

Calendar No. 1096

110TH CONGRESS
2D SESSION

S. 2699

[Report No. 110-513]

To require new vessels for carrying oil fuel to have double hulls, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 4, 2008

Mr. LAUTENBERG (for himself, Mrs. BOXER, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 26 (legislative day, SEPTEMBER 17), 2008

Reported by Mr. INOUE with amendments

[Omit the part struck through and insert the part printed in italics]

A BILL

To require new vessels for carrying oil fuel to have double hulls, 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 “Oil Spill Prevention
5 Act of 2008”.

1 **SEC. 2. OIL FUEL TANK PROTECTION.**

2 Section 3306 of title 46, United States Code, is
3 amended by adding at the end the following:

4 “(k)(1) All new vessels of the United States with a
5 building contract date after the date of enactment of the
6 Oil Spill Prevention Act of 2008, or delivered after August
7 1, 2010, with an aggregate capacity of 600 cubic meters
8 or more of oil fuel, shall comply with the requirements
9 of Regulation 12A under Annex I to the Protocol of 1978
10 relating to the International Convention for the Preven-
11 tion of Pollution from Ships, 1973, entitled ‘Oil Fuel Tank
12 Protection’.

13 “(2) REGULATIONS.—The Secretary may prescribe
14 regulations to amend or modify the requirements of this
15 subsection. Any such regulation shall be considered to be
16 an interpretive rule for the purposes of section 553 of title
17 5.

18 “(3) In this subsection, the term ‘oil fuel’ means any
19 oil used as fuel in connection with the propulsion and aux-
20 iliary machinery of the vessel in which such oil is carried.”.

21 **SEC. 3. MARITIME EMERGENCY PREVENTION.**

22 (a) IN GENERAL.—Section 4 of the Ports and Water-
23 ways Safety Act of 1972 (33 U.S.C. 1223) is amended
24 by striking “operate or” in subsection (b)(1) and inserting
25 “operate, including direction to change the vessel’s head-
26 ing and speed, or”.

1 (b) ADEQUACY OF VTS LOCATIONS AND INFRA-
2 STRUCTURE.—

3 (1) IN GENERAL.—The Secretary of the depart-
4 ment in which the Coast Guard is operating shall
5 continue to conduct individual port and waterway
6 safety assessments under the Ports and Waterways
7 Safety Act of 1972 (33 U.S.C. 1221 et seq.) to de-
8 termine and prioritize the United States ports, wa-
9 terways, and channels that are in need of new, ex-
10 panded, or improved vessel traffic management risk
11 mitigation measures, including vessel traffic service
12 systems, by evaluating—

13 (A) the nature, volume, and frequency of
14 vessel traffic;

15 (B) the risks of collisions, allisions, spills,
16 and other maritime mishaps associated with
17 that traffic;

18 (C) the projected impact of installation, ex-
19 pansion, or improvement of a vessel traffic serv-
20 ice system or other risk mitigation measures;
21 and

22 (D) any other relevant data.

23 (2) ANALYSES.—Based on the results of the as-
24 sessments under paragraph (1), the Secretary shall
25 identify the requirements for necessary expansion,

1 improvement, or construction of buildings, networks,
2 communications, or other infrastructure to improve
3 the effectiveness of existing vessel traffic service sys-
4 tems, or necessary to support recommended new ves-
5 sel traffic service systems, including all necessary
6 costs for construction, reconstruction, expansion, or
7 improvement.

8 (3) PERSONNEL.—The Secretary shall—

9 (A) review and validate the recruiting, re-
10 tention, training, and expansion of the vessel
11 traffic service personnel workforce necessary to
12 maintain the effectiveness of existing vessel
13 traffic service systems and to support any ex-
14 pansion or improvement identified by the Sec-
15 retary under this section; and

16 (B) require basic navigation training for
17 vessel traffic service watchstander personnel—

18 (i) to support and complement the ex-
19 isting mission of the vessel traffic service
20 to monitor and assess vessel movements
21 within a vessel traffic service Area;

22 (ii) to exchange information regarding
23 vessel movements with vessel and shore-
24 based personnel; and

1 (iii) to provide advisories to vessel
2 masters.

