

S.L.C.
Robert J. Wicker

Wicker_1

AMENDMENT NO. _____

Calendar No. _____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.

S. 3262

To improve the efficient movement of freight at ports in the United States, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

1 Strike sections 2 through 13 and insert the following:

2 **SEC. 2. DWELL TIME STATISTICS.**

3 (a) DEFINITIONS.—In this section:

4 (1) DIRECTOR.—The term “Director” means
5 the Director of the Bureau of Transportation Statis-
6 tics.

7 (2) MARINE CONTAINER.—The term “marine
8 container” means an intermodal container with a
9 length of—

10 (A) not less than 20 feet; and

11 (B) not greater than 45 feet.

1 (3) OUT OF SERVICE PERCENTAGE.—The term
2 “*out of service* percentage” means the proportion of
3 the chassis fleet for any defined geographical area
4 that is out of service at any one time.

5 (4) STREET DWELL TIME.—The term “street
6 dwell time”, with respect to a piece of equipment,
7 means the quantity of time during which the piece
8 of equipment is in use outside of the terminal.

9 (b) AUTHORITY TO COLLECT DATA.—

10 (1) IN GENERAL.—Each port, marine terminal
11 operator, and chassis owner or provider with a fleet
12 of over 50 chassis that supply chassis for a fee shall
13 submit to the Director such data as the Director de-
14 termines to be necessary for the implementation of
15 this section, subject to subchapter III of chapter 35
16 of title 44, United States Code.

17 (2) APPROVAL BY OMB.—Subject to the avail-
18 ability of appropriations, not later than 60 days
19 after the date of enactment of this Act, the Director
20 of the Office of Management and Budget shall ap-
21 prove an information collection for purposes of this
22 section.

23 (c) PUBLICATION.—Subject to the availability of ap-
24 propriations, not later than 240 days after the date of en-
25 actment of this Act, and not less frequently than monthly

1 thereafter, the Director shall publish statistics relating to
2 the dwell time of equipment used in intermodal transpor-
3 tation at the top 25 intermodal freight facilities, includ-
4 ing—

5 (1) total street dwell time, from all causes, of
6 marine containers and marine container chassis; and

7 (2) the average out of service percentage, which
8 shall not be identifiable with any particular port,
9 marine terminal operators, or chassis provider.

10 (d) FACTORS.—Subject to the availability of appro-
11 priations, to the maximum extent practicable, the Director
12 shall publish the statistics described in subsection (c) on
13 a local, regional, and national basis.

14 (e) SUNSET.—The authority under this section shall
15 expire December 31, 2026.

16 **SEC. 3. FEDERAL MARITIME COMMISSION ACTIVITIES.**

17 (a) PUBLIC SUBMISSIONS TO COMMISSION.—The
18 Commission shall—

19 (1) establish on the public website of the Com-
20 mission a webpage that allows for the submission of
21 comments, complaints, concerns, reports of non-
22 compliance, requests for investigation, and requests
23 for alternative dispute resolution; and

1 (2) direct each submission under the link estab-
2 lished under paragraph (1) to the appropriate com-
3 ponent office of the Commission.

4 (b) AUTHORIZATION OF OFFICE OF CONSUMER AF-
5 FAIRS AND DISPUTE RESOLUTION SERVICES.—The Com-
6 mission shall maintain an Office of Consumer Affairs and
7 Dispute Resolution Services to provide nonadjudicative
8 ombuds assistance, mediation, facilitation, and arbitration
9 to resolve challenges and disputes involving cargo ship-
10 ments, household good shipments, and cruises subject to
11 the jurisdiction of the Commission.

