

103^D CONGRESS
2^D SESSION

H. R. 3769

To promote the construction in the United States of modern, efficient documented vessels suitable for commercial and national defense purposes, to strengthen the defense industrial base, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1994

Ms. SCHENK (for herself, Mr. ANDREWS of Maine, Mr. DELLUMS, Mr. FILNER, Mr. HOCHBRUECKNER, Mr. HUNTER, Mr. LIPINSKI, Mr. STUDDS, Mr. TAYLOR of Mississippi, and Mr. TRAFICANT) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To promote the construction in the United States of modern, efficient documented vessels suitable for commercial and national defense purposes, to strengthen the defense industrial base, 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 “Merchant Marine Revi-
5 talization Act of 1994”.

6 **SEC. 2. FINDINGS, PURPOSES, AND POLICY.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) The United States-flag merchant fleet,
2 which is the primary means of transporting vital
3 military and critical raw material cargo in the event
4 of national emergencies, the United States shipyard
5 industry, which designs and constructs all Navy ves-
6 sels and is a mobilization base in the event of na-
7 tional emergency, and domestic producers of marine
8 equipment, which are essential to the construction of
9 commercial and naval vessels, serve essential na-
10 tional security functions.

11 (2) The United States shipbuilding industry is
12 encumbered in the international ship construction
13 market by significant subsidies and anticompetitive
14 practices that impede the ability of United States
15 firms to compete on a fair and equitable basis.

16 (3) The United States shipbuilding industry en-
17 counters costs of production due to regulatory meas-
18 ures required by the United States that exceed the
19 standards imposed internationally.

20 (4) The United States-flag merchant fleet has
21 dwindled in size to the point that United States-flag
22 vessels now carry less than 4 percent of the ocean
23 borne trade of the United States.

24 (5) The United States shipyard industry cur-
25 rently has no orders for new construction of large

1 commercial vessels, several major shipyards are ex-
2 perencing severe financial conditions, and the indus-
3 try is laying-off thousands of employees.

4 (6) Skilled labor to crew the United States mer-
5 chant marine and to construct new vessels is at a
6 precariously low level.

7 (7) The United States-flag merchant fleet, the
8 United States shipyard industry, and the domestic
9 marine equipment suppliers, have decreased in size
10 to the point that the bulk sealift capability and ves-
11 sel construction and repair mobilization capacity of
12 the United States are dangerously inadequate.

13 (8) The United States shipbuilding industry, by
14 effectively transitioning from defense production to
15 global competitiveness, has the potential to become
16 an exporter of ships, thereby providing jobs, paying
17 taxes, and earning foreign exchange.

18 (9) The most equitable and cost-effective means
19 of promoting the United States-flag merchant fleet
20 and the United States shipyard industry is to re-
21 serve a certain portion of cargo imports for United
22 States-flag merchant vessels designed and built in
23 the United States.

24 (b) PURPOSE AND POLICY.—It is the purpose and
25 policy of the Congress in this Act—

1 (1) to take immediate and positive steps to pro-
2 mote the orderly and rapid re-growth of the United
3 States-flag merchant fleet to transport at least 30
4 percent of certain imports of the United States on
5 United States-flag vessels by January 1, 2000, to
6 ensure viable merchant marine and shipbuilding in-
7 dustries;

8 (2) to assist and cooperate with the importers
9 of designated commodities so that they will be able
10 to ship their imported goods in United States-flag
11 vessels in a commercially practicable manner;

12 (3) to encourage the design and construction by
13 the United States shipyard industry of new, efficient
14 merchant vessels;

15 (4) to require the maintenance and repair of
16 United States-flag vessels in United States shipyards
17 unless there is an emergency on a voyage;

18 (5) to eliminate foreign subsidies and anti-
19 competitive practices and make the United States
20 merchant marine and shipbuilding industries inter-
21 nationally competitive by the turn of the century;

22 (6) to preserve existing and create additional
23 essential skilled employment in the merchant marine
24 and shipbuilding industries and their supplier indus-
25 tries;

1 (7) to complement and support existing efforts
2 to preserve viable and healthy merchant marine and
3 shipbuilding industries for the benefit of the econ-
4 omy of the United States, the balance of payments
5 of the United States, and the national defense; and

6 (8) to preclude the monopolization of the ship-
7 ping industry by foreign-flag vessels.