3 (4) REPORT.—Within 1 year after the date of
4 enactment of this Act, the Secretary shall submit to
5 the Congress a report consolidating the results of
6 the analyses under paragraph (2), together with rec-
7 ommendations for implementing the study results.

8 **SEC. 4. MERCHANT MARINER MEDICAL PROGRAM.**

9 (a) IN GENERAL.—Chapter 71 of title 46, United
10 States Code, is amended by adding at the end thereof the
11 following:

12 **“§ 7115. Merchant mariner medical program**

13 **“(a) ESTABLISHMENT.—**

14 **“(1) IN GENERAL.—**The Secretary shall estab-
15 lish a medical review board to provide the Coast
16 Guard with medical advice and recommendations on
17 medical standards and guidelines for the physical
18 qualifications of merchant mariners holding Coast
19 Guard issued credentials, medical examiner edu-
20 cation, and medical research.

21 **“(2) COMPOSITION.—**The medical review board
22 shall be appointed by the Secretary and shall consist
23 of 5 members selected from medical institutions and
24 private practice. The membership shall reflect exper-
25 tise in marine related occupational medicine and

1 medical specialties relevant to mariner fitness re-
 2 quirements of merchant mariners serving on board
 3 vessels.

4 “(b) CHIEF MEDICAL EXAMINER.—The Secretary
 5 shall appoint a chief medical examiner who shall be an
 6 employee of the Coast Guard and who shall hold a position
 7 under section 3104 of title 5 relating to employment of
 8 specially qualified scientific and professional personnel,
 9 and shall be paid under section 5376 of title 5, relating
 10 to pay for certain senior-level positions.

11 “(c) MEDICAL STANDARDS AND REQUIREMENTS.—

12 “(1) In general.—The Secretary, with the ad-
 13 vice of the medical review board and the chief med-
 14 ical examiner, shall—

15 “(A) establish, review, and revise—

16 “(i) medical standards for merchant
 17 mariners that will ensure that the physical
 18 condition of merchant mariners is adequate
 19 to enable them to safely carry out their du-
 20 ties on board vessels; and

21 “(ii) requirements for periodic phys-
 22 ical examinations of such merchant per-
 23 formed by a medical examiner (who shall
 24 be a license physician) who have, at a min-
 25 imum, self-certified that they have com-

1 pleted training in physical and medical ex-
2 amination standards and are listed on a
3 registry of medical examiners maintained
4 in accordance with subsection (d) of this
5 section;

6 “(B) require each such merchant mariner
7 to have a current valid medical certificate;

8 “(C) conduct periodic reviews of a select
9 number of medical examiners on the national
10 registry to ensure that proper examinations of
11 such merchant mariners are being conducted;

12 “(D) develop, as appropriate, specific
13 courses and materials for medical examiners
14 listed in the national registry established under
15 this section, and require those medical exam-
16 iners to, at a minimum, self-certify that they
17 have completed specific training, including re-
18 resher courses, to be listed in the registry;

19 “(E) require medical examiners to trans-
20 mit the name of the applicant and numerical
21 identifier, as determined by the Coast Guard,
22 for any completed medical examination report
23 required under regulations established by the
24 Secretary, electronically to the chief medical ex-
25 aminer on monthly basis; and

1 “(F) periodically review a representative
2 sample of the medical examiners’ reports associ-
3 ated with the name and numerical identifiers of
4 applicants transmitted under subparagraph (E)
5 for errors, omissions, or other indications of im-
6 proper certification.

