

117TH CONGRESS  
2D SESSION

# S. 4040

To amend subtitle IV of title 46, United States Code, with respect to ship agents, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 7, 2022

Mr. REED (for himself and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend subtitle IV of title 46, United States Code, with respect to ship agents, 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 “Ship Agent Licensure  
5       Act of 2022”.

6       **SEC. 2. DEFINITIONS.**

7       Section 40102 of title 46, United States Code, is  
8       amended—

1           (1) by redesignating paragraphs (22) through  
2           (26) as paragraphs (23) through (27), respectively;  
3           and

4           (2) by inserting after paragraph (21) the fol-  
5           lowing:

6           “(22) SHIP AGENT.—The term ‘ship agent’  
7           means a person—

8                   “(A) engaged in the business of rep-  
9                   resenting a ship’s owner, operator, or charterer  
10                  (referred to in this paragraph as the ‘principal’)  
11                  in performing carriage while in a port of the  
12                  United States; and

13                   “(B) who is responsible to the principal  
14                  for—

15                           “(i) port entry, berthing, and depar-  
16                          ture;

17                           “(ii) port husbandry services;

18                           “(iii) crew changes and repatriations;

19                           “(iv) receiving or releasing cargo on  
20                          behalf of the principal; or

21                           “(v) interfacing with various Federal  
22                          agencies with respect to port safety, supply  
23                          chain efficiency, maritime security, and the  
24                          environment; and

1                   “(C) who is not owned or controlled by a  
2                   common carrier or cruise line.”.

3 **SEC. 3. SHIP AGENTS.**

4           (a) IN GENERAL.—Title 46, United States Code, is  
5 amended by inserting after chapter 409 the following:

6                   **“CHAPTER 410—SHIP AGENTS**

“Sec.

“41001. Definition of Commission.

“41002. License requirement.

“41003. Financial responsibility.

“41004. Suspension or revocation of license.

7 **“§ 41001. Definition of Commission**

8           “In this chapter, the term ‘Commission’ means the  
9 Federal Maritime Commission.

10 **“§ 41002. License requirement**

11           “(a) IN GENERAL.—Subject to subsection (b), a per-  
12 son in the United States shall not advertise, hold oneself