

**Union Calendar No. 156**

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

**H. R. 2149**

**[Report No. 104-303]**

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**A BILL**

To reduce regulation, promote efficiencies, and encourage competition in the international ocean transportation system of the United States, to eliminate the Federal Maritime Commission, and for other purposes.

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NOVEMBER 1, 1995

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 1995

Mr. SHUSTER (for himself, Mr. MINETA, Mr. COBLE, Mr. TRAFICANT, and Mr. OBERSTAR) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To reduce regulation, promote efficiencies, and encourage competition in the international ocean transportation system of the United States, to eliminate the Federal Maritime Commission, 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 “Ocean Shipping Re-  
3 form Act of 1995”.

4 **TITLE I—OCEAN SHIPPING**  
5 **REFORM**

6 **SEC. 101. PURPOSES.**

7 Section 2 of the Shipping Act of 1984 (46 App.  
8 U.S.C. 1701) is amended—

9 (1) by striking “and” at the end of paragraph  
10 (2);

11 (2) by striking the period at the end of para-  
12 graph (3) and inserting “; and”; and

13 (3) by adding a new paragraph (4) to read as  
14 follows:

15 “(4) to permit carriers and shippers to develop  
16 transportation arrangements to meet their specific  
17 needs.”.

18 **SEC. 102. DEFINITIONS.**

19 Section 3 of the Shipping Act of 1984 (46 App.  
20 U.S.C. 1702) is amended—

21 (1) effective on January 1, 1997—

22 (A) by striking paragraph (9); and

23 (B) by redesignating the remaining para-  
24 graphs accordingly;

25 (2) effective on June 1, 1997—

26 (A) by striking paragraph (4);

1 (B) in paragraph (7), by striking “a com-  
2 mon tariff;” and inserting “a common schedule  
3 of transportation rates;”;

4 (C) by striking paragraph (10) (as redesign-  
5 nated by paragraph (1) of this section);

6 (D) by striking paragraph (13) (as redesign-  
7 nated by paragraph (1) of this section);

8 (E) by striking paragraph (16) (as redesign-  
9 nated by paragraph (1) of this section);

10 (F) by amending paragraph (18) (as redesign-  
11 gnated by paragraph (1) of this section) to  
12 read as follows:

13 “(18) ‘ocean freight forwarder’ means a person  
14 that—

15 “(A)(i) in the United States, dispatches  
16 shipments from the United States via a com-  
17 mon carrier and books or otherwise arranges  
18 space for those shipments on behalf of shippers;  
19 or

20 “(ii) processes the documentation or per-  
21 forms related activities incident to those ship-  
22 ments; or

23 “(B) acts as a common carrier that does  
24 not operate the vessels by which the ocean  
25 transportation is provided, and is a shipper in

1 its relationship with an ocean common car-  
2 rier.”;

3 (G) by striking paragraph (20) (as redesign-  
4 dated by paragraph (1) of this section);

5 (H) in paragraph (22) (as redesignated by  
6 paragraph (1) of this section)—

7 (i) by striking “or” the second time it  
8 appears and inserting a comma; and

9 (ii) by striking the period and insert-  
10 ing “, a shippers’ association, or an ocean  
11 freight forwarder that accepts responsibil-  
12 ity for payment of the ocean freight.”;

13 (I) by amending paragraph (23) (as redesi-  
14 gnated by paragraph (1) of this section) to  
15 read as follows:

16 “(23) ‘shippers’ association’ means a group of  
17 shippers that consolidates or distributes freight, on  
18 a nonprofit basis for the members of the group in  
19 order to secure carload, truckload, or other volume  
20 rates or ocean transportation contracts.”; and

21 (J) by inserting after paragraph (18) the  
22 following new paragraph:

23 “(19) ‘ocean transportation contract’ means a  
24 contract in writing separate from the bill of lading  
25 or receipt between 1 or more common carriers or a

1 conference and 1 or more shippers to provide speci-  
2 fied services under specified rates and conditions.”.

