec-

1       tive until the date that the previously issued mer-  
2       chant mariner's document expires.”.

3       (b) DURATION OF LICENSES.—Section 7106 of such  
4 title is amended to read as follows:

5       **“§ 7106. Duration of licenses**

6       “(a) IN GENERAL.—A license issued under this part  
7 is valid for a 5-year period and may be renewed for addi-  
8 tional 5-year periods; except that the validity of a license  
9 issued to a radio officer is conditioned on the continuous  
10 possession by the holder of a first-class or second-class ra-  
11 diotelegraph operator license issued by the Federal Com-  
12 munications Commission.

13       “(b) ADVANCE RENEWALS.—A renewed license  
14 issued under this part may be issued up to 8 months in  
15 advance but is not effective until the date that the pre-  
16 viously issued license expires.”.

17       (c) CERTIFICATES OF REGISTRY.—Section 7107 of  
18 such title is amended to read as follows:

19       **“§ 7107. Duration of certificates of registry**

20       “(a) IN GENERAL.—A certificate of registry issued  
21 under this part is valid for a 5-year period and may be  
22 renewed for additional 5-year periods; except that the va-  
23 lidity of a certificate issued to a medical doctor or profes-  
24 sional nurse is conditioned on the continuous possession

1 by the holder of a license as a medical doctor or registered  
2 nurse, respectively, issued by a State.

3 “(b) ADVANCE RENEWALS.—A renewed certificate of  
4 registry issued under this part may be issued up to 8  
5 months in advance but is not effective until the date that  
6 the previously issued certificate of registry expires.”.

7 **SEC. 9. AUTHORIZATION TO EXTEND THE DURATION OF LI-**  
8 **CENSES, CERTIFICATES OF REGISTRY, AND**  
9 **MERCHANT MARINERS’ DOCUMENTS.**

10 (a) MERCHANT MARINER LICENSES AND DOCU-  
11 MENTS.—Chapter 75 of title 46, United States Code, is  
12 amended by adding at the end the following:

13 **“§ 7507. Authority to extend the duration of licenses,**  
14 **certificates of registry, and merchant**  
15 **mariner documents**

16 “(a) LICENSES AND CERTIFICATES OF REGISTRY.—  
17 Notwithstanding sections 7106 and 7107, the Secretary  
18 of the department in which the Coast Guard is operating  
19 may extend for up to one year an expiring license or cer-  
20 tificate of registry issued for an individual under chapter  
21 71 if the Secretary determines that extension is re-  
22 quired—

23 “(1) to enable the Coast Guard to eliminate a  
24 backlog in processing applications for those licenses  
25 or certificates of registry;

1           “(2) because necessary records have been de-  
2           stroyed or are unavailable due to a natural disaster;  
3           or

4           “(3) to align the expiration date of a license or  
5           certificate of registry with the expiration date of a  
6           transportation worker identification credential under  
7           section 70501.

8           “(b) MERCHANT MARINER DOCUMENTS.—Notwith-  
9           standing section 7302(g), the Secretary may extend for  
10          one year an expiring merchant mariner’s document issued  
11          for an individual under chapter 71 if the Secretary deter-  
12          mines that extension is required—

13           “(1) to enable the Coast Guard to eliminate a  
14          backlog in processing applications for those licenses  
15          or certificates of registry;

16           “(2) because necessary records have been de-  
17          stroyed or are unavailable due to a natural disaster;  
18          or

19           “(3) to align the expiration date of a license or  
20          certificate of registry with the expiration date of a  
21          transportation worker identification credential under  
22          section 70501.

23          “(c) MANNER OF EXTENSION.—Any extensions  
24          granted under this section may be granted to individual  
25          seamen or a specifically identified group of seamen.

1       “(d) EXPIRATION OF AUTHORITY.—The authority  
2 for providing an extension under this section shall expire  
3 on December 31, 2011.”.

4       (b) CLERICAL AMENDMENT.—The chapter analysis  
5 for such chapter is amended by adding at the end the fol-  
6 lowing:

“7507. Authority to extend the duration of licenses, certificates of registry, and  
merchant mariner documents.”.

