

Union Calendar No. 121

104TH CONGRESS
1ST SESSION

H. R. 1350

[Report No. 104-229]

A BILL

To amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes.

AUGUST 3, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Union Calendar No. 121104TH CONGRESS
1ST SESSION**H. R. 1350****[Report No. 104-229]**

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IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 1995

Mr. SPENCE (for himself, Mr. DELLUMS, and Mr. BATEMAN) (all by request) introduced the following bill; which was referred to the Committee on National Security

AUGUST 3, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 29, 1995]

A BILL

To amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, 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,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Maritime Security Act*
3 *of 1995”.*

4 **SEC. 2. MARITIME SECURITY PROGRAM.**

5 *Title VI of the Merchant Marine Act, 1936 (46 App.*
6 *U.S.C. 1171 et seq.) is amended—*

7 *(1) by striking the title heading and inserting*
8 *the following:*

9 *“TITLE VI—VESSEL OPERATING ASSISTANCE PROGRAMS*
10 *“Subtitle A—Operating-Differential Subsidy Program”;*
11 *and*

12 *(2) by adding at the end the following new sub-*
13 *title:*

14 *“Subtitle B—Maritime Security Fleet Program*
15 *“ESTABLISHMENT OF FLEET*

16 *“SEC. 651. (a) IN GENERAL.—The Secretary of Trans-*
17 *portation shall establish a fleet of active, militarily useful,*
18 *privately-owned vessels to meet national defense and other*
19 *security requirements and maintain a United States pres-*
20 *ence in international commercial shipping. The Fleet shall*
21 *consist of privately owned, United States-flag vessels for*
22 *which there are in effect operating agreements under this*
23 *subtitle, and shall be known as the Maritime Security Fleet.*

24 *“(b) VESSEL ELIGIBILITY.—A vessel is eligible to be*
25 *included in the Fleet if the vessel is self-propelled and—*

1 “(1)(A) is operated by a person as an ocean
2 common carrier (as that term is used in the Shipping
3 Act of 1984 (46 App. U.S.C. 1701 et seq.));

4 “(B) whether in commercial service, on charter
5 to the Department of Defense, or in other employ-
6 ment, is either—

7 “(i) a roll-on/roll-off vessel with a carrying
8 capacity of at least 80,000 square feet or 500
9 twenty-foot equivalent units; or

10 “(ii) a lighter aboard ship vessel with a
11 barge capacity of at least 75 barges; or

12 “(C) any other type of vessel that is determined
13 by the Secretary to be suitable for use by the United
14 States for national defense or military purposes in
15 time of war or national emergency;

16 “(2)(A)(i) is a United States-documented vessel;
17 and

18 “(ii) on the date an operating agreement cover-
19 ing the vessel is entered into under this subtitle, is—

20 “(I) a LASH vessel that is 25 years of age
21 or less; or

22 “(II) any other type of vessel that is 15
23 years of age or less;

24 except that the Secretary of Transportation may
25 waive the application of clause (ii) if the Secretary,

1 *in consultation with the Secretary of Defense, deter-*
2 *mines that the waiver is in the national interest; or*

3 *“(B) it is not a United States-documented vessel,*
4 *but the owner of the vessel has demonstrated an intent*
5 *to have the vessel documented under chapter 121 of*
6 *title 46, United States Code, if it is included in the*
7 *Fleet, and the vessel will be less than 10 years of age*
8 *on the date of that documentation;*

9 *“(3) the Secretary of Transportation determines*
10 *that the vessel is necessary to maintain a United*
11 *States presence in international commercial shipping*
12 *or, after consultation with the Secretary of Defense,*
13 *determines that the vessel is militarily useful for*
14 *meeting the sealift needs of the United States with re-*
15 *spect to national emergencies; and*

16 *“(4) at the time an operating agreement for the*
17 *vessel is entered into under this subtitle, the vessel*
18 *will be eligible for documentation under chapter 121*
19 *of title 46, United States Code.*

20 *“OPERATING AGREEMENTS*

21 *“SEC. 652. (a) IN GENERAL.—The Secretary of Trans-*
22 *portation shall require, as a condition of including any ves-*
23 *sel in the Fleet, that the owner or operator of the vessel enter*
24 *into an operating agreement with the Secretary under this*
25 *section. Notwithstanding subsection (g), the Secretary may*
26 *enter into an operating agreement for, among other vessels*

1 *that are eligible to be included in the Fleet, any vessel which*
2 *continues to operate under an operating-differential subsidy*
3 *contract under subtitle A or which is under charter to the*
4 *Department of Defense.*