3 **SEC. 103. AGREEMENTS WITHIN THE SCOPE OF THE ACT.**

4 Section 4(a) of the Shipping Act of 1984 (46 App.  
5 U.S.C. 1703(a)) is amended, effective on June 1, 1997—

6 (1) in paragraph (5), by striking “non-vessel-  
7 operating common carriers” and inserting “ocean  
8 freight forwarders”; and

9 (2) by amending paragraph (7) to read as  
10 follows:

11 “(7) discuss any matter related to ocean trans-  
12 portation contracts, and enter ocean transportation  
13 contracts and agreements related to those con-  
14 tracts.”.

15 **SEC. 104. AGREEMENTS.**

16 Section 5 of the Shipping Act of 1984 (46 App.  
17 U.S.C. 1704) is amended—

18 (1) effective on January 1, 1997—

19 (A) in subsection (b)(4), by striking “at  
20 the request of any member, require an inde-  
21 pendent neutral body to police fully” and in-  
22 serting “state the provisions, if any, for the po-  
23 licing of”;

24 (B) in subsection (b)(7), by striking “and”  
25 at the end;

1 (C) in subsection (b)(8), by striking the  
2 period and inserting “; and”; and

3 (D) by adding at the end of subsection (b)  
4 the following new paragraph:

5 “(9) provide that a member of the conference  
6 may enter individual and independent negotiations  
7 and may conclude individual and independent service  
8 contracts under section 8 of this Act.”;

9 (2) effective on June 1, 1997—

10 (A) by amending subsection (b)(8) to read  
11 as follows:

12 “(8) provide that any member of the conference  
13 may take independent action on any rate or service  
14 item agreed upon by the conference for transpor-  
15 tation provided under section 8(a) of this Act upon  
16 not more than 3 business days’ notice to the con-  
17 ference, and that the conference will provide the new  
18 rate or service item for use by that member, effec-  
19 tive no later than 3 business days after receipt of  
20 that notice, and by any other member that notifies  
21 the conference that it elects to adopt the independ-  
22 ent rate or service item on or after its effective date,  
23 in lieu of the existing conference provision for that  
24 rate or service item;”; and

1 (B) by adding the following new paragraph  
2 to read as follows:

3 “(10) prohibit the conference from—

4 “(A) prohibiting or restricting the mem-  
5 bers of the conference from engaging in individ-  
6 ual negotiations for ocean transportation con-  
7 tracts under section 8(b) with 1 or more ship-  
8 pers; and

9 “(B) issuing mandatory rules or require-  
10 ments affecting ocean transportation contracts  
11 that may be entered by 1 or more members of  
12 the conference, except that a conference may  
13 require that a member of the conference dis-  
14 close the existence of an existing individual  
15 ocean transportation contract or negotiations on  
16 an ocean transportation contract, when the con-  
17 ference enters negotiations on an ocean trans-  
18 portation contract with the same shipper.”;

19 (C) in subsection (e), by striking “carrier  
20 that are required to be set forth in a tariff,”  
21 and inserting “carrier,”; and

22 (D) in subsection (b)(9), by striking “serv-  
23 ice” and inserting “ocean transportation”.

1 **SEC. 105. EXEMPTION FROM ANTITRUST LAWS.**

2 Section 7 of the Shipping Act of 1984 (46 App.  
3 U.S.C. 1706) is amended—

4 (1) by amending subsection (a)(6) to read as  
5 follows:

6 “(6) subject to section 20(e)(2) of this Act, any  
7 agreement, modification, or cancellation, in effect be-  
8 fore the effective date of this Act and any tariff,  
9 rate, fare, charge, classification, rule, or regulation  
10 explanatory thereof implementing that agreement,  
11 modification, or cancellation.”; and

12 (2) in subsection (c)(1), by striking “agency”  
13 and inserting “agency, department,”.

14 **SEC. 106. COMMON AND CONTRACT CARRIAGE.**

15 (a) IN GENERAL.—Effective on June 1, 1997—

16 (1) section 8a of the Shipping Act of 1984 (46  
17 App. U.S.C. 1707a) is repealed; and

18 (2) section 8 of the Shipping Act of 1984 (46  
19 App. U.S.C. 1707) is amended to read as follows:

20 **“SEC. 8. COMMON AND CONTRACT CARRIAGE.**

21 “(a) COMMON CARRIAGE.—

22 “(1) A common carrier and a conference shall  
23 make available a schedule of transportation rates  
24 which shall include the rates, terms, and conditions  
25 for transportation services not governed by an ocean  
26 transportation contract, and shall provide the sched-

1       ule of transportation rates, in writing, upon the re-  
2       quest of any person. A common carrier and a con-  
3       ference may assess a reasonable charge for comply-  
4       ing with a request for a rate, term, and condition,  
5       except that the charge may not exceed the cost of  
6       providing the information requested.