7 **SEC. 10. PROTECTION AND FAIR TREATMENT OF SEA-**  
8 **FARERS.**

9       (a) IN GENERAL.—Chapter 111 of title 46, United  
10 States Code, is amended by adding at the end the fol-  
11 lowing new section:

12 **“§ 11113. Protection and fair treatment of seafarers**

13       “(a) PURPOSE.—The purpose of this section is to en-  
14 sure the protection and fair treatment of seafarers.

15       “(b) FUND.—

16               “(1) ESTABLISHMENT.—There is established in  
17 the Treasury a special fund known as the ‘Support  
18 of Seafarers Fund’.

19               “(2) USE OF AMOUNTS IN FUND.—The  
20 amounts covered into the Fund shall be available to  
21 the Secretary, without further appropriation and  
22 without fiscal year limitation, to—

23                       “(A) pay necessary support, pursuant to  
24 subsection (c)(1)(A) of this section; and

1           “(B) reimburse a shipowner for necessary  
2           support, pursuant to subsection (c)(1)(B) of  
3           this section.

4           “(3) AMOUNTS CREDITED TO FUND.—Notwith-  
5           standing any other provision of law, the Fund may  
6           receive—

7           “(A) any moneys ordered to be paid to the  
8           Fund in the form of community service pursu-  
9           ant to section ~~8B1.3~~ of the United States Sen-  
10          tencing Guidelines or otherwise; 3563(b) of title  
11          18;

12          “(B) amounts reimbursed or recovered  
13          pursuant to subsection (d) of this section;

14          “(C) amounts appropriated to the Fund  
15          pursuant to subsection (g) of this section; and

16          “(D) appropriations available to the Sec-  
17          retary for transfer.

18          “(4) PREREQUISITE FOR COMMUNITY SERVICE  
19          CREDITS.—The Fund may receive credits pursuant  
20          to paragraph (3)(A) of this subsection only when the  
21          unobligated balance of the Fund is less than  
22          \$5,000,000.

23          “(5) REPORT REQUIRED.—

24                 “(A) Except as provided in subparagraph  
25                 (B) of this paragraph, the Secretary shall not

1 obligate any amount in the Fund in a given fis-  
2 cal year unless the Secretary has submitted to  
3 Congress, concurrent with the President’s budg-  
4 et submission for that fiscal year, a report that  
5 describes—

6 “(i) the amounts credited to the  
7 Fund, pursuant to paragraph (3) of this  
8 subsection, for the preceding fiscal year;

9 “(ii) a detailed description of the ac-  
10 tivities for which amounts were charged;  
11 and

12 “(iii) the projected level of expendi-  
13 tures from the Fund for the coming fiscal  
14 year, based on—

15 “(I) on-going activities; and

16 “(II) new cases, derived from his-  
17 toric data.

18 “(B) The limitation in subparagraph (A)  
19 of this paragraph shall not apply to obligations  
20 during the first fiscal year during which  
21 amounts are credited to the Fund.

22 “(6) FUND MANAGER.—The Secretary shall  
23 designate a Fund manager, who shall—

24 “(A) ensure the visibility and account-  
25 ability of transactions utilizing the Fund;

1           “(B) prepare the report required by para-  
2 graph (5); and

3           “(C) monitor the unobligated balance of  
4 the Fund and provide notice to the Secretary  
5 and the Attorney General whenever the unobli-  
6 gated balance of the Fund is less than  
7 \$5,000,000.