5 “(b) *REQUIREMENTS FOR OPERATION.*—An operating
6 *agreement under this section shall require that, during the*
7 *period a vessel is operating under the agreement—*

8 “(1) *the vessel—*

9 “(A) *shall be operated exclusively in the for-*
10 *foreign trade or in mixed foreign and domestic*
11 *trade allowed under a registry endorsement is-*
12 *sued under section 12105 of title 46, United*
13 *States Code, and*

14 “(B) *shall not otherwise be operated in the*
15 *coastwise trade; and*

16 “(2) *the vessel shall be documented under chapter*
17 *121 of title 46, United States Code.*

18 “(c) *CERTAIN REQUIREMENTS NOT TO APPLY.*—A
19 *contractor of a vessel included in an operating agreement*
20 *under this subtitle may operate the vessel in the foreign*
21 *commerce of the United States without restriction, and shall*
22 *not be subject to any requirement under section 801, 808,*
23 *809, or 810.*

24 “(d) *EFFECTIVENESS AND ANNUAL PAYMENT RE-*
25 *QUIREMENTS OF OPERATING AGREEMENTS.*—

1 “(1) *EFFECTIVENESS.*—*The Secretary of Trans-*
2 *portation may enter into an operating agreement*
3 *under this subtitle for fiscal year 1996. The agreement*
4 *shall be effective only for 1 fiscal year, but shall be*
5 *renewable, subject to the availability of appropria-*
6 *tions, for each subsequent fiscal year through the end*
7 *of fiscal year 2005.*

8 “(2) *ANNUAL PAYMENT.*—*An operating agree-*
9 *ment under this subtitle shall require, subject to the*
10 *availability of appropriations and the other provi-*
11 *sions of this section, that the Secretary of Transpor-*
12 *tation pay each fiscal year to the contractor, for each*
13 *vessel that is covered by the operating agreement, an*
14 *amount equal to \$2,300,000 for fiscal year 1996 and*
15 *\$2,100,000 for each fiscal year thereafter in which the*
16 *agreement is in effect. The amount shall be paid in*
17 *equal monthly installments at the end of each month.*
18 *The amount shall not be reduced except as provided*
19 *by this section.*

20 “(e) *CERTIFICATION REQUIRED FOR PAYMENT.*—*As a*
21 *condition of receiving payment under this section for a fis-*
22 *cal year for a vessel, the owner or operator of the vessel*
23 *shall certify, in accordance with regulations issued by the*
24 *Secretary of Transportation, that the vessel has been and*
25 *will be operated in accordance with subsection (b)(1) for*

1 *at least 320 days in the fiscal year. Days during which*
 2 *the vessel is drydocked, surveyed, inspected, or repaired*
 3 *shall be considered days of operation for purposes of this*
 4 *subsection.*

5 “(f) *OPERATING AGREEMENT IS OBLIGATION OF UNIT-*
 6 *ED STATES GOVERNMENT.*—An operating agreement under
 7 *this subtitle constitutes a contractual obligation of the Unit-*
 8 *ed States Government to pay the amounts provided for in*
 9 *the agreement to the extent of actual appropriations.*

10 “(g) *LIMITATIONS.*—The Secretary of Transportation
 11 *shall not make any payment under this subtitle for a vessel*
 12 *with respect to any days for which the vessel is—*

13 “(1) *subject to an operating-differential subsidy*
 14 *contract under subtitle A or under a charter to the*
 15 *United States Government, other than a charter pur-*
 16 *suant to section 653;*

17 “(2) *not operated or maintained in accordance*
 18 *with an operating agreement under this subtitle; or*

19 “(3) *more than 25 years of age, except that the*
 20 *Secretary may make such payments for a LASH ves-*
 21 *sel for any day for which the vessel is more than 25*
 22 *years of age if that vessel—*

23 “(A) *is modernized after January 1, 1994,*

24 “(B) *is modernized before it is 25 years of*
 25 *age, and*

1 “(C) is not more than 30 years of age.