7               “(2) A dispute between a common carrier or  
8       conference and a person as to the applicability of the  
9       rates, terms, and conditions for ocean transportation  
10      services shall be decided in an appropriate State or  
11      Federal court of competent jurisdiction, unless the  
12      parties otherwise agree.

13              “(3) A claim concerning a rate for ocean trans-  
14      portation services which involves false billing, false  
15      classification, false weighing, false report of weight,  
16      or false measurement shall be decided in an appro-  
17      priate State or Federal court of competent jurisdic-  
18      tion, unless the parties otherwise agree.

19      “(b) CONTRACT CARRIAGE.—

20              “(1) 1 or more common carriers or a conference  
21      may enter into an ocean transportation contract  
22      with 1 or more shippers. A common carrier may  
23      enter into ocean transportation contracts without  
24      limitations concerning the number of ocean trans-  
25      portation contracts or the amount of cargo or space

1 involved. The status of a common carrier as an  
2 ocean common carrier is not affected by the number  
3 or terms of ocean transportation contracts entered.

4 “(2) A party to an ocean transportation con-  
5 tract entered under this section shall have no duty  
6 in connection with services provided under the con-  
7 tract other than the duties specified by the terms of  
8 the contract.

9 “(3)(A) An ocean transportation contract or the  
10 transportation provided under that contract may not  
11 be challenged in any court on the grounds that the  
12 contract violates a provision of this Act.

13 “(B) The exclusive remedy for an alleged  
14 breach of an ocean transportation contract is an ac-  
15 tion in an appropriate State or Federal court of  
16 competent jurisdiction, unless the parties otherwise  
17 agree.”.

18 (b) CONFIDENTIALITY OF CONTRACTS.—Effective on  
19 January 1, 1998, section 8(b) of the Shipping Act of 1984  
20 (46 App. U.S.C. 1707(b)), as amended by subsection (a)  
21 of this section, is amended by adding at the end the  
22 following:

23 “(4) A contract entered under this section may  
24 be made on a confidential basis, upon agreement of  
25 the parties. An ocean common carrier that is a

1 member of a conference agreement may not be pro-  
2 hibited or restricted from agreeing with 1 or more  
3 shippers that the parties to the contract will not dis-  
4 close the rates, services, terms, or conditions of that  
5 contract to any other member of the agreement, to  
6 the conference, to any other carrier, shipper, con-  
7 ference, or to any other third party.”.

8 **SEC. 107. PROHIBITED ACTS.**

9 Section 10 of the Shipping Act of 1984 (46 App.  
10 U.S.C. 1709) is amended—

11 (1) effective on January 1, 1997, by amending  
12 subsection (b)—

13 (A) by amending paragraph (1) to read as  
14 follows:

15 “(1) except for service contracts, subject a per-  
16 son, place, port, or shipper to unreasonable discrimi-  
17 nation;”; and

18 (B) by repealing paragraphs (2), (3), (4),  
19 and (8);

20 (2) effective on June 1, 1997, by amending  
21 subsection (b) to read as follows:

22 “(b) COMMON CARRIERS.—No common carrier, ei-  
23 ther alone or in conjunction with any other person, directly  
24 or indirectly, may—

1           “(1) except for ocean transportation contracts,  
2           subject a person, place, port, or shipper to unreason-  
3           able discrimination;

4           “(2) retaliate against any shipper by refusing,  
5           or threatening to refuse, cargo space accommoda-  
6           tions when available, or resort to other unfair or un-  
7           justly discriminatory methods because the shipper  
8           has patronized another carrier or has filed a com-  
9           plaint, or for any other reason;

10           “(3) employ any fighting ship;

11           “(4) subject any particular person, locality,  
12           class, or type of shipper or description of traffic to  
13           an unreasonable refusal to deal;

14           “(5) refuse to negotiate with a shippers’ asso-  
15           ciation;