7 “(2) MONITORING PERFORMANCE.—The Sec-
8 retary shall investigate patterns of errors or im-
9 proper certification by medical examiners. If the
10 Secretary finds that an medical examiner has issued
11 a medical certificate to a merchant mariner who fails
12 to meet the applicable standards at the time of the
13 examination or that a medical examiner has falsely
14 claimed to have completed training in physical and
15 medical examination standards as required by this
16 section, the Secretary may remove such medical ex-
17 aminer from the registry and may void the medical
18 certificate of the applicant or holder.

19 “(d) NATIONAL REGISTRY OF MEDICAL EXAM-
20 INERS.—The Secretary, acting through the Commandant
21 of the Coast Guard—

22 “(1) shall establish and maintain a current na-
23 tional registry of medical examiners (who shall be li-
24 cense physicians) who are qualified to perform ex-
25 aminations and issue medical certificates;

1 “(2) shall remove from the registry the name of
2 any medical examiner who fails to meet or maintain
3 the qualifications established by the Secretary for
4 being listed in the registry or otherwise does not
5 meet the requirements of this section or a regulation
6 issued under this section;

7 “(3) shall accept as valid only medical certifi-
8 cates issued by persons on the national registry of
9 medical examiners;

10 “(4) may make participation of medical exam-
11 iners in the national registry voluntary if such a
12 change will enhance the safety of merchant mariners
13 holding United States Coast Guard issued creden-
14 tials; and

15 “(5) shall also include in the registry estab-
16 lished under paragraph (1) licensed physicians who
17 are certified by the Secretary of Transportation to
18 perform medical examinations of operators of com-
19 mercial motor vehicles under section 31149 of title
20 49 and airmen.

21 “(e) REGULATIONS.—The Secretary shall issue such
22 regulations as may be necessary to carry out this sec-
23 tion.”.

1 (b) **CLERICAL AMENDMENT.**—The chapter analysis
 2 for chapter 71 of title 46, United States Code, is amended
 3 by adding at the end the following:

“7115. Merchant mariner medical program.”.

4 **SEC. 4. MERCHANT MARINER MEDICAL ADVISORY COM-**
 5 **MITTEE, MEDICAL STANDARDS, AND MEDICAL**
 6 **REQUIREMENTS.**

7 (a) *IN GENERAL.*—Chapter 71 of title 46, United
 8 States Code, is amended by adding at the end thereof the
 9 following:

10 **“§7115. Merchant mariner medical advisory com-**
 11 **mittee, medical standards, and medical**
 12 **requirements**

13 “(a) *ESTABLISHMENT.*—

14 “(1) *IN GENERAL.*—There is established a Mer-
 15 chant Mariner Medical Advisory Committee.

16 “(2) *FUNCTIONS.*—The Committee shall—

17 “(A) advise the Secretary on matters relat-
 18 ing to—

19 “(i) medical certification determina-
 20 tions for issuance of merchant mariner cre-
 21 dentials;

22 “(ii) medical standards and guidelines
 23 for the physical qualifications of operators
 24 of commercial vessels;

25 “(iii) medical examiner education;

1 “(iv) *medical research; and,*
2 “(B) *develop, as appropriate, specific*
3 *courses and materials for medical examiners list-*
4 *ed in the national registry established under this*
5 *section.*

6 “(3) *MEMBERSHIP.—*

7 “(A) *IN GENERAL.—The Committee shall*
8 *consist of the chief medical examiner and—*

9 “(i) *10 individuals who are health-care*
10 *professionals with particular expertise,*
11 *knowledge, or experience regarding the med-*
12 *ical examinations of merchant mariners or*
13 *occupational medicine; and*

14 “(ii) *2 individuals who are profes-*
15 *sional mariners with knowledge and experi-*
16 *ence in mariner occupational requirements.*

17 “(B) *STATUS OF MEMBERS.—Except for the*
18 *chief medical examiner, members of the Com-*
19 *mittee shall not be considered Federal employees*
20 *or otherwise in the service or the employment of*
21 *the Federal Government, except that members*
22 *shall be considered special Government employ-*
23 *ees, as defined in section 202(a) of title 18 and*
24 *shall be subject to any administrative standards*