8           “(c) IN GENERAL.—

9           “(1) AUTHORITY.—The Secretary is author-  
10 ized—

11           “(A) to pay, in whole or in part, without  
12 further appropriation and without fiscal year  
13 limitation, from amounts in the Fund, nec-  
14 essary support of—

15           “(i) any seafarer who enters, remains,  
16 or has been paroled into the United States  
17 and is involved in an investigation, report-  
18 ing, documentation, or adjudication of any  
19 matter that is related to the administration  
20 or enforcement of any treaty, law, or regu-  
21 lation by the Coast Guard; and

22           “(ii) any seafarer whom the Secretary  
23 finds to have been abandoned in the  
24 United States; and

1           “(B) to reimburse, in whole or in part,  
2           without further appropriation and without fiscal  
3           year limitation, from amounts in the Fund, a  
4           shipowner, who has filed a bond or surety satis-  
5           factory pursuant to subparagraph (A) and pro-  
6           vided necessary support of a seafarer who has  
7           been paroled into the United States to facilitate  
8           an investigation, reporting, documentation, or  
9           adjudication of any matter that is related to the  
10          administration or enforcement of any treaty,  
11          law, or regulation by the Coast Guard, for costs  
12          of necessary support, when the Secretary deems  
13          reimbursement necessary to avoid serious injus-  
14          tice.

15          “(2) LIMITATION.—Nothing in this section  
16          shall be construed—

17                  “(A) to create a right, benefit, or entitle-  
18                  ment to necessary support; or

19                  “(B) to compel the Secretary to pay, or re-  
20                  imburse the cost of, necessary support.

21          “(d) REIMBURSEMENTS; RECOVERY.—

22                  “(1) IN GENERAL.—Any shipowner shall reim-  
23                  burse the Fund an amount equal to the total  
24                  amount paid from the Fund for necessary support of

1 the seafarer, plus a surcharge of 25 percent of such  
2 total amount if—

3 “(A)(i) the shipowner, during the course of  
4 an investigation, reporting, documentation, or  
5 adjudication of any matter that the Coast  
6 Guard referred to a United States Attorney or  
7 the Attorney General, fails to provide necessary  
8 support of a seafarer who has been paroled into  
9 the United States to facilitate the investigation,  
10 reporting, documentation, or adjudication; and

11 “(ii) a criminal penalty is subsequently im-  
12 posed against the shipowner; or

13 “(B) the shipowner, under any cir-  
14 cumstance, abandons a seafarer in the United  
15 States, as decided by the Secretary.

16 “(2) ENFORCEMENT.—If a shipowner fails to  
17 reimburse the Fund as required under paragraph  
18 (1) of this subsection, the Secretary may—

19 “(A) proceed in rem against any vessel of  
20 the shipowner in the Federal district court for  
21 the district in which such vessel is found; and

22 “(B) withhold or revoke the clearance, re-  
23 quired by section 60105 of this title, of any ves-  
24 sel of the shipowner wherever such vessel is  
25 found.

1           “(3) Whenever clearance is withheld or revoked  
2 pursuant to paragraph (2)(B) of this subsection,  
3 clearance may be granted if the shipowner reim-  
4 burses the Fund the amount required under para-  
5 graph (1) of this subsection.

6           “(e) SURETY; ENFORCEMENT OF TREATIES, LAWS,  
7 AND REGULATIONS.—

8           “(1) BOND AND SURETY AUTHORITY.—The  
9 Secretary is authorized to require a bond or surety  
10 satisfactory as an alternative to withholding or re-  
11 voking clearance required under section 60105 of  
12 this title if, in the opinion of the Secretary, such  
13 bond or surety satisfactory is necessary to facilitate  
14 an investigation, reporting, documentation, or adju-  
15 dication of any matter that is related to the adminis-  
16 tration or enforcement of any treaty, law, or regula-  
17 tion by the Coast Guard if the surety corporation  
18 providing the bond is authorized by the Secretary of  
19 the Treasury under section 9305 of title 31 to pro-  
20 vide surety bonds under section 9304 of that title.

21           “(2) APPLICATION.—The authority to require a  
22 bond or a surety satisfactory or to request the with-  
23 holding or revocation of the clearance required under  
24 section 60105 of this title applies to any investiga-  
25 tion, reporting, documentation, or adjudication of

1 any matter that is related to the administration or  
2 enforcement of any treaty, law, or regulation by the  
3 Coast Guard.

