

104TH CONGRESS
2D SESSION

H. R. 2149

IN THE SENATE OF THE UNITED STATES

MAY 2, 1996

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

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, charges, classifications,
4 rules, and practices;”;

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

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

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

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

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

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

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

24 “(B) acts as a common carrier that does
25 not operate the vessels by which the ocean

1 transportation is provided, and is a shipper in
2 its relationship with an ocean common car-
3 rier.”;

4 (G) by striking paragraph (20) (as redesis-
5 gnated by paragraph (1) of this section);

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

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

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

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

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

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

24 “(19) ‘ocean transportation contract’ means a
25 contract in writing separate from the bill of lading

1 or receipt between 1 or more common carriers or a
2 conference and 1 or more shippers to provide speci-
3 fied services under specified rates and conditions.”.

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

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

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

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

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

16 **SEC. 104. AGREEMENTS.**

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

19 (1) effective on January 1, 1997—

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

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

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

5 (D) by adding at the end of subsection (b)
6 the following new paragraph:

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

11 (2) effective on June 1, 1997—

12 (A) by amending subsection (b)(8) to read
13 as follows:

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

1 in lieu of the existing conference provision for that
2 rate or service item;” and

3 (B) by adding the following new paragraph
4 to read as follows:

5 “(10) prohibit the conference from—

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

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

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

24 (D) in subsection (b)(9), by striking “serv-
25 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 “(4) The requirements and prohibitions con-
19 cerning contracting by conferences contained in sec-
20 tions 5(b)(9) and (10) of this Act shall also apply
21 to any agreement among one or more ocean common
22 carriers that is filed under section 5(a) of this Act.”.

23 (b) CONFIDENTIALITY OF CONTRACTS.—Effective on
24 January 1, 1998, section 8(b) of the Shipping Act of 1984
25 (46 App. U.S.C. 1707(b)), as amended by subsection (a)

1 of this section, is amended by adding at the end the
2 following:

3 “(5) A contract entered under this section may
4 be made on a confidential basis, upon agreement of
5 the parties. An ocean common carrier that is a
6 member of a conference agreement may not be pro-
7 hibited or restricted from agreeing with 1 or more
8 shippers that the parties to the contract will not dis-
9 close the rates, services, terms, or conditions of that
10 contract to any other member of the agreement, to
11 the conference, to any other carrier, shipper, con-
12 ference, or to any other third party.”.

13 **SEC. 107. PROHIBITED ACTS.**

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

16 (1) effective on January 1, 1997, by amending
17 subsection (b)—

18 (A) by amending paragraph (1) to read as
19 follows:

20 “(1) except for service contracts, subject a per-
21 son, place, port, or shipper to unreasonable discrimi-
22 nation;”;

23 (B) by repealing paragraphs (2), (3), (4),
24 and (8);

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

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

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

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

15 “(3) employ any fighting ship;

16 “(4) subject any particular person, locality,
17 class, or type of shipper or description of traffic to
18 an unreasonable refusal to deal;

19 “(5) refuse to negotiate with a shippers’ asso-
20 ciation;

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

1 “(7) knowingly and willfully enter into an ocean
2 transportation contract with an ocean freight for-
3 warder or in which an ocean freight forwarder is
4 listed as an affiliate that does not have a bond, in-
5 surance, or other surety as required by section 19;
6 or

7 “(8)(A) knowingly disclose, offer, solicit, or re-
8 ceive any information concerning the nature, kind,
9 quantity, destination, consignee, or routing of any
10 property tendered or delivered to a common carrier
11 without the consent of the shipper or consignee if
12 that information—

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

15 “(ii) may improperly disclose its business
16 transaction to a competitor; or

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

19 except that nothing in paragraph (8) shall be con-
20 strued to prevent providing the information, in re-
21 sponse to legal process, to the United States, or to
22 an independent neutral body operating within the
23 scope of its authority to fulfill the policing obliga-
24 tions of the parties to an agreement effective under
25 this Act. Nor shall it be prohibited for any ocean