2 “(h) PAYMENTS.—With respect to payments under this
3 subtitle for a vessel covered by an operating agreement, the
4 Secretary of Transportation—

5 “(1) except as provided in paragraph (2), shall
6 not reduce any payment for the operation of a vessel
7 to carry military or other preference cargoes under
8 section 2631 of title 10, United States Code, the Act
9 of March 26, 1934 (46 App. U.S.C. 1241–1), section
10 901(a), 901(b), or 901b of this Act, or any other cargo
11 preference law of the United States;

12 “(2) shall not make any payment for any day
13 that a vessel is engaged in transporting more than
14 7,500 tons of civilian bulk preference cargoes pursu-
15 ant to section 901(a), 901(b), or 901b that is bulk
16 cargo (as that term is defined in section 3 of the
17 Shipping Act of 1984 (46 App. U.S.C. 1702)); and

18 “(3) shall make a pro rata reduction in payment
19 for each day less than 320 in a fiscal year that a ves-
20 sel covered by an operating agreement is not operated
21 in accordance with subsection (b)(1), with days dur-
22 ing which the vessel is drydocked or undergoing sur-
23 vey, inspection, or repair considered to be days on
24 which the vessel is operated.

1 “(i) *PRIORITY FOR AWARDING AGREEMENTS.*—*Subject*
2 *to the availability of appropriations, the Secretary shall*
3 *enter into operating agreements according to the following*
4 *priority:*

5 “(1) *VESSELS OWNED BY CITIZENS.*—

6 “(A) *PRIORITY.*—*First, for any vessel that*
7 *is—*

8 “(i) *owned and operated by persons*
9 *who are citizens of the United States under*
10 *section 2 of the Shipping Act, 1916; or*

11 “(ii) *less than 10 years of age and*
12 *owned and operated by a corporation that*
13 *is—*

14 “(I) *eligible to document a vessel*
15 *under chapter 121 of title 46, United*
16 *States Code; and*

17 “(II) *affiliated with a corporation*
18 *operating or managing for the Sec-*
19 *retary of Defense other vessels docu-*
20 *mented under that chapter, or charter-*
21 *ing other vessels to the Secretary of De-*
22 *fense.*

23 “(B) *LIMITATION ON NUMBER OF OPERAT-*
24 *ING AGREEMENTS.*—*The total number of operat-*
25 *ing agreements that may be entered into by a*

1 *person under the priority in subparagraph*
2 *(A)—*

3 *“(i) for vessels described in subpara-*
4 *graph (A)(i), may not exceed the sum of—*

5 *“(I) the number of United States-*
6 *documented vessels the person operated*
7 *in the foreign commerce of the United*
8 *States (except mixed coastwise and for-*
9 *foreign commerce) on May 17, 1995; and*

10 *“(II) the number of United*
11 *States-documented vessels the person*
12 *chartered to the Secretary of Defense*
13 *on that date; and*

14 *“(ii) for vessels described in subpara-*
15 *graph (A)(ii), may not exceed 5 vessels.*

16 *“(C) TREATMENT OF RELATED PARTIES.—*
17 *For purposes of subparagraph (B), a related*
18 *party with respect to a person shall be treated as*
19 *the person.*

20 *“(2) OTHER VESSELS OWNED BY CITIZENS AND*
21 *GOVERNMENT CONTRACTORS.—To the extent that*
22 *amounts are available after applying paragraph (1),*
23 *any vessel that is owned and operated by a person*
24 *who is—*

1 “(A) a citizen of the United States under
2 section 2 of the Shipping Act, 1916, that has not
3 been awarded an operating agreement under the
4 priority established under paragraph (1); or

5 “(B)(i) eligible to document a vessel under
6 chapter 121 of title 46, United States Code; and

7 “(ii) affiliated with a corporation operating
8 or managing other United States-documented
9 vessels for the Secretary of Defense or chartering
10 other vessels to the Secretary of Defense.

11 “(3) OTHER VESSELS.—To the extent that
12 amounts are available after applying paragraphs (1)
13 and (2), any other eligible vessel.

14 “(j) TRANSFER OF OPERATING AGREEMENTS.—A con-
15 tractor under an operating agreement may transfer the
16 agreement (including all rights and obligations under the
17 agreement) to any person eligible to enter into that operat-
18 ing agreement under this subtitle after notification of the
19 Secretary in accordance with regulations prescribed by the
20 Secretary, unless the transfer is disapproved by the Sec-
21 retary within 90 days after the date of that notification.
22 A person to whom an operating agreement is transferred
23 may receive payments from the Secretary under the agree-
24 ment only if each vessel to be covered by the agreement after
25 the transfer is an eligible vessel under section 651(b).