12 (c) ENHANCING CAPACITY FOR INVESTIGATIONS.—

13 (1) IN GENERAL.—Pursuant to section 41302
14 of title 46, United States Code, not later than 18
15 months after the date of enactment of this Act, the
16 Chairperson of the Commission shall staff within the
17 Bureau of Enforcement, the Bureau of Certification
18 and Licensing, the Office of the Managing Director,
19 the Office of Consumer Affairs and Dispute Resolu-
20 tion Services, and the Bureau of Trade Analysis not
21 fewer than 7 total positions to assist in investiga-
22 tions and oversight, in addition to the positions with-
23 in the Bureau of Enforcement, the Bureau of Cer-
24 tification and Licensing, the Office of the Managing
25 Director, the Office of Consumer Affairs and Dis-

1 pute Resolution Services, and the Bureau of Trade
2 Analysis on that date of enactment.

3 (2) DUTIES.—The additional staff appointed
4 under paragraph (1) shall provide support—

5 (A) to Area Representatives of the Bureau
6 of Enforcement;

7 (B) to attorneys of the Bureau of Enforce-
8 ment in enforcing the laws and regulations sub-
9 ject to the jurisdiction of the Commission;

10 (C) for the alternative dispute resolution
11 services of the Commission; or

12 (D) for the review of agreements and ac-
13 tivities subject to the authority of the Commis-
14 sion.

15 **SEC. 4. TEMPORARY EMERGENCY AUTHORITY.**

16 (a) DEFINITIONS.—In this section:

17 (1) COMMON CARRIER.—The term “common
18 carrier” has the meaning given the term in section
19 40102 of title 46, United States Code.

20 (2) MOTOR CARRIER.—The term “motor car-
21 rier” has the meaning given the term in section
22 13102 of title 49, United States Code.

23 (3) RAIL CARRIER.—The term “rail carrier”
24 has the meaning given the term in section 10102 of
25 title 49, United States Code.

1 (4) SHIPPER.—The term “shipper” has the
2 meaning given the term in section 40102 of title 46,
3 United States Code.

4 (b) PUBLIC INPUT ON INFORMATION SHARING.—

5 (1) IN GENERAL.—Not later than 60 days after
6 the date of enactment of this Act, the Commission
7 shall issue a request for information, seeking public
8 comment regarding—

9 (A) whether congestion of the carriage of
10 goods has created an emergency situation of a
11 magnitude such that there exists a substantial,
12 adverse effect on the competitiveness and reli-
13 ability of the international ocean transportation
14 supply system;

15 (B) whether an emergency order under
16 this section would alleviate such an emergency
17 situation; and

18 (C) the appropriate scope of such an emer-
19 gency order, if applicable.

20 (2) CONSULTATION.—During the public com-
21 ment period under paragraph (1), the Commission
22 may consult, as the Commission determines to be
23 appropriate, with—

24 (A) other Federal departments and agen-
25 cies; and

1 (B) persons with expertise relating to mar-
2 itime and freight operations.

3 (c) AUTHORITY TO REQUIRE INFORMATION SHAR-
4 ING.—On making a unanimous determination described in
5 subsection (d), the Commission may issue an emergency
6 order requiring any common carrier or marine terminal
7 operator to share directly with relevant shippers, rail car-
8 riers, or motor carriers information relating to cargo
9 throughput and availability, in order to ensure the effi-
10 cient transportation, loading, and unloading of cargo to
11 or from—

12 (1) any inland destination or point of origin;

13 (2) any vessel; or

14 (3) any point on a wharf or terminal.

15 (d) DESCRIPTION OF DETERMINATION.—

16 (1) IN GENERAL.—A determination referred to
17 in subsection (c) is a unanimous determination by
18 the commissioners on the Commission that conges-
19 tion of common carriage of goods has created an
20 emergency situation of a magnitude such that there
21 exists a substantial, adverse effect on the competi-
22 tiveness and reliability of the international ocean
23 transportation supply system.

24 (2) FACTORS FOR CONSIDERATION.—In issuing
25 an emergency order pursuant to subsection (c), the

1 Commission shall tailor the emergency order with re-
2 spect to temporal and geographic scope, taking into
3 consideration the likely burdens on ocean carriers
4 and marine terminal operators and the likely bene-
5 fits on congestion relating to the purposes described
6 in section 40101 of title 46, United States Code.