8 **SEC. 3. UNITED STATES-FLAG TRANSPORT OF CERTAIN IM-**
9 **PORTED CARGOES REQUIRED.**

10 Section 901 of the Merchant Marine Act, 1936 (46
11 App. U.S.C. 1241) is amended by adding at the end the
12 following new subsection:

13 “(d) UNITED STATES-FLAG TRANSPORT OF CERTAIN
14 IMPORTED CARGOES REQUIRED.—

15 “(1) UNITED STATES-FLAG TRANSPORT RE-
16 QUIRED.—The Secretary shall issue regulations
17 that—

18 “(A) ensure that of the total amount of oil
19 in bulk that is imported each year and that is
20 transported on seagoing vessels in the course of
21 that importation, and of the total amount of
22 motor vehicles that is imported each year that
23 is so transported, not less than the percentage
24 applicable under paragraph (2) is so trans-
25 ported only on vessels that are documented

1 under the laws of the United States and other-
2 wise are eligible vessels; and

3 “(B) require that of the total amount of
4 each type of covered cargo that a person im-
5 ports in a year, not less than the percentage ap-
6 plicable for that year under paragraph (2) shall
7 be complying covered cargoes.

8 “(2) MINIMUM PERCENTAGE APPLICABLE.—

9 “(A) OIL IN BULK.—Except as otherwise
10 provided in this subsection, the percentage ap-
11 plicable under this paragraph to importation of
12 oil in bulk is as follows:

13 “(i) In the case of oil in bulk trans-
14 ported in the course of that importation on
15 seagoing vessels of 200,000 deadweight
16 tons or greater—

17 “(I) before 1997, 4 percent;

18 “(II) in 1997, 8 percent;

19 “(III) in 1998, 12 percent;

20 “(IV) in 1999, 16 percent;

21 “(V) in 2000, 20 percent;

22 “(VI) in 2001, 25 percent; and

23 “(VII) in each year after 2001,
24 30 percent.

1 “(ii) In the case of oil in bulk trans-
2 ported in the course of that importation on
3 seagoing vessels of less than 200,000 dead-
4 weight tons—

5 “(I) before 1998, 10 percent;

6 “(II) in 1998, 15 percent;

7 “(III) in 1999, 20 percent;

8 “(IV) in 2000, 25 percent; and

9 “(V) in each year after 2000, 30

10 percent.

11 “(B) MOTOR VEHICLES.—Except as other-
12 wise provided in this paragraph or paragraph
13 (6), the percentage applicable under this para-
14 graph to importation of motor vehicles is—

15 “(i) before 1995, 4 percent;

16 “(ii) in 1995, 5 percent;

17 “(iii) in 1996, 10 percent;

18 “(iv) in 1997, 20 percent;

19 “(v) in 1998, 30 percent;

20 “(vi) in 1999, 40 percent; and

21 “(vii) in each year after 1999, 50 per-

22 cent.

23 “(C) REDUCTION OF PERCENTAGE FOR
24 LACK OF AVAILABLE ELIGIBLE VESSELS.—

1 “(i) IN GENERAL.—The Secretary
2 may reduce a percentage otherwise applica-
3 ble in a year for a covered cargo under
4 subparagraph (A) or (B), if—

5 “(I) the Secretary determines
6 that the number of eligible vessels (in-
7 cluding eligible vessels on order and
8 scheduled to be ready for commercial
9 service) that are available at fair and
10 reasonable rates to transport the
11 amount of the covered cargo expected
12 to be imported in that year is not ade-
13 quate to enable importers of the cov-
14 ered cargo to comply with the percent-
15 age otherwise applicable; and

16 “(II) the percentage, as reduced,
17 will ensure, in the manner most equi-
18 table and commercially practicable for
19 all importers, the use of all eligible
20 vessels that the Secretary determines
21 are available to provide that trans-
22 port.

23 “(ii) TERMINATION OF REDUCTION.—
24 Any reduction of a percentage under this
25 subparagraph shall not apply after the

1 number of eligible vessels that are available
2 at fair and reasonable rates to transport a
3 covered cargo is adequate to enable import-
4 ers of the covered cargo to comply with the
5 percentage otherwise applicable under sub-
6 paragraph (A) or (B).