4 “(f) DEFINITIONS.—In this section:

5 “(1) ABANDONS; ABANDONED.—The term  
6 ‘abandons’ or ‘abandoned’ means a shipowner’s uni-  
7 lateral severance of ties with a seafarer or the ship-  
8 owner’s failure to provide necessary support of a  
9 seafarer.

10 “(2) BOND OR SURETY SATISFACTORY.—The  
11 term ‘bond or surety satisfactory’ means a nego-  
12 tiated instrument, the terms of which may, at the  
13 discretion of the Secretary, include provisions that  
14 require the shipowner to—

15 “(A) provide necessary support of a sea-  
16 farer who has or may have information perti-  
17 nent to an investigation, reporting, documenta-  
18 tion, or adjudication of any matter that is re-  
19 lated to the administration or enforcement of  
20 any treaty, law, or regulation by the Secretary;

21 “(B) facilitate an investigation, reporting,  
22 documentation, or adjudication of any matter  
23 that is related to the administration or enforce-  
24 ment of any treaty, law, or regulation by the  
25 Secretary;

1           “(C) stipulate to certain incontrovertible  
2 facts, including, but not limited to, the owner-  
3 ship or operation of the vessel, or the authen-  
4 ticity of documents and things from the vessel;

5           “(D) facilitate service of correspondence  
6 and legal papers;

7           “(E) enter an appearance in United States  
8 district court;

9           “(F) comply with directions regarding pay-  
10 ment of funds;

11           “(G) name an agent in the United States  
12 for service of process;

13           “(H) make stipulations as to the authen-  
14 ticity of certain documents in United States dis-  
15 trict court;

16           “(I) provide assurances that no discrimina-  
17 tory or retaliatory measures will be taken  
18 against a seafarer involved in an investigation,  
19 reporting, documentation, or adjudication of  
20 any matter that is related to the administration  
21 or enforcement of any treaty, law, or regulation  
22 by the Secretary;

23           “(J) provide financial security in the form  
24 of cash, bond, or other means acceptable to the  
25 Secretary; and

1           “(K) provide for any other appropriate  
2           measures as the Secretary considers necessary  
3           to ensure the Government is not prejudiced by  
4           granting the clearance required by section  
5           60105 of title 46.

6           “(3) FUND.—The term ‘Fund’ means the Sup-  
7           port of Seafarers Fund, established pursuant to this  
8           section.

9           “(4) NECESSARY SUPPORT.—The term ‘nec-  
10          essary support’ means normal wages, lodging, sub-  
11          sistence, clothing, medical care (including hos-  
12          pitalization), repatriation, and any other expense the  
13          Secretary deems appropriate.

14          “(5) SEAFARER.—The term ‘seafarer’ means an  
15          alien crewman who is employed or engaged in any  
16          capacity on board a vessel subject to the jurisdiction  
17          of the United States.

18          “(6) SHIPOWNER.—The term ‘shipowner’  
19          means the individual or entity that owns, has an  
20          ownership interest in, or operates a vessel subject to  
21          the jurisdiction of the United States.

22          “(7) VESSEL SUBJECT TO THE JURISDICTION  
23          OF THE UNITED STATES.—The term ‘vessel subject  
24          to the jurisdiction of the United States’ has the  
25          same meaning it has in section 70502(c) of this

1 title, except that it excludes a vessel owned or  
2 bareboat chartered and operated by the United  
3 States, by a State or political subdivision thereof, or  
4 by a foreign nation, except when that vessel is en-  
5 gaged in commerce.

6 “(g) REGULATIONS.—The Secretary may prescribe  
7 regulations to implement this section.

8 “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated to the Fund \$1,500,000  
10 for each of fiscal years 2010, 2011, and 2012.”.

11 (b) CLERICAL AMENDMENT.—The chapter analysis  
12 for chapter 111 of title 46, United States Code, is amend-  
13 ed by adding at the end the following new item:

“11113. Protection and fair treatment of seafarers.”.

Calendar No. 77

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 685**

[Report No. 111-26]

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**A BILL**

To require new vessels for carrying oil fuel to have double hulls, and for other purposes.

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JUNE 15, 2009

Reported with amendments