1 *of conduct applicable to the employees of the de-*
2 *partment in which the Coast Guard is operating.*

3 “(C) *COMPENSATION; REIMBURSEMENT.—*
4 *Except for the chief medical examiner, members*
5 *of the Committee shall serve without compensa-*
6 *tion, except that, while engaged in the perform-*
7 *ance of duties away from their homes or regular*
8 *places of business of the member, the member of*
9 *the Committee may be allowed travel expenses,*
10 *including per diem in lieu of subsistence, as au-*
11 *thorized by section 5703 of title 5.*

12 “(b) *APPOINTMENTS; TERMS; VACANCIES; ORGANIZA-*
13 *TION.—*

14 “(1) *The Secretary shall appoint the members of*
15 *the Committee, and each member shall serve at the*
16 *pleasure of the Secretary.*

17 “(2) *The members shall be appointed for a term*
18 *of 3 years, except that, of the members first ap-*
19 *pointed, 3 members shall be appointed for a term of*
20 *2 years and 3 members shall be appointed for a term*
21 *of 1 year.*

22 “(3) *Any member appointed to fill the vacancy*
23 *prior to the expiration of the term for which such*
24 *member’s predecessor was appointed shall be ap-*
25 *pointed for the remainder of such term.*

1 “(4) *The Secretary shall designate 1 member*
2 *other than the chief medical examiner as the Chair-*
3 *man and 1 member other than the chief medical ex-*
4 *aminer as the Vice Chairman. The Vice Chairman*
5 *shall act as Chairman in the absence or incapacity*
6 *of, or in the event of a vacancy in the office of, the*
7 *Chairman.*

8 “(5) *STAFF; SERVICES.—The Secretary shall fur-*
9 *nish to the Committee the personnel and services as*
10 *are considered necessary for the conduct of its busi-*
11 *ness.*

12 “(6) *FIRST MEETING.—No later than 6 months*
13 *after the date of enactment of the Oil Spill Prevention*
14 *Act of 2008, the Committee shall hold its first meet-*
15 *ing.*

16 “(c) *CHIEF MEDICAL EXAMINER.—The Secretary shall*
17 *appoint an employee of the Coast Guard who will serve as*
18 *a chief medical examiner and who shall hold a position*
19 *under section 3104 of title 5 relating to employment of spe-*
20 *cially qualified scientific and professional personnel, and*
21 *shall be paid under section 5376 of title 5, relating to pay*
22 *for certain senior-level positions.*

23 “(d) *MEDICAL STANDARDS AND REQUIREMENTS.—*

24 “(1) *In general.—The Secretary, with the advice*
25 *of the Committee , shall—*

1 “(A) establish, review, and revise—

2 “(i) medical standards for merchant
3 mariners that will ensure that the physical
4 condition of merchant mariners is adequate
5 to enable them to safely carry out their du-
6 ties on board vessels;

7 “(ii) requirements for periodic physical
8 examinations of such merchant mariners
9 performed by a medical examiner (who
10 shall be a license physician) who has, at a
11 minimum, self-certified that he or she has
12 completed training in physical and medical
13 examination standards and is listed on a
14 registry of medical examiners maintained
15 in accordance with subsection (e) of this sec-
16 tion;

17 “(B) require each such merchant mariner to
18 have a current valid medical certificate;

19 “(C) conduct periodic reviews of a select
20 number of medical examiners on the national
21 registry to ensure that proper examinations of
22 merchant mariners are being conducted;

23 “(D) require each such medical examiner to,
24 at a minimum, self-certify that he or she has

1 *completed specific training, including refresher*
2 *courses, to be listed in the registry;*