1 common carrier that is a party to a conference
2 agreement approved under this Act, or any receiver,
3 trustee, lessee, agent, or employee of that carrier, or
4 any other person authorized by that carrier to re-
5 ceive information, to give information to the con-
6 ference or any person, firm, corporation, or agency
7 designated by the conference or to prevent the con-
8 ference or its designee from soliciting or receiving
9 information for the purpose of determining whether
10 a shipper or consignee has breached an agreement
11 with a conference or for the purpose of determining
12 whether a member of the conference has breached
13 the conference agreement or for the purpose of com-
14 piling statistics of cargo movement, but the use of
15 that information for any other purpose prohibited by
16 this Act or any other Act is prohibited; and

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

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

25 (3) effective on June 1, 1997—

1 (A) by striking subsection (c)(1) and in-
2 serting the following:

3 “(1) boycott, take any concerted action re-
4 sulting in an unreasonable refusal to deal, or
5 implement a policy or practice that results in
6 an unreasonable refusal to deal;”;

7 (B) in subsection (c)(5), by inserting “as
8 defined in section 3(14)(A) of this Act” after
9 “freight forwarder”; and

10 (C) in subsection (c)(6), by striking “a
11 service contract.” and inserting “an ocean
12 transportation contract.”; and

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

16 **SEC. 108. REPARATIONS.**

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

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

21 (2) by striking “10(b) (5) or (7)” and inserting
22 “10(b) (2) or (3)”; and

23 (3) by striking the last sentence.

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

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

5 (1) in subsection (a)(1)—

6 (A) by striking “non-vessel-operating com-
7 mon carrier,”; and

8 (B) by inserting “ocean freight forwarder,”
9 after “ocean common carrier,”;

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

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

15 “(B) suspension, in whole or in part, of the
16 right of an ocean common carrier to operate
17 under any agreement filed with the Secretary,
18 including agreements authorizing preferential
19 treatment at terminals, preferential terminal
20 leases, space chartering, or pooling of cargo or
21 revenues with other ocean common carriers; and

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

24 (4) in subsection (h), by striking “section
25 13(b)(5) of the Shipping Act of 1984 (46 App.
26 U.S.C. 1712(b)(5))” and inserting “section 13(b)(2)

1 of the Shipping Act of 1984 (46 App. U.S.C.
2 1712(b)(2))”.

3 **SEC. 110. PENALTIES.**

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

6 (1) in subsection (b)—

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

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

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

24 (C) in paragraph (3), as so redesignated,
25 by striking “finds appropriate,” and all that

1 follows through the end of the paragraph and
2 inserting “finds appropriate including the im-
3 position of the penalties authorized under para-
4 graph (2).”;

5 (2) in subsection (f)(1), by striking “section 10
6 (a)(1), (b)(1), or (b)(4)” and inserting “section
7 10(a)(1)”.

8 **SEC. 111. REPORTS.**

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

12 (1) in the section heading by striking “**AND**
13 **CERTIFICATES**”;

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

15 (3) by striking subsection (b).”.

16 (b) CLERICAL AMENDMENT.—The Shipping Act of
17 1984 (46 App. U.S.C. 1701 et seq.) is amended in the
18 first section in the table of contents by amending the item
19 relating to section 15 to read as follows:

“Sec. 15. Reports.”.

20 **SEC. 112. REGULATIONS.**

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

23 (1) by striking “(a)”; and

24 (2) by striking subsection (b).”.

1 **SEC. 113. REPEAL.**

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

4 **SEC. 114. OCEAN FREIGHT FORWARDERS.**

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

7 (1) by striking subsection (a) and inserting the
8 following:

9 “(a) LICENSE.—No person in the United states may
10 act as an ocean freight forwarder unless that person holds
11 a license issued by the Commission. The Commission shall
12 issue a forwarder’s license to any person that the Commis-
13 sion determines to be qualified by experience and char-
14 acter to render forwarding services.”;

15 (2) by redesignating subsections (b), (c), and
16 (d) as subsections (e), (d), and (e), respectively;

17 (3) by inserting after subsection (a) the follow-
18 ing:

19 “(b) FINANCIAL RESPONSIBILITY.—

20 “(1) No person may act as an ocean freight for-
21 warder unless that person furnishes a bond, proof of
22 insurance, or other surety in a form and amount de-
23 termined by the Commission to insure financial re-
24 sponsibility that is issued by a surety company
25 found acceptable by the Secretary of the Treasury.