16           “(6) knowingly and willfully accept cargo from  
17           or transport cargo for the account of an ocean  
18           freight forwarder that does not have a bond, insur-  
19           ance, or other surety as required by section 19;

20           “(7) knowingly and willfully enter into an ocean  
21           transportation contract with an ocean freight for-  
22           warder or in which an ocean freight forwarder is  
23           listed as an affiliate that does not have a bond, in-  
24           surance, or other surety as required by section 19;  
25           or

1           “(8)(A) knowingly disclose, offer, solicit, or re-  
2           ceive any information concerning the nature, kind,  
3           quantity, destination, consignee, or routing of any  
4           property tendered or delivered to a common carrier  
5           without the consent of the shipper or consignee if  
6           that information—

7                   “(i) may be used to the detriment or preju-  
8                   dice of the shipper or consignee;

9                   “(ii) may improperly disclose its business  
10                  transaction to a competitor; or

11                  “(iii) may be used to the detriment or prej-  
12                  udice of any common carrier;

13           except that nothing in paragraph (8) shall be con-  
14           strued to prevent providing the information, in re-  
15           sponse to legal process, to the United States, or to  
16           an independent neutral body operating within the  
17           scope of its authority to fulfill the policing obliga-  
18           tions of the parties to an agreement effective under  
19           this Act. Nor shall it be prohibited for any ocean  
20           common carrier that is a party to a conference  
21           agreement approved under this Act, or any receiver,  
22           trustee, lessee, agent, or employee of that carrier, or  
23           any other person authorized by that carrier to re-  
24           ceive information, to give information to the con-  
25           ference or any person, firm, corporation, or agency

1 designated by the conference or to prevent the con-  
2 ference or its designee from soliciting or receiving  
3 information for the purpose of determining whether  
4 a shipper or consignee has breached an agreement  
5 with a conference or for the purpose of determining  
6 whether a member of the conference has breached  
7 the conference agreement or for the purpose of com-  
8 piling statistics of cargo movement, but the use of  
9 that information for any other purpose prohibited by  
10 this Act or any other Act is prohibited; and

11 “(B) after December 31, 1997, the rates, serv-  
12 ices, terms, and conditions of an ocean transpor-  
13 tation contract may not be disclosed under this  
14 paragraph if the contract has been made on a con-  
15 fidential basis under section 8(b) of this Act.

16 The exclusive remedy for a disclosure under this para-  
17 graph shall be an action for breach of contract as provided  
18 in section 8(b)(3) of this Act.”;

19 (3) effective on June 1, 1997—

20 (A) in subsection (c)(5), by inserting “as  
21 defined in section 3(14)(A) of this Act” after  
22 “freight forwarder”; and

23 (B) in subsection (c)(6), by striking “a  
24 service contract.” and inserting “an ocean  
25 transportation contract.”;

1           (4) effective on June 1, 1997, in subsection  
2           (d)(3), by striking “(b) (11), (12), and (16)” and in-  
3           serting “(b) (1), (4), and (8)”;

4           (5) effective on June 1, 1997, by adding a new  
5           subsection (f) to read as follows:

6           “(f) CONFERENCE ACTION.—No conference may sub-  
7           ject a person, place, port, class or type of shipper, or ocean  
8           freight forwarder, to unjust or unreasonable ocean con-  
9           tract provisions.”.

10 **SEC. 108. REPARATIONS.**

11           Effective June 1, 1997, section 11(g) of the Shipping  
12           Act of 1984 (46 App. U.S.C. 1710(g)) is amended—

13           (1) by inserting “or counter-complainant” after  
14           “complainant” the second time it appears;

15           (2) by striking “10(b) (5) or (7)” and inserting  
16           “10(b) (2) or (3)”;

17           (3) by striking the last sentence.