3 “(E) *require medical examiners to transmit*
4 *the name of the applicant and numerical identi-*
5 *fier, as determined by the Coast Guard, for any*
6 *completed medical examination report required*
7 *under regulations established by the Secretary*
8 *electronically to the chief medical examiner on*
9 *monthly basis; and*

10 “(F) *periodically review a representative*
11 *sample of the medical examiners’ reports associ-*
12 *ated with the name and numerical identifiers of*
13 *applicants transmitted under subparagraph (E)*
14 *for errors, omissions, or other indications of im-*
15 *proper certification.*

16 “(2) *MONITORING PERFORMANCE.—The Sec-*
17 *retary shall investigate patterns of errors or improper*
18 *certification by medical examiners. If the Secretary*
19 *finds that a medical examiner has issued a medical*
20 *certificate to a merchant mariner who fails to meet*
21 *the applicable standards at the time of the examina-*
22 *tion or that a medical examiner has falsely claimed*
23 *to have completed training in physical and medical*
24 *examination standards as required by this section, the*
25 *Secretary may remove the name of such medical ex-*

1 *aminer from the registry and may void the medical*
2 *certificate of the applicant or holder.*

3 *“(e) NATIONAL REGISTRY OF MEDICAL EXAMINERS.—*
4 *The Secretary, acting through the Commandant of the Coast*
5 *Guard—*

6 *“(1) shall establish and maintain a current na-*
7 *tional registry of medical examiners (who shall be li-*
8 *icensed physicians) who are qualified to perform ex-*
9 *aminations and issue medical certificates;*

10 *“(2) shall remove from the registry the name of*
11 *any medical examiner who fails to meet or maintain*
12 *the qualifications established by the Secretary for*
13 *being listed in the registry or otherwise does not meet*
14 *the requirements of this section or a regulation issued*
15 *under this section;*

16 *“(3) shall accept as valid only medical certifi-*
17 *cates issued by persons on the national registry of*
18 *medical examiners;*

19 *“(4) may make participation of medical exam-*
20 *iners in the national registry voluntary if such a*
21 *change will enhance the safety of merchant mariners*
22 *holding United States Coast Guard issued credentials;*
23 *and*

24 *“(5) shall include in the registry established*
25 *under paragraph (1) licensed physicians who are cer-*

1 *tified by the Secretary of Transportation to perform*
 2 *medical examinations of operators of commercial*
 3 *motor vehicles under section 31149 of title 49 and*
 4 *airmen.*

5 *“(f) MEDICAL EXAMINER DEFINED.—In this section,*
 6 *the term ‘medical examiner’ means an individual licensed,*
 7 *certified, or registered in accordance with the regulations*
 8 *issued by the Coast Guard as a medical examiner.*

9 *“(g) COORDINATION.—The Secretary shall coordinate,*
 10 *where appropriate, with the Secretary of Transportation to*
 11 *utilize existing systems, processes, and procedures where ap-*
 12 *propriate synergies exist in the administration of the Fed-*
 13 *eral Motor Carrier Safety Administration’s Medical Pro-*
 14 *gram authorized under section 31149 of title 49 and the*
 15 *Federal Aviation Administration’s Office of Aerospace Med-*
 16 *icine authorized under section 44702 of that title.*

17 *“(h) REGULATIONS.—The Secretary may issue such*
 18 *regulations as may be necessary to carry out this section.”.*

19 *(b) CLERICAL AMENDMENT.—The chapter analysis for*
 20 *chapter 71 of title 46, United States Code, is amended by*
 21 *adding at the end the following:*

*“7115. Merchant mariner medical advisory committee, medical standards, and
 medical requirements”.*

22 **SEC. 5. STUDY OF MARINE CASUALTY CAUSATION.**

23 (a) OBJECTIVES.—The Secretary of the department
 24 in which the Coast Guard is operating shall conduct a

1 comprehensive study to determine the causes of, and con-
2 tributing factors to, marine casualties. The study shall
3 also identify data requirements and collection procedures,
4 reports, and other measures that will improve the depart-
5 ment's ability—

6 (1) to evaluate future marine casualties;

7 (2) to monitor trends to identify causes and
8 contributing factors; and

9 (3) to develop effective safety improvement poli-
10 cies, including workload, manning and medical re-
11 view provisions, and programs.