7 “(iii) DETERMINATION OF AVAILABLE
8 VESSELS REQUIRED.—Each year the Sec-
9 retary shall determine the number of eligi-
10 ble vessels that are available at fair and
11 reasonable rates to transport each type of
12 covered cargo.

13 “(D) REDUCTION OF PERCENTAGE FOR
14 NATIONAL EMERGENCY.—The President may
15 reduce a percentage otherwise applicable in a
16 year under subparagraph (A) or (B), if the
17 President—

18 “(i) determines that an emergency ex-
19 ists justifying the reduction to protect the
20 national interests of the United States;
21 and

22 “(ii) issues a statement in writing of
23 the reasons for that determination.

24 “(3) EXEMPTIONS.—The requirements under
25 this subsection shall not apply to—

1 “(A) importation of oil in bulk by a person
2 in any year in which the total amount of oil in
3 bulk imported by the person—

4 “(i) does not exceed an average daily
5 amount of 30,000 barrels per day, and

6 “(ii) does not exceed the number of
7 barrels used by the person in that year; or

8 “(B) importation of motor vehicles by a
9 person in any year in which the total number
10 of motor vehicles imported by the person does
11 not exceed a de minimis number of motor vehi-
12 cles determined by the Secretary that would not
13 have an impact on the implementation of this
14 subsection.

15 “(4) TREATMENT OF RELATED PERSONS.—In
16 determining for purposes of paragraph (1) the
17 amount of a covered cargo imported by a person, the
18 Secretary shall include covered cargo that is im-
19 ported by any other person who controls, is con-
20 trolled by, or is under common control with, the per-
21 son with respect to whom the determination is made.

22 “(5) ISSUANCE OF CREDITS AND USE IN LIEU
23 OF COMPLIANCE.—

1 “(A) ESTABLISHMENT OF SYSTEM.—The
2 Secretary shall establish in regulations under
3 paragraph (1) a system under which—

4 “(i) the Secretary shall issue credits
5 to a person for amounts of a complying
6 covered cargo that are imported by the
7 person in a year in excess of the applicable
8 percentage for the complying covered cargo
9 for the year under paragraph (2) and of
10 any amount the person is required to re-
11 port under paragraph 9(C);

12 “(ii) those credits may be transferred
13 to another person; and

14 “(iii) a person may redeem any of
15 those credits held by the person in lieu of
16 complying in that year with paragraphs
17 (1)(B) and (9)(C).

18 “(B) IMPORTER CERTIFICATION.—Each
19 person that imports a covered cargo in any year
20 after 1993 shall submit to the Secretary, before
21 the end of January of the following year, a
22 sworn statement certifying—

23 “(i) the amount of each type of cov-
24 ered cargo that was imported by the per-

1 son in the year covered by the certification;
2 and

3 “(ii) the percentage of each of those
4 amounts that was a complying covered
5 cargo.

6 “(6) PHASE OUT OF REQUIREMENTS.—

7 “(A) IN GENERAL.—The Secretary shall
8 phase out the requirements of this subsection,
9 in accordance with subparagraphs (B) and (C),
10 if—

11 “(i) there is in force for the United
12 States and implemented by the Congress
13 an international agreement that eliminates
14 shipbuilding subsidies among the 10 coun-
15 tries with the largest production of com-
16 mercial vessels; and

17 “(ii) the Secretary, after due inves-
18 tigation, determines and reports to the
19 Congress that all shipbuilding subsidies
20 among those countries have in fact been
21 eliminated.

22 “(B) REDUCTION OF APPLICABLE PER-
23 CENTAGE.—The Secretary shall phase out the
24 requirements of this subsection pursuant to
25 subparagraph (A) by reducing each year the

1 percentages otherwise applicable in the year
2 under paragraph (2).

3 “(C) ASSURING PARTICIPATION OF EXIST-
4 ING ELIGIBLE VESSELS.—The Secretary shall
5 reduce applicable percentages pursuant to sub-
6 paragraph (B) in a manner that will reasonably
7 ensure that each eligible vessel constructed
8 under a contract entered into after the date of
9 the enactment of the Maritime Revitalization
10 Act of 1994 and before the date of the deter-
11 mination under subparagraph (A)(ii) pursuant
12 to which the reduction is made, will have the
13 opportunity to participate in the transportation
14 of covered cargoes for the lesser of the eco-
15 nomic life of the vessel or the 20-year period
16 beginning on the date of the completion of con-
17 struction of the vessel.