18 **SEC. 109. FOREIGN LAWS AND PRACTICES.**

19           Section 10002 of the Foreign Shipping Practices Act  
20           of 1988 (46 App. U.S.C. 1710a) is amended, effective on  
21           June 1, 1997—

22           (1) in subsection (a)(1)—

23           (A) by striking “non-vessel-operating com-  
24           mon carrier,”;

1 (B) by inserting “ocean freight forwarder,”  
2 after “ocean common carrier,”;

3 (2) in subsection (a)(4), by striking “non-ves-  
4 sel-operating common carrier operations,”;

5 (3) in subsection (e)(1), by striking subpara-  
6 graph (B) and all that follows through subparagraph  
7 (D) and inserting the following:

8 “(B) suspension, in whole or in part, of the  
9 right of an ocean common carrier to operate  
10 under any agreement filed with the Secretary,  
11 including agreements authorizing preferential  
12 treatment at terminals, preferential terminal  
13 leases, space chartering, or pooling of cargo or  
14 revenues with other ocean common carriers; and

15 “(C) a fee, not to exceed \$1,000,000 per  
16 voyage.”; and

17 (4) in subsection (h), by striking “section  
18 13(b)(5) of the Shipping Act of 1984 (46 App.  
19 U.S.C. 1712(b)(5))” and inserting “section 13(b)(2)  
20 of the Shipping Act of 1984 (46 App. U.S.C.  
21 1712(b)(2))”.

22 **SEC. 110. PENALTIES.**

23 Section 13 of the Shipping Act of 1984 (46 App.  
24 U.S.C. 1712) is amended, effective on June 1, 1997—

25 (1) in subsection (b)—

1 (A) by striking paragraphs (1) and (3) and  
2 redesignating paragraphs (2), (4), (5), and (6)  
3 in order as paragraphs (1), (2), (3), and (4);

4 (B) by striking paragraph (1), as so redesi-  
5 gnated, and inserting the following:

6 “(1) If the Secretary finds, after notice and an  
7 opportunity for a hearing, that a common carrier  
8 has failed to supply information ordered to be pro-  
9 duced or compelled by subpoena under section 1711  
10 of this Act, the Secretary may request that the Sec-  
11 retary of the Treasury refuse or revoke any clear-  
12 ance required for a vessel operated by that common  
13 carrier. Upon request by the Secretary, the Sec-  
14 retary of the Treasury shall, with respect to the ves-  
15 sel concerned, refuse or revoke any clearance re-  
16 quired by section 4197 of the Revised Statutes of  
17 the United States (46 App. U.S.C. 91).”; and

18 (C) in paragraph (3), as so redesignated,  
19 by striking “finds appropriate,” and all that  
20 follows through the end of the paragraph and  
21 inserting “finds appropriate including the im-  
22 position of the penalties authorized under para-  
23 graph (2).”;

1           (2) in subsection (f)(1), by striking “section 10  
2           (a)(1), (b)(1), or (b)(4)” and inserting “section  
3           10(a)(1)”.

4 **SEC. 111. REPORTS.**

5           (a) IN GENERAL.—Section 15 of the Shipping Act  
6 of 1984 (46 App. U.S.C. 1714) is amended, effective on  
7 January 1, 1997—

8           (1) in the section heading by striking “**AND**  
9           **CERTIFICATES**”;

10           (2) by striking “(a) REPORTS.—”; and

11           (3) by striking subsection (b).”.

12           (b) CLERICAL AMENDMENT.—The Shipping Act of  
13 1984 (46 App. U.S.C. 1701 et seq.) is amended in the  
14 first section in the table of contents by amending the item  
15 relating to section 15 to read as follows:

“Sec. 15. Reports.”.

16 **SEC. 112. REGULATIONS.**

17           Section 17 of the Shipping Act of 1984 (46 App.  
18 U.S.C. 1716) is amended—

19           (1) by striking “(a)”; and

20           (2) by striking subsection (b).”.

21 **SEC. 113. REPEAL.**

22           Section 18 of the Shipping Act of 1984 (46 App.  
23 U.S.C. 1717) is repealed.

1 **SEC. 114. OCEAN FREIGHT FORWARDERS.**

2 Section 19 of the Shipping Act of 1984 (46 App.  
3 U.S.C. 1718) is amended, effective on June 1, 1997—

4 (1) in subsection (a), by inserting “in the  
5 United States” after “person” the first time it ap-  
6 pears;

7 (2) in subsection (a)(2), by striking “a bond”  
8 and inserting “a bond, proof of insurance, or other  
9 surety”;

10 (3) by adding after subsection (a)(2) the  
11 following:

12 “A bond, insurance, or other surety obtained pursuant to  
13 this section shall be available to pay any judgment for  
14 damages against an ocean freight forwarder arising from  
15 its transportation-related activities under this Act or order  
16 for reparation issued pursuant to section 11 or 14 of this  
17 Act. An ocean freight forwarder not domiciled in the  
18 United States shall designate a resident agent in the  
19 United States for receipt of service of judicial and admin-  
20 istrative process, including subpoenas.”;

21 (4) in subsection (b), by striking “a bond” and  
22 inserting “a bond, proof of insurance, or other sur-  
23 ety”; and

24 (5) in subsection (d), by striking paragraph (3)  
25 and redesignating paragraph (4) as paragraph (3).”.