12 (b) DESIGN.—The study shall employ standard re-
13 search methods and statistical analysis and be designed
14 to yield information that will—

15 (1) help the department assess the role that
16 workload and fatigue play in marine casualty causa-
17 tion;

18 (2) help the department assess the role that
19 manning, particularly a one man bridge operation,
20 plays in marine casualty causation;

21 (3) help the department assess the role that the
22 medical condition of merchant mariners plays in ma-
23 rine casualty causation;

24 (4) help the department to identify activities
25 and other measures likely to lead to significant re-

1 ductions in the frequency and severity of marine cas-
2 ualties; and

3 (5) to the extent practicable, rank such activi-
4 ties and measures by the reductions each would like-
5 ly achieve if implemented.

6 (c) CONSULTATION.—In designing and conducting
7 the study, the Secretary shall—

8 (1) consult with persons with expertise on ma-
9 rine casualty causation and prevention;

10 (2) consult with merchant mariners, ship man-
11 agers, human factors professionals, occupational
12 medicine specialists, and providers of medical review
13 services to the maritime industry;

14 (3) consult with academic institutions, domestic
15 and foreign, with particular experience and expertise
16 in workload and fatigue, safe manning, and the med-
17 ical condition of merchant mariners in the maritime
18 environment; and

19 (4) review the relevant literature available on
20 previous studies from domestic and foreign sources.

21 (d) PUBLIC COMMENT.—The Secretary shall make
22 available for public comment information about the objec-
23 tives, methodology, implementation, findings, and other
24 aspects of the study.

25 (e) REPORTS.—

1 (1) IN GENERAL.—The Secretary shall prompt-
2 ly transmit to Congress the results of the study, to-
3 gether with any legislative recommendations.

4 (2) REVIEW AND UPDATE.—The Secretary shall
5 review the study at least once every 5 years and up-
6 date the study and report as necessary.

7 **SEC. 6. COAST GUARD STUDY ON USE OF TRACTOR TUGS.**

8 (a) *STUDY.*—The Commandant of the Coast Guard
9 shall conduct a study of the need for tractor tug escorts to
10 be used by vessels carrying petroleum products or with large
11 supplies of fuel onboard in the 5 largest United States ports,
12 by volume, where the use of such tugs by those vessels is
13 not otherwise required by State law or Captain-of-the-Port
14 order. The study shall include—

15 (1) *an evaluation of the necessary power require-*
16 *ments of such tractor tug escorts;*

17 (2) *an analysis of the appropriate passages for*
18 *the use of such tractor tug escorts; and*

19 (3) *an inventory and analysis of the existing use*
20 *of tractor tug escorts in United States ports.*

21 (b) *REPORT.*—Within 1 year after the date of enact-
22 ment of this Act, the Commandant shall submit the report,
23 together with any findings, conclusions, and recommenda-
24 tions the Commandant deems appropriate, to the Senate
25 Committee on Commerce, Science, and Transportation.

1 **SEC. 7. NTSB TO SHARE INFORMATION WITH STATE INVES-**
2 **TIGATORS.**

3 *Section 1131(a)(3) of title 49, United States Code, is*
4 *amended by striking “Government” and inserting “the Fed-*
5 *eral government or of a State government”.*

6 **SEC. 8. TRAINED POLLUTION INVESTIGATORS.**

7 *To the extent practicable, the Commandant of the*
8 *Coast Guard shall ensure that there is at least 1 trained*
9 *and experienced pollution investigator on duty, or in an*
10 *on-call status, at all times for each Coast Guard Sector*
11 *Command.*

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