18 “(D) REINSTATEMENT OF REQUIRE-
19 MENTS.—Notwithstanding any determination
20 by the Secretary under subparagraph (A)(ii)
21 that subsidies have been eliminated, if the Sec-
22 retary, in consultation with the United States
23 Trade Representative and the heads of other
24 Federal agencies, finds at any time that any of
25 the subsidies have been resumed, then—

1 “(i) the Secretary shall reinstate the
2 requirements of this subsection; and

3 “(ii) any reductions in percentages
4 otherwise applicable under paragraph (2)
5 that were made pursuant to the determina-
6 tion under subparagraph (A)(ii) of this
7 paragraph shall not apply.

8 “(7) VESSEL FINANCING.—If the Secretary de-
9 termines that inadequate commercial financing ex-
10 ists to construct new vessels of a design appropriate
11 to meet the requirements of this subsection, the Sec-
12 retary may guarantee that financing under title XI.

13 “(8) IMPLEMENTATION, GENERALLY.—

14 “(A) ENSURING FAIR PARTICIPATION.—In
15 implementing this subsection, the Secretary
16 shall ensure fair and reasonable participation
17 by appropriate types and sizes of eligible ves-
18 sels, in the transportation of complying covered
19 cargoes from all geographic areas in which the
20 cargoes originate.

21 “(B) ACTIONS BY OTHER AGENCIES.—The
22 head of each agency and each instrumentality
23 of the United States Government, and the offi-
24 cers and employees of those agencies and in-
25 strumentalities, shall take all appropriate ac-

1 tions to comply with, implement, and enforce
2 the requirements of this subsection.

3 “(9) PENALTIES.—

4 “(A) IMPOSITION OF CIVIL PENALTY.—

5 Any person who is determined by the Secretary,
6 on the record after an opportunity for a hearing
7 in accordance with section 554 of title 5,
8 United States Code, to have violated this sub-
9 section or any regulation issued under this sub-
10 section, shall be liable to the United States for
11 a civil penalty assessed by the Secretary by
12 written notice, in an amount determined under
13 subparagraph (B).

14 “(B) AMOUNT OF CIVIL PENALTY.—The
15 amount of a civil penalty under subparagraph
16 (A) shall be the equal to—

17 “(i) the amount of the economic bene-
18 fit the Secretary determines the person de-
19 rived from the activity constituting the vio-
20 lation; plus

21 “(ii) 10 percent of that amount.

22 “(C) INCREASE IN REQUIRED IMPORTS OF
23 COMPLYING COVERED CARGO.—If the Secretary
24 determines under this paragraph that the
25 amount of a type of complying covered cargo

1 that a person imported in a year was less than
2 the amount of that type of complying covered
3 cargo the person was required to import that
4 year under this subsection, the Secretary shall
5 require the person to—

6 “(i) import in the year following the
7 year in which the determination is made
8 an amount of that type of complying cov-
9 ered cargo that is equal to the shortfall, in
10 addition to any amount of that type of
11 complying covered cargo the person is re-
12 quired to import to comply with this sub-
13 section; or

14 “(ii) redeem credits equivalent to that
15 amount under the system established
16 under paragraph (5)(A).

17 “(10) EFFICIENCY REPORT.—The Secretary
18 shall report to the Congress in 1997 on—

19 “(A) the progress made by the United
20 States shipbuilding and merchant marine indus-
21 tries in increasing the efficiency of the con-
22 struction and operation of documented vessels
23 and thereby achieving international competitive-
24 ness by 2001, through improvements in the cost
25 of—

1 “(i) construction, including design;

2 “(ii) equipment and materials; and

3 “(iii) operations, including labor;

4 “(B) the subsidies and anticompetitive
5 measures of foreign countries in their shipbuild-
6 ing and merchant marine industries; and

7 “(C) the costs imposed on the shipbuilding
8 and merchant marine industries of the United
9 States due to regulatory measures of the
10 United States.