1 **SEC. 115. EFFECTS ON CERTAIN AGREEMENTS AND CON-**  
2 **TRACTS.**

3 Section 20(e) of the Shipping Act of 1984 (46 App.  
4 U.S.C. 1719) is amended to read as follows:

5 “(e) SAVINGS PROVISIONS.—

6 “(1) Each service contract entered into by a  
7 shipper and an ocean common carrier or conference  
8 before the date of the enactment of the Ocean Ship-  
9 ping Reform Act of 1995 may remain in full force  
10 and effect according to its terms.

11 “(2) This Act and the amendments made by  
12 this Act shall not affect any suit—

13 “(A) filed before the date of the enactment  
14 of the Ocean Shipping Reform Act of 1995;

15 “(B) with respect to claims arising out of  
16 conduct engaged in before the date of the en-  
17 actment of the Ocean Shipping Reform Act of  
18 1995, filed within 1 year after the date of the  
19 enactment of the Ocean Shipping Reform Act  
20 of 1995;

21 “(C) with respect to claims arising out of  
22 conduct engaged in after the date of the enact-  
23 ment of the Ocean Shipping Reform Act of  
24 1995 but before January 1, 1997, pertaining to  
25 a violation of section 10(b) (1), (2), (3), (4), or

1 (8), as in effect before January 1, 1997, filed  
2 by June 1, 1997;

3 “(D) with respect to claims pertaining to  
4 the failure of a common carrier or conference to  
5 file its tariffs or service contracts in accordance  
6 with this Act in the period beginning January  
7 1, 1997, and ending June 1, 1997, filed by De-  
8 cember 31, 1997; or

9 “(E) with respect to claims arising out of  
10 conduct engaged in on or after the date of the  
11 enactment of the Ocean Shipping Reform Act  
12 of 1995 but before June 1, 1997, filed by De-  
13 cember 31, 1997.”.

14 **SEC. 116. REPEAL.**

15 Section 23 of the Shipping Act of 1984 (46 App.  
16 U.S.C. 1721) is repealed, effective on June 1, 1997.

17 **SEC. 117. MARINE TERMINAL OPERATOR SCHEDULES.**

18 (a) IN GENERAL.—The Shipping Act of 1984 (46  
19 App. U.S.C. 1701 et seq.) is amended, effective on June  
20 1, 1997, by adding at the end the following new section:

21 **“SEC. 24. MARINE TERMINAL OPERATOR SCHEDULES.**

22 “A marine terminal operator shall make available to  
23 the public a schedule of rates, regulations, and practices,  
24 including limitations of liability, pertaining to receiving,  
25 delivering, handling, or storing property at its marine ter-

1 minal. The schedule shall be enforceable as an implied  
 2 contract, without proof of actual knowledge of its provi-  
 3 sions, for any activity by the marine terminal operator  
 4 that is taken to—

5           “(1) efficiently transfer property between trans-  
 6 portation modes;

7           “(2) protect property from damage or loss;

8           “(3) comply with any governmental require-  
 9 ment; or

10           “(4) store property in excess of the terms of  
 11 any other contract or agreement, if any, entered into  
 12 by the marine terminal operator.”.

13       (b) CLERICAL AMENDMENT.—The Shipping Act of  
 14 1984 (46 App. U.S.C. 1701 et seq.) is amended in the  
 15 first section in the table of contents by adding at the end  
 16 the following new item:

“Sec. 24. Marine terminal operator schedules.”.