1 “(2) A bond, insurance, or other surety ob-
2 tained pursuant to this section shall be available to
3 pay any judgment for damages against an ocean
4 freight forwarder arising from its transportation-re-
5 lated activities under this Act or order for reparation
6 issued pursuant to section 11 or 14 of this Act.

7 “(3) An ocean freight forwarder not domiciled
8 in the United States shall designate a resident agent
9 in the United States for receipt of service of judicial
10 and administrative process, including subpoenas.”;

11 (4) in subsection (c), as redesignated by para-
12 graph (2) of this section, by striking “a bond in ac-
13 cordance with subsection (a)(2)” and inserting “a
14 bond, proof of insurance, or other surety in accord-
15 ance with subsection (b)(1)”;

16 (5) in subsection (e), as redesignated by para-
17 graph (2) of this section—

18 (A) by striking paragraph (3) and redesignig-
19 nating paragraph (4) as paragraph (3); and

20 (B) by adding at the end the following:

21 “(4) No conference or group of 2 or more ocean
22 common carriers in the foreign commerce of the
23 United States that is authorized to agree upon the
24 level of compensation paid to an ocean freight for-

1 warder, as defined in section 3(18)(A) of this Act,
2 may—

3 “(A) deny to any member of the con-
4 ference or group the right, upon notice of not
5 more than 3 business days, to take independent
6 action on any level of compensation paid to an
7 ocean freight forwarder; or

8 “(B) agree to limit the payment of com-
9 pensation to an ocean freight forwarder, as de-
10 fined in section 3(18)(A) of this Act, to less
11 than 1.25 percent of the aggregate of all rates
12 and charges which are applicable under a com-
13 mon schedule of transportation rates provided
14 under section 8(a) of this Act, and which are
15 assessed against the cargo on which the for-
16 warding services are provided.”.

17 **SEC. 115. EFFECTS ON CERTAIN AGREEMENTS AND CON-**
18 **TRACTS.**

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

21 “(e) SAVINGS PROVISIONS.—

22 “(1) Each service contract entered into by a
23 shipper and an ocean common carrier or conference
24 before the date of the enactment of the Ocean Ship-

1 ping Reform Act of 1995 may remain in full force
2 and effect according to its terms.

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

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

7 “(B) with respect to claims arising out of
8 conduct engaged in before the date of the en-
9 actment of the Ocean Shipping Reform Act of
10 1995, filed within 1 year after the date of the
11 enactment of the Ocean Shipping Reform Act
12 of 1995;

13 “(C) with respect to claims arising out of
14 conduct engaged in after the date of the enact-
15 ment of the Ocean Shipping Reform Act of
16 1995 but before January 1, 1997, pertaining to
17 a violation of section 10(b) (1), (2), (3), (4), or
18 (8), as in effect before January 1, 1997, filed
19 by June 1, 1997;

20 “(D) with respect to claims pertaining to
21 the failure of a common carrier or conference to
22 file its tariffs or service contracts in accordance
23 with this Act in the period beginning January
24 1, 1997, and ending June 1, 1997, filed by De-
25 cember 31, 1997; or

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

6 **SEC. 116. REPEAL.**

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

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

10 (a) IN GENERAL.—The Shipping Act of 1984 (46
11 App. U.S.C. 1701 et seq.) is amended, effective on June
12 1, 1997, by adding at the end the following new section:

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

14 “A marine terminal operator shall make available to
15 the public a schedule of rates, regulations, and practices,
16 including limitations of liability, pertaining to receiving,
17 delivering, handling, or storing property at its marine ter-
18 minal. The schedule shall be enforceable as an implied
19 contract, without proof of actual knowledge of its provi-
20 sions, for any activity by the marine terminal operator
21 that is taken to—

22 “(1) efficiently transfer property between trans-
23 portation modes;

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

1 “(3) comply with any governmental require-
2 ment; or

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

6 (b) CLERICAL AMENDMENT.—The Shipping Act of
7 1984 (46 App. U.S.C. 1701 et seq.) is amended in the
8 first section in the table of contents by adding at the end
9 the following new item:

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

10 **TITLE II—CONTROLLED**
11 **CARRIERS AMENDMENTS**

12 **SEC. 201. CONTROLLED CARRIERS.**

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

15 (1) in subsection (a), by striking “in its tariffs
16 or service contracts filed with the Commission” and
17 “in those tariffs or service contracts” in the first
18 sentence, and by striking “filed by a controlled car-
19 rier” in the last sentence;