7 (e) PETITIONS FOR EXCEPTION.—

8 (1) IN GENERAL.—A common carrier or marine
9 terminal operator subject to an emergency order
10 issued pursuant to this section may submit to the
11 Commission a petition for exception from 1 or more
12 requirements of the emergency order, based on a
13 showing of undue hardship or other condition ren-
14 dering compliance with such a requirement impracti-
15 cable.

16 (2) DETERMINATION.—The Commission shall
17 make a determination regarding a petition for excep-
18 tion under paragraph (1) by—

19 (A) majority vote; and

20 (B) not later than 21 days after the date
21 on which the petition is submitted.

22 (3) INAPPLICABILITY PENDING REVIEW.—The
23 requirements of an emergency order that is the sub-
24 ject of a petition for exception under this subsection

1 shall not apply to the petitioner during the period
2 for which the petition is pending.

3 (f) LIMITATIONS.—

4 (1) TERM.—An emergency order issued pursu-
5 ant to this section—

6 (A) shall remain in effect for a period of
7 not longer than 60 days; but

8 (B) may be renewed by a unanimous deter-
9 mination of the Commission.

10 (2) SUNSET.—The authority provided by this
11 section shall terminate on the date that is 18
12 months after the date of enactment of this Act.

13 (3) INVESTIGATIVE AUTHORITY UNAF-
14 FECTED.—Nothing in this section shall affect the in-
15 vestigative authorities of the Commission as de-
16 scribed in subpart R of part 502 of title 46, Code
17 of Federal Regulations.

18 **SEC. 5. BEST PRACTICES FOR CHASSIS POOLS.**

19 (a) IN GENERAL.—Not later than April 1, 2023, the
20 Commission shall enter into an agreement with the Trans-
21 portation Research Board of the National Academies of
22 Sciences, Engineering, and Medicine under which the
23 Transportation Research Board shall carry out a study
24 and develop best practices for on-terminal or near-ter-
25 minal chassis pools that provide service to marine terminal

1 operators, motor carriers, railroads, and other stake-
2 holders that use the chassis pools, with the goal of opti-
3 mizing supply chain efficiency and effectiveness.

4 (b) REQUIREMENTS.—In developing best practices
5 under subsection (a), the Transportation Research Board
6 shall—

7 (1) take into consideration—

8 (A) practical obstacles to the implementa-
9 tion of chassis pools; and

10 (B) potential solutions to those obstacles;

11 and

12 (2) address relevant communication practices,
13 information sharing, and knowledge management.

14 (c) PUBLICATION.—The Commission shall publish
15 the best practices developed under this section on a pub-
16 licly available website by not later than April 1, 2024.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to the Commission to carry
19 out this section \$500,000.

20 **SEC. 6. LICENSING TESTING.**

21 (a) IN GENERAL.—Not later than 90 days after the
22 date of enactment of this Act, the Administrator of the
23 Federal Motor Carrier Safety Administration (referred to
24 in this section as the “Administrator”) shall conduct a re-
25 view of the discretionary waiver authority described in the

1 document issued by the Administrator entitled “Waiver
2 for States Concerning Third Party CDL Skills Test Ex-
3 aminers In Response to the COVID–19 Emergency” and
4 dated August 31, 2021, for safety concerns.

5 (b) PERMANENT WAIVER.—If the Administrator
6 finds no safety concerns after conducting a review under
7 subsection (a), the Administrator shall, notwithstanding
8 any other provision of law, make the waiver permanent.

9 (c) RULEMAKING.—Not later than 90 days after com-
10 pleting the review under subsection (a), the Administrator
11 shall revise section 384.228 of title 49, Code of Federal
12 Regulations, to provide that the discretionary waiver au-
13 thority referred to in subsection (a) shall be permanent.