17           **TITLE II—CONTROLLED**  
 18           **CARRIERS AMENDMENTS**

19       **SEC. 201. CONTROLLED CARRIERS.**

20       Section 9 of the Shipping Act of 1984 (46 App.  
 21 U.S.C. 1708) is amended, effective on June 1, 1997—

22           (1) in subsection (a), by striking “in its tariffs  
 23 or service contracts filed with the Commission” and  
 24 “in those tariffs or service contracts” in the first

1 sentence, and by striking “filed by a controlled car-  
2 rier” in the last sentence;

3 (2) in subsection (b), by striking “filed” and in-  
4 serting “published”, in paragraphs (1) and (2);

5 (3) in subsection (c), by striking the first sen-  
6 tence;

7 (4) subsection (d) is amended to read as fol-  
8 lows:

9 “(d) Within 120 days of the receipt of information  
10 requested by the Secretary under this section, the Sec-  
11 retary shall determine whether the rates, charges, classi-  
12 fications, rules, or regulations of a controlled carrier may  
13 be unjust and unreasonable. If so, the Secretary shall  
14 issue an order to the controlled carrier to show cause why  
15 those rates, charges, classifications, rules, or regulations  
16 should not be approved. Pending a determination, the Sec-  
17 retary may suspend the rates, charges, classifications,  
18 rules, or regulations at any time. No period of suspension  
19 may be greater than 180 days. Whenever the Secretary  
20 has suspended any rates, charges, classifications, rules, or  
21 regulations under this subsection, the affected carrier may  
22 publish and, after notification to the Secretary, assess new  
23 rates, charges, classifications, rules, or regulations—ex-  
24 cept that the Secretary may reject the new rates, charges,

1 classifications, rules, or regulations if the Secretary deter-  
2 mines that they are unreasonable.”;

3           (5) in subsection (f), by striking “This” and in-  
4           serting “Subject to subsection (g), this”; and

5           (6) by adding at the end the following new sub-  
6           sections:

7           “(g) The rate standards, information submissions,  
8 remedies, reviews, and penalties in this section shall also  
9 apply to ocean common carriers that are not controlled,  
10 but who have been determined by the Secretary to be  
11 structurally or financially affiliated with nontransporta-  
12 tion entities or organizations (government or private) in  
13 such a way as to affect their pricing or marketplace behav-  
14 ior in an unfair, predatory, or anticompetitive way that  
15 disadvantages United States carriers. The Secretary may  
16 make such determinations upon request of any person or  
17 upon the Secretary’s own motion, after conducting an in-  
18 vestigation and a public hearing.

19           “(h) The Secretary shall issue regulations by June  
20 1, 1997, that prescribe periodic price and other informa-  
21 tion to be submitted by controlled carriers and carriers  
22 subject to determinations made under subsection (g) that  
23 would be needed to determine whether prices charged by  
24 these carriers are unfair, predatory, or anticompetitive.”.

1 **SEC. 202. NEGOTIATING STRATEGY TO REDUCE GOVERN-**  
2 **MENT OWNERSHIP AND CONTROL OF COM-**  
3 **MON CARRIERS.**

4 Not later than January 1, 1997, the Secretary of  
5 Transportation shall develop, submit to Congress, and  
6 begin implementing a negotiation strategy to persuade for-  
7 eign governments to divest themselves of ownership and  
8 control of ocean common carriers (as that term is defined  
9 in section 3(18) of the Shipping Act of 1984 (46 App.  
10 U.S.C. 1702).

11 **TITLE III—ELIMINATION OF THE**  
12 **FEDERAL MARITIME COMMIS-**  
13 **SION**

14 **SEC. 301. PLAN FOR AGENCY TERMINATION.**

15 (a) No later than 30 days after enactment of this Act,  
16 the Director of the Office of Management and Budget, in  
17 consultation with the Secretary of Transportation, shall  
18 submit to Congress a plan to eliminate the Federal Mari-  
19 time Commission no later than October 1, 1997. The plan  
20 shall include a timetable for the transfer of remaining  
21 functions to the Federal Maritime Commission to the Sec-  
22 retary of Transportation, beginning as soon as feasible in  
23 fiscal year 1996. The plan shall also address matters relat-  
24 ed to personnel and other resources necessary for the Sec-  
25 retary of Transportation to perform the remaining func-  
26 tions of the Federal Maritime Commission.

1           (b) The Director of the Office of Management and  
2 Budget shall implement the plan to eliminate the Federal  
3 Maritime Commission, beginning as soon as feasible in fis-  
4 cal year 1996.

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