1 “(k) *REVERSION OF UNUSED AUTHORITY.*—The obli-
 2 gation of the Secretary to make payments under an operat-
 3 ing agreement under this subtitle shall terminate with re-
 4 spect to a vessel if the contractor fails to engage in operation
 5 of the vessel for which such payment is required—

6 “(1) *within one year after the effective date of*
 7 *the operating agreement, in the case of a vessel in ex-*
 8 *istence on the effective date of the agreement, or*

9 “(2) *within 30 months after the effective date of*
 10 *the operating agreement, in the case of a vessel to be*
 11 *constructed after that effective date.*

12 “(l) *PROCEDURE FOR CONSIDERING APPLICATION; EF-*
 13 *FECTIVE DATE FOR CERTAIN VESSELS.*—

14 “(1) *PROCEDURES.*—Within 90 days after re-
 15 ceipt of an application for enrollment of a vessel in
 16 the Fleet, the Secretary shall enter into an operating
 17 agreement with the applicant or provide in writing
 18 the reason for denial of that application.

19 “(2) *EFFECTIVE DATE.*—Unless an earlier date
 20 is requested by the applicant, the effective date for an
 21 operating agreement with respect to a vessel which is,
 22 on the date of entry into an operating agreement, ei-
 23 ther subject to a contract under subtitle A or on char-
 24 ter to the United States Government, other than a
 25 charter under section 653, shall be the expiration or

1 *termination date of the contract under subtitle A or*
2 *of the Government charter covering the vessel, respec-*
3 *tively, or any earlier date the vessel is withdrawn*
4 *from that contract or charter.*

5 “(m) *EARLY TERMINATION.*—An operating agreement
6 *under this subtitle shall terminate on a date specified by*
7 *the contractor if the contractor notifies the Secretary, by*
8 *not later than 60 days before the effective date of the termi-*
9 *nation, that the contractor intends to terminate the agree-*
10 *ment. Vessels covered by an operating agreement terminated*
11 *under to this subsection shall remain documented under*
12 *chapter 121 of title 46, United States Code, until the date*
13 *the operating agreement would have terminated according*
14 *to its terms. A contractor who terminates an operating*
15 *agreement pursuant to this subsection shall continue to be*
16 *bound by the provisions of section 653 until the date the*
17 *operating agreement would have terminated according to*
18 *its terms. All terms and conditions of an Emergency Pre-*
19 *paredness Agreement entered into under to section 653 shall*
20 *remain in effect until the date the operating agreement*
21 *would have terminated according to its terms, except that*
22 *the terms of such Emergency Preparedness Agreement may*
23 *be modified by the mutual consent of the contractor and*
24 *the Secretary of Transportation.*

1 “(n) *TERMINATION FOR LACK OF FUNDS.*—If funds
2 are not appropriated under the authority provided by sec-
3 tion 655 for any fiscal year, then each vessel covered by
4 an operating agreement under this subtitle is thereby re-
5 leased from any further obligation under the operating
6 agreement, the operating agreement shall terminate, and the
7 vessel owner or operator may transfer and register such ves-
8 sel under an effective United States-controlled foreign flag,
9 notwithstanding any other provision of law. If section 902
10 is applicable to such vessel after registry under an effective
11 United States-controlled foreign flag, the vessel is available
12 to be requisitioned by the Secretary of Transportation pur-
13 suant to section 902.

14 “(o) *AWARD OF OPERATING AGREEMENTS.*—

15 “(1) *IN GENERAL.*—The Secretary of Transpor-
16 tation, subject to paragraph (4), shall award operat-
17 ing agreements within each priority under subsection
18 (i)(1), (2), and (3) under regulations prescribed by
19 the Secretary.

20 “(2) *NUMBER OF AGREEMENTS AWARDED.*—Reg-
21 ulations under paragraph (1) shall provide that if
22 appropriated amounts are not sufficient for operating
23 agreements for all vessels within a priority under sub-
24 section (i)(1), (2), or (3), the Secretary shall award
25 to each person submitting a request a number of oper-

1 *ating agreements that bears approximately the same*
2 *ratio to the total number of vessels in the priority, as*
3 *the amount of appropriations available for operating*
4 *agreements for vessels in the priority bears to the*
5 *amount of appropriations necessary for operating*
6 *agreements for all vessels in the priority.*

7 “(3) *TREATMENT OF RELATED PARTIES.*—For
8 *purposes of paragraph (2), a related party with re-*
9 *spect to a person shall be treated as the person.*