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

22 (3) in subsection (c), by striking the first sen-
23 tence;

24 (4) subsection (d) is amended to read as fol-
25 lows:

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

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

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

23 “(g) The rate standards, information submissions,
24 remedies, reviews, and penalties in this section shall also
25 apply to ocean common carriers that are not controlled,

1 but who have been determined by the Secretary to be
2 structurally or financially affiliated with nontransporta-
3 tion entities or organizations (government or private) in
4 such a way as to affect their pricing or marketplace behav-
5 ior in an unfair, predatory, or anticompetitive way that
6 disadvantages one or more ocean common carriers. The
7 Secretary may make such determinations upon request of
8 any person or upon the Secretary's own motion, after con-
9 ducting an investigation and a public hearing.

10 “(h)(1) The Secretary shall issue regulations by June
11 1, 1997, that prescribe procedures and requirements gov-
12 erning the submission of price and other information nec-
13 essary to enable the Secretary to determine under sub-
14 section (g) whether prices charged by carriers are unfair,
15 predatory, or anticompetitive.

16 “(2)(A) If information provided to the Secretary
17 under this subsection does not result in a finding by the
18 Secretary of a violation of this section or enforcement ac-
19 tion by the Secretary, the information may not be made
20 public and shall be exempt from disclosure under section
21 552 of title 5, United States Code, except for purposes
22 of an administrative or judicial action or proceeding.

23 “(B) This paragraph does not prohibit disclosure to
24 either House of the Congress or to a duly authorized com-
25 mittee or subcommittee of the Congress.”.

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 **SEC. 203. REPORT BY THE SECRETARY.**

12 The Secretary shall report to the Congress by Janu-
13 ary 1, 1998, and annually thereafter, on—

14 (1) actions taken by the Secretary under the
15 Foreign Shipping Practices Act of 1988 (46 App.
16 U.S.C. 1710a) and section 9 of the Shipping Act of
17 1984 (46 U.S.C. App. 1708); and

18 (2) the effect on United States maritime em-
19 ployment of laws, rules, regulations, policies, or
20 practices of foreign governments, and any practices
21 of foreign carriers or other persons providing mari-
22 time or maritime-related services in a foreign coun-
23 try, that adversely affect the operations of United
24 States carriers in United States oceanborne trade.

1 **TITLE III—ELIMINATION OF THE**
2 **FEDERAL MARITIME COMMIS-**
3 **SION**

4 **SEC. 301. AGENCY TERMINATION.**

5 (a) IN GENERAL.—On September 30, 1997, the Fed-
6 eral Maritime Commission shall terminate and all remain-
7 ing functions, powers, and duties of the Federal Maritime
8 Commission shall be transferred to the Secretary of
9 Transportation.

10 (b) AUTHORIZATION OF APPROPRIATIONS FOR FIS-
11 CAL YEAR 1997.—There is authorized to be appropriated
12 to the Federal Maritime Commission, \$19,000,000 for fis-
13 cal year 1997.

14 **TITLE IV—MISCELLANEOUS**
15 **PROVISIONS**

16 **SEC. 401. TRANSFER OF CERTAIN OBSOLETE TUGBOATS OF**
17 **THE NAVY.**

18 (a) REQUIREMENT TO TRANSFER VESSELS.—The
19 Secretary of the Navy shall transfer the six obsolete tug-
20 boats of the Navy specified in subsection (b) to the North-
21 east Wisconsin Railroad Transportation Commission, an
22 instrumentality of the State of Wisconsin. Such transfers
23 shall be made as expeditiously as practicable upon comple-
24 tion of any necessary environmental compliance agree-
25 ments.

1 (b) VESSELS COVERED.—The requirement in sub-
2 section (a) applies to the six decommissioned Cherokee
3 class tugboats, listed as of the date of the enactment of
4 this Act as being surplus to the Navy, that are designated
5 as ATF-105, ATF-110, ATF-149, ATF-158, ATF-159,
6 and ATF-160.

7 (c) TERMS AND CONDITIONS.—The Secretary may
8 require such terms and conditions in connection with the
9 transfers required by this section as the Secretary consid-
10 ers appropriate.

Passed the House of Representatives May 1, 1996.

Attest:

ROBIN H. CARLE,

Clerk.