11 “(11) ANNUAL REPORT.—the Secretary shall
12 review, evaluate, and report annually to the Con-
13 gress and the President on the implementation of
14 this subsection, together with recommendations con-
15 cerning the requirements of this subsection.

16 “(12) REGULATIONS.—

17 “(A) ISSUANCE.—The Secretary of Trans-
18 portation shall issue regulations implementing
19 this subsection by not later than 6 months after
20 the date of the enactment of the Merchant Ma-
21 rine Revitalization Act of 1994.

22 “(B) VESSEL AVAILABILITY AND RATES.—
23 Regulations issued under this paragraph shall
24 include regulations that establish a methodology
25 for determining the availability of United

1 States-flag vessels and that establish fair and
2 reasonable rates for those vessels. In promul-
3 gating those regulations, the Secretary shall
4 seek to develop a methodology which accounts
5 for variations in charter and vessel types, voy-
6 age lengths, and other characteristics which
7 may require special consideration (including
8 cost variations over time) and which affords
9 vessel operators a reasonable profit calculated
10 to promote continued acquisition of new vessels
11 from United States shipyards. The Secretary
12 shall publish on a regular and frequent basis
13 the rates developed under this section.

14 “(13) DEFINITIONS.—In this subsection:

15 “(A) COMPLYING COVERED CARGO.—The
16 term ‘complying covered cargo’ means a covered
17 cargo that is transported by seagoing vessel in
18 the course of importation (including transpor-
19 tation directly to the United States from the
20 original point of production, or indirectly from
21 that point through any intermediate point) only
22 on an eligible vessel.

23 “(B) COVERED CARGO.—The term ‘cov-
24 ered cargo’ means oil in bulk or a motor vehicle
25 that is—

1 “(i) imported after the date of the en-
2 actment of the Maritime Revitalization Act
3 of 1994; and

4 “(ii) transported in the course of that
5 importation (including transportation di-
6 rectly to the United States from the origi-
7 nal point of production, or indirectly from
8 that point through any intermediate point)
9 on a seagoing vessel;

10 “(C) ELIGIBLE VESSEL.—The term ‘eligi-
11 ble vessel’ means a vessel—

12 “(i) that is a documented vessel (as
13 that term is defined in section 2101 of title
14 46, United States Code);

15 “(ii) that is a seagoing vessel designed
16 to transport oil in bulk or motor vehicles;

17 “(iii) that is built in the United
18 States;

19 “(iv) that is constructed from compo-
20 nents (including the hull, superstructure,
21 equipment, and materials) from domestic
22 sources, except that this clause does not
23 apply—

24 “(I) with respect to any compo-
25 nent that is not available from 2 or

1 more domestic sources in an amount
2 of time that reasonably allows compli-
3 ance with the requirements of this
4 subsection; or

5 “(II) to a vessel that was built
6 before the date of the enactment of
7 the Merchant Marine Revitalization
8 Act of 1994;

9 “(v) that is less than 20 years old;

10 “(vi) that complies with all applicable
11 Federal laws, including all applicable Fed-
12 eral environmental requirements and safety
13 requirements; and

14 “(vii) for which all work performed in
15 overhauling, repairing, and maintaining
16 the vessel after the date of the enactment
17 of the Merchant Marine Revitalization Act
18 of 1994 is performed in shipyards in the
19 United States, except for emergency voy-
20 age repairs.

21 “(D) IMPORT.—The term ‘import’ means

22 to—

23 “(i) bring covered cargo into the cus-
24 toms territory of the United States; and

1 “(ii) be primarily liable for payment
2 of any duties for that covered cargo.

3 “(E) MOTOR VEHICLE.—The term ‘motor
4 vehicle’ means complete passenger automobiles,
5 trucks, commercial cars and buses, motorcycles,
6 and special purpose motor vehicles which are
7 primarily for highway use.

8 “(F) OIL.—The term ‘oil’ means—

9 “(i) crude oil; or

10 “(ii) any of the following products re-
11 fined or derived from crude oil: unfinished
12 fuels, gasoline, kerosene, aviation fuels,
13 naphtha, cracking stocks, distillate heating
14 oil, diesel oil, and residual oils.

15 “(G) SECRETARY.—The term ‘Secretary’
16 means the Secretary of Transportation.”.

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