10 “(4) *PREFERENCE FOR U.S.-BUILT VESSELS.*—In
11 *awarding operating agreements for vessels within a*
12 *priority under subsection (i) (1), (2), or (3), the Sec-*
13 *retary shall give preference to a vessel that was con-*
14 *structed in the United States, to the extent such pref-*
15 *erence is consistent with establishment of a fleet de-*
16 *scribed in the first sentence of section 651(a) (taking*
17 *into account the age of the vessel, the nature of service*
18 *provided by the vessel, and the commercial viability*
19 *of the vessel).*

20 “(p) *NOTICE TO U.S. SHIPBUILDERS REQUIRED.*—
21 *The Secretary shall include in any operating agreement*
22 *under this subtitle a requirement that the contractor under*
23 *the agreement shall, by not later than 30 days after solicit-*
24 *ing any bid or offer for the construction of any vessel in*
25 *a foreign shipyard and before entering into a contract for*

1 *construction of a vessel in a foreign shipyard, provide notice*
2 *of the intent of the contractor to enter into such a contract*
3 *to each shipyard in the United States that is capable of*
4 *constructing the vessel.*

5 “NATIONAL SECURITY REQUIREMENTS

6 “SEC. 653. (a) EMERGENCY PREPAREDNESS AGREE-
7 MENT.—

8 “(1) REQUIREMENT TO ENTER AGREEMENT.—

9 *The Secretary of Transportation shall establish an*
10 *Emergency Preparedness Program under this section*
11 *that is approved by the Secretary of Defense. Under*
12 *the program, the Secretary of Transportation shall*
13 *include in each operating agreement under this sub-*
14 *title a requirement that the contractor enter into an*
15 *Emergency Preparedness Agreement under this sec-*
16 *tion with the Secretary. The Secretary shall negotiate*
17 *and enter into an Emergency Preparedness Agree-*
18 *ment with each contractor as promptly as practicable*
19 *after the contractor has entered into an operating*
20 *agreement under this subtitle.*

21 “(2) TERMS OF AGREEMENT.—An Emergency
22 Preparedness Agreement under this section shall re-
23 quire that upon a request by the Secretary of Defense
24 during time of war or national emergency, an owner
25 or operator of a vessel covered by an operating agree-
26 ment under this subtitle shall make available commer-

1 *cial transportation resources (including services). The*
2 *basic terms of the Emergency Preparedness Agreement*
3 *shall be established pursuant to consultations among*
4 *the Secretary, the Secretary of Defense, and Maritime*
5 *Security Program contractors. In any Emergency*
6 *Preparedness Agreement, the Secretary and a contrac-*
7 *tor may agree to additional or modifying terms ap-*
8 *propriate to the contractor's circumstances.*

9 *“(b) RESOURCES MADE AVAILABLE.—The commercial*
10 *transportation resources to be made available under an*
11 *Emergency Preparedness Agreement shall include vessels or*
12 *capacity in vessels, intermodal systems and equipment, ter-*
13 *minal facilities, intermodal and management services, and*
14 *other related services, or any agreed portion of such*
15 *nonvessel resources for activation as the Secretary may de-*
16 *termine to be necessary, seeking to minimize disruption of*
17 *the contractor's service to commercial shippers.*

18 *“(c) COMPENSATION.—*

19 *“(1) IN GENERAL.—The Secretary of Transpor-*
20 *tation shall provide in each Emergency Preparedness*
21 *Agreement for reasonable compensation for all com-*
22 *mercial transportation resources provided pursuant to*
23 *this section.*

24 *“(2) SPECIFIC REQUIREMENTS.—Compensation*
25 *under this subsection—*

1 “(A) shall not be less than the contractor’s
2 commercial market charges for like transpor-
3 tation resources;

4 “(B) shall include all the contractor’s costs
5 associated with provision and use of the contrac-
6 tor’s commercial resources to meet emergency re-
7 quirements;

8 “(C) in the case of a charter of an entire
9 vessel, shall be fair and reasonable;

10 “(D) shall be in addition to and shall not
11 in any way reflect amounts payable under sec-
12 tion 652; and

13 “(E) shall be provided from the time that a
14 vessel or resource is diverted from commercial
15 service until the time that reenters commercial
16 service.

