S. 1361

To direct the Secretary of Homeland Security to accept additional documentation when considering the application for veterans status of an individual who performed service as a coastwise merchant seaman during World War II, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2013

Mr. MURPHY introduced the following bill; which was read twice and referred to the Committee on Veterans’ Affairs

A BILL

To direct the Secretary of Homeland Security to accept additional documentation when considering the application for veterans status of an individual who performed service as a coastwise merchant seaman during World War II, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “World War II Mer-
chant Mariner Service Act”.

SEC. 2. FINDINGS.

Congress makes the following findings:
(1) The Merchant Marine Act, 1936 established the United States Maritime Commission, and stated as a matter of policy that the United States should have a merchant marine that is “capable of serving as a naval and military auxiliary in time of war or national emergency”.

(2) The Social Security Act Amendments of 1939 (Public Law 76–379) expanded the definition of employment to include service “on or in connection with an American vessel under contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel”.

(3) The Joint Resolution to repeal sections 2, 3, and 6 of the Neutrality Act of 1939, and for other purposes (Public Law 77–294; 55 Stat. 764) repealed section 6 of the Neutrality Act of 1939 (related to the arming of United States vessels) and authorized the President during the national emergency to arm or permit to arm any United States vessel.

(4) On February 7, 1942, President Franklin D. Roosevelt, through Executive Order Number 9054, established the War Shipping Administration
that was charged with building or purchasing, and
operating the civilian shipping vessels needed for the
war effort.

(5) During World War II, United States mer-
chant mariners transported goods and materials
through “contested waters” to the various combat
theaters.

(6) At the conclusion of World War II, United
States merchant mariners were responsible for
transporting several million members of the United
States Armed Forces back to the United States.

(7) The GI Bill Improvement Act of 1977
(Public Law 95–202) provided that the Secretary of
Defense could determine that service for the Armed
Forces by organized groups of civilians, or contrac-
tors, be considered “active service” for benefits ad-
ministered by the Veterans Administration.

(8) Department of Defense Directive 1000.20
directed that the determination be made by the Sec-
retary of the Air Force, and established the Civilian/
Military Service Review Board and Advisory Panel.

(9) In 1987, three merchant mariners along
with the AFL–CIO sued Edward C. Aldridge, Sec-
retary of the Air Force, challenging the denial of
their application for veterans status. In Schumacher
v. Aldridge (665 F. Supp. 41 (D.D.C. 1987)), the Court determined that Secretary Aldridge had failed to “articulate clear and intelligible criteria for the administration” of the application approval process.

(10) During World War II, women were repeatedly denied issuance of official documentation affirming their merchant marine seamen status by the War Shipping Administration.

(11) Coast Guard Information Sheet #77 (April 1992) identifies the following acceptable forms of documentation for eligibility meeting the requirements set forth in GI Bill Improvement Act of 1977 (Public Law 95–202) and Veterans Programs Enhancement Act of 1998 (Public Law 105–368):

(A) Certificate of shipping and discharge forms.

(B) Continuous discharge books (ship’s deck or engine logbooks).

(C) Company letters showing vessel names and dates of voyages.

(12) Coast Guard Commandant Order of 20 March, 1944, relieved masters of tugs, towboats, and seagoing barges of the responsibility of submitting reports of seamen shipped or discharged on
forms, meaning certificates of shipping and discharge forms are not available to all eligible individuals seeking to document their eligibility.

(13) Coast Guard Information Sheet #77 (April 1992) states that “deck logs were traditionally considered to be the property of the owners of the ships. After World War II, however, the deck and engine logbooks of vessels operated by the War Shipping Administration were turned over to that agency by the ship owners, and were destroyed during the 1970s”, meaning that continuous discharge books are not available to all eligible individuals seeking to document their eligibility.

(14) Coast Guard Information Sheet #77 (April 1992) states “some World War II period log books do not name ports visited during the voyage due to wartime security restrictions”, meaning that company letters showing vessel names and dates of voyages are not available to all eligible individuals seeking to document their eligibility.

SEC. 3. METHODS FOR VALIDATING CERTAIN SERVICE CONSIDERED TO BE ACTIVE SERVICE BY THE SECRETARY OF VETERANS AFFAIRS.

(a) In General.—For the purposes of verifying that an individual performed service under honorable condi-
tions that satisfies the requirements of a coastwise mer-
chant seaman who is recognized pursuant to section 401
of the GI Bill Improvement Act of 1977 (Public Law 95–
202; 38 U.S.C. 106 note) as having performed active duty
service for the purposes described in subsection (c)(1), the
Secretary of Homeland Security shall accept the following:

(1) In the case of an individual who served on
a coastwise merchant vessel seeking such recognition
for whom no applicable Coast Guard shipping or dis-
charge form, ship logbook, merchant mariner’s docu-
ment or Z-card, or other official employment record
is available, the Secretary shall provide such recogni-
tion on the basis of applicable Social Security Ad-
ministration records submitted for or by the indi-
vidual, together with validated testimony given by
the individual or the primary next of kin of the indi-
vidual that the individual performed such service
during the period beginning on December 7, 1941,
and ending on December 31, 1946.

(2) In the case of an individual who served on
a coastwise merchant vessel seeking such recognition
for whom the applicable Coast Guard shipping or
discharge form, ship logbook, merchant mariner’s
document or Z-card, or other official employment
record has been destroyed or otherwise become un-
available by reason of any action committed by a person responsible for the control and maintenance of such form, logbook, or record, the Secretary shall accept other official documentation demonstrating that the individual performed such service during period beginning on December 7, 1941, and ending on December 31, 1946.

(3) For the purpose of determining whether to recognize service allegedly performed during the period beginning on December 7, 1941, and ending on December 31, 1946, the Secretary shall recognize masters of seagoing vessels or other officers in command of similarly organized groups as agents of the United States who were authorized to document any individual for purposes of hiring the individual to perform service in the merchant marine or discharging an individual from such service.

(b) TREATMENT OF OTHER DOCUMENTATION.—Other documentation accepted by the Secretary of Homeland Security pursuant to subsection (a)(2) shall satisfy all requirements for eligibility of service during the period beginning on December 7, 1941, and ending on December 31, 1946.

(c) BENEFITS ALLOWED.—
(1) Burial benefits eligibility.—Service of an individual that is considered active duty pursuant to subsection (a) shall be considered as active duty service with respect to providing burial benefits under chapters 23 and 24 of title 38, United States Code, to the individual.

(2) Medals, ribbons, and decorations.—An individual whose service is recognized as active duty pursuant to subsection (a) may be awarded an appropriate medal, ribbon, or other military decoration based on such service.

(3) Status of veteran.—An individual whose service is recognized as active duty pursuant to subsection (a) shall be honored as a veteran but shall not be entitled by reason of such recognized service to any benefit that is not described in this subsection.

(d) Determination of Coastwise Merchant Seaman.—The Secretary of Homeland Security shall verify that an individual performed service under honorable conditions that satisfies the requirements of a coastwise merchant seaman pursuant to this section without regard to the sex, age, or disability of the individual during the period in which the individual served as such a coastwise merchant seaman.
(e) **Definition of Primary Next of Kin.**—In this section, the term “primary next of kin” with respect to an individual seeking recognition for service under this section means the closest living relative of the individual who was alive during the period of such service.

(f) **Effective Date.**—This Act shall take effect 90 days after the date of the enactment of this Act.