17 “(d) TEMPORARY REPLACEMENT VESSELS.—Notwith-
18 standing any other provision of this subtitle or of other law
19 to the contrary—

20 “(1) a contractor may operate or employ in for-
21 eign commerce a foreign-flag vessel or foreign-flag ves-
22 sel capacity, as a temporary replacement for a United
23 States-documented vessel or United States-documented
24 vessel capacity that is activated under an Emergency
25 Preparedness Agreement; and

1 “(2) *such replacement vessel or vessel capacity*
2 *shall be eligible during the replacement period to*
3 *transport preference cargoes subject to section 2631 of*
4 *title 10, United States Code, the Act of March 26,*
5 *1934 (46 App. U.S.C. 1241–1), and sections 901(a),*
6 *901(b), and 901b of this Act to the same extent as the*
7 *eligibility of the vessel or vessel capacity replaced.*

8 “(e) *REDELIVERY AND LIABILITY OF U.S. FOR DAM-*
9 *AGES.—*

10 “(1) *IN GENERAL.—All commercial transpor-*
11 *tation resources activated under an Emergency Pre-*
12 *paredness Agreement shall, upon termination of the*
13 *period of activation, be redelivered to the contractor*
14 *in the same good order and condition as when re-*
15 *ceived, less ordinary wear and tear, or the Govern-*
16 *ment shall fully compensate the contractor for any*
17 *necessary repair or replacement.*

18 “(2) *LIMITATION ON LIABILITY OF U.S.—Except*
19 *as may be expressly agreed to in an Emergency Pre-*
20 *paredness Agreement, or as otherwise provided by*
21 *law, the Government shall not be liable for disruption*
22 *of a contractor’s commercial business or other con-*
23 *sequential damages to a contractor arising from acti-*
24 *vation of commercial transportation resources under*
25 *an Emergency Preparedness Agreement.*

1 “(3) *LIMITATION ON APPLICATION OF OTHER RE-*
 2 *QUIREMENTS.—Sections 902 and 909 of this Act shall*
 3 *not apply to a vessel while it is covered by an Emer-*
 4 *gency Preparedness Agreement under this subtitle.*
 5 *Any Emergency Preparedness Agreement entered into*
 6 *by a contractor shall supersede any other agreement*
 7 *between that contractor and the Government for vessel*
 8 *availability in time of war or national emergency.*

9 “*DEFINITIONS*

10 “*SEC. 654. In this subtitle:*

11 “(1) *FLEET.—The term ‘Fleet’ means the Mari-*
 12 *time Security Fleet established pursuant to section*
 13 *651(a).*

14 “(2) *LASH VESSEL.—The term ‘LASH vessel’*
 15 *means a lighter aboard ship vessel.*

16 “(3) *UNITED STATES-DOCUMENTED VESSEL.—*
 17 *The term ‘United States-documented vessel’ means a*
 18 *vessel documented under chapter 121 of title 46, Unit-*
 19 *ed States Code.*

20 “*AUTHORIZATION OF APPROPRIATIONS*

21 “*SEC. 655. There are authorized to be appropriated*
 22 *for operating agreements under this subtitle, to remain*
 23 *available until expended, \$100,000,000 for fiscal year 1996*
 24 *and such sums as may be necessary, not to exceed*
 25 *\$100,000,000, for each fiscal year thereafter through fiscal*
 26 *year 2005.”.*

1 **SEC. 3. TERMINATION OF OPERATING-DIFFERENTIAL SUB-**
2 **SIDY PROGRAM.**

3 (a) *LIMITATION ON PAYMENTS FOR OLDER VES-*
4 *SELS.*—Section 605(b) of the Merchant Marine Act, 1936
5 (46 App. U.S.C. 1175(b)), is amended to read as follows:

6 “(b) No operating-differential subsidy shall be paid for
7 the operation of a vessel after the calendar year the vessel
8 becomes 25 years of age, unless the Secretary of Transpor-
9 tation has determined, before the date of enactment of the
10 Maritime Security Act of 1995, that it is in the public in-
11 terest to grant such financial aid for the operation of such
12 vessel.”.

13 (b) *WIND-UP OF PROGRAM.*—Subtitle A of such Act
14 (46 App. U.S.C. 1171 et seq.), as designated by the amend-
15 ment made by section 2(1), is further amended by adding
16 at the end the following new section:

17 “SEC. 616. (a) After the date of enactment of the Mari-
18 time Security Act of 1995, the Secretary of Transportation
19 shall not enter into any new contract for operating-differen-
20 tial subsidy under this subtitle.

21 “(b) Notwithstanding any other provision of this Act,
22 any operating-differential subsidy contract in effect under
23 this title on the day before the date of enactment of the Mar-
24 itime Security Act of 1995 shall continue in effect and ter-
25minate as set forth in the contract, unless voluntarily termi-

1 nated at an earlier date by the parties (other than the Unit-
2 ed States Government) to the contract.

3 “(c) The essential service requirements of section
4 601(a) and 603(b), and the provisions of sections 605(c)
5 and 809(a), shall not apply to the operating-differential
6 subsidy program under this subtitle effective upon the ear-
7 lier of—

8 “(1) the date that a payment is made, under the
9 Maritime Security Program established by subtitle B
10 to a contractor under that subtitle who is not party
11 to an operating-differential subsidy contract under
12 this subtitle, with the Secretary to cause notice of the
13 date of such payment to be published in the Federal
14 Register as soon as possible; or

15 “(2) with respect to a particular contractor
16 under the operating-differential subsidy program, the
17 date that contractor enters into a contract with the
18 Secretary under the Maritime Security Program es-
19 tablished by subtitle B.

20 “(d)(1) Notwithstanding any other provision of law,
21 a vessel may be transferred and registered under an effective
22 United States-controlled foreign flag if—

23 “(A) the operator of the vessel receives an operat-
24 ing-differential subsidy pursuant to a contract under
25 this subtitle which is in force on October 1, 1994, and

1 *the Secretary approves the replacement of such vessel*
 2 *with a comparable vessel, or*

3 *“(B) the vessel is covered by an operating agree-*
 4 *ment under subtitle B, and the Secretary approves the*
 5 *replacement of such vessel with a comparable vessel*
 6 *for inclusion in the Maritime Security Fleet estab-*
 7 *lished under subtitle B.*

8 *“(2) Any such vessel may be requisitioned by the Sec-*
 9 *retary of Transportation pursuant to section 902.”.*

10 **SEC. 4. DOMESTIC OPERATIONS.**

11 *Section 805(a) of the Merchant Marine Act, 1936 (46*
 12 *App. U.S.C. 1223(a)) is amended by striking “1935” each*
 13 *place it appears and inserting “1995”.*

14 **SEC. 5. USE OF FOREIGN-FLAG VESSELS.**

15 *(a) IN GENERAL.—Section 804 of the Merchant Ma-*
 16 *rine Act, 1936 (46 App. U.S.C. 1222) is amended by adding*
 17 *at the end the following new subsection:*

18 *“(f) The provisions of subsection (a) shall not preclude*
 19 *a contractor receiving assistance under subtitle A or B of*
 20 *title VI, or any holding company, subsidiary, or affiliate*
 21 *of the contractor, or any officer, director, agent, or executive*
 22 *thereof, from—*

23 *“(1) owning, chartering, or operating any for-*
 24 *oreign-flag vessel on a voyage or a segment of a voyage*
 25 *that does not call at a port in the United States;*

1 “(2) owning, chartering, or operating any for-
2 *foreign-flag vessel in line haul service between the Unit-*
3 *ed States and foreign ports if—*

4 “(A) *the foreign-flag vessel was operated by,*
5 *or is a replacement for a foreign-flag vessel oper-*
6 *ated by, such owner or operator, or any holding*
7 *company, subsidiary, affiliate, or associate of*
8 *such owner or operator, on the date of enactment*
9 *of the Maritime Security Act of 1995;*

10 “(B) *the owner or operator, with respect to*
11 *each additional foreign-flag vessel, other than a*
12 *time chartered vessel, has first applied to have*
13 *that vessel covered by an operating agreement*
14 *under subtitle B of title VI, and the Secretary*
15 *has not awarded an operating agreement with*
16 *respect to that vessel within 90 days after the fil-*
17 *ing of the application; or*

18 “(C) *the vessel has been placed under for-*
19 *oreign documentation pursuant to section 9 of the*
20 *Shipping Act, 1916 (46 App. U.S.C. 808), except*
21 *that any foreign-flag vessel, other than a time*
22 *chartered vessel, a replacement vessel under sec-*
23 *tion 653(d), or a vessel operated by the owner or*
24 *operator on the date of enactment of the Mari-*
25 *time Security Act of 1995, in line haul service*

1 *between the United States and foreign ports is*
2 *registered under the flag of an effective United*
3 *States-controlled foreign flag, and available to be*
4 *requisitioned by the Secretary of Transportation*
5 *pursuant to section 902 of this Act;*

6 “(3) *owning, chartering, or operating foreign-*
7 *flag bulk cargo vessels that are operated in foreign-to-*
8 *foreign service or the foreign commerce of the United*
9 *States;*

10 “(4) *chartering or operating foreign-flag vessels*
11 *that are operated solely as replacement vessels for*
12 *United States-flag vessels or vessel capacity that are*
13 *made available to the Secretary of Defense pursuant*
14 *to section 653 of this Act; or*

15 “(5) *entering into time or space charter or other*
16 *cooperative agreements with respect to foreign-flag*
17 *vessels or acting as agent or broker for a foreign-flag*
18 *vessel or vessels.”.*

19 **(b) EFFECTIVE DATE.**—*The amendment made by sub-*
20 *section (a) shall apply to a contractor under subtitle B of*
21 *title VI of the Merchant Marine Act, 1936, as amended by*
22 *this Act, upon enactment of this Act, and shall apply to*
23 *a contractor under subtitle A of title VI of that Act, upon*
24 *the earlier of—*

1 (1) the date that a payment is made, under the
 2 Maritime Security Program under subtitle B of that
 3 title to a contractor under subtitle B of that title who
 4 is not party to an operating-differential subsidy con-
 5 tract under subtitle A of that title, with the Secretary
 6 of Transportation to cause notice of the date of such
 7 payment to be published in the Federal Register as
 8 soon as possible; or

9 (2) with respect to a particular contractor under
 10 the operating-differential subsidy program under sub-
 11 title A of that title, the date that contractor enters
 12 into a contract with the Secretary under the Mari-
 13 time Security Program established by subtitle B of
 14 that title.

15 **SEC. 6. AMENDMENT TO SHIPPING ACT, 1916.**

16 Section 9 of the Shipping Act, 1916 (46 App. U.S.C.
 17 808) is amended by adding at the end the following:

18 “(e) Notwithstanding subsection (c)(2), the Merchant
 19 Marine Act, 1936, or any contract entered into with the
 20 Secretary of Transportation under that Act, a vessel may
 21 be placed under a foreign registry, without approval of the
 22 Secretary, if—

23 “(1)(A) the Secretary determines that at least
 24 one replacement vessel of a capacity that is equivalent
 25 or greater, as measured by deadweight tons, gross

1 *tons, or container equivalent units, as appropriate, is*
2 *documented under chapter 121 of title 46, United*
3 *States Code, by the owner of the vessel placed under*
4 *the foreign registry; and*

5 *“(B) the replacement vessel is not more than 10*
6 *years of age on the date of that documentation;*

7 *“(2)(A) an application for an operating agree-*
8 *ment under subtitle B of title VI of the Merchant Ma-*
9 *rine Act, 1936 has been filed with respect to a vessel*
10 *which is eligible to be included in the Maritime Secu-*
11 *rity Fleet under section 651(b)(1) of that Act; and*

12 *“(B) the Secretary has not awarded an operat-*
13 *ing agreement with respect to that vessel within 90*
14 *days after the date of that application;*

15 *“(3) a contract covering the vessel under subtitle*
16 *A of title VI of the Merchant Marine Act, 1936 has*
17 *expired, and that vessel is more than 15 years of age*
18 *on the date the contract expires; or*

19 *“(4) an operating agreement covering the vessel*
20 *under subpart B of title VI of the Merchant Marine*
21 *Act, 1936 has expired.”.*

1 **SEC. 7. CONSTRUCTION DIFFERENTIAL SUBSIDY RESTRIC-**
2 **TIONS.**

3 *Title V of the Merchant Marine Act, 1936 (46 App.*
4 *U.S.C. 1151 et seq.) is amended by adding at the end the*
5 *following new section:*

6 **“SEC. 512. LIMITATION ON RESTRICTIONS.**

7 *“Notwithstanding any other provision of law or con-*
8 *tract, all restrictions and requirements under sections 503,*
9 *506, and 802 applicable to a liner vessel constructed, recon-*
10 *structed, or reconditioned with the aid of construction-dif-*
11 *ferential subsidy shall terminate upon the expiration of the*
12 *25-year period beginning on the date of the original deliv-*
13 *ery of the vessel from the shipyard.”.*

14 **SEC. 8. REGULATIONS.**

15 *(a) IN GENERAL.—The Secretary of Transportation*
16 *may prescribe rules as necessary to carry out this Act and*
17 *the amendments made by this Act.*

18 *(b) INTERIM RULES.—The Secretary of Transpor-*
19 *tation may prescribe interim rules necessary to carry out*
20 *this Act and the amendments made by this Act. For this*
21 *purpose, the Secretary of Transportation is excepted from*
22 *compliance with the notice and comment requirements of*
23 *section 553 of title 5, United States Code. All rules pre-*
24 *scribed under the authority of this subsection that are not*
25 *earlier superseded by final rules shall expire no later than*
26 *270 day after the date of enactment of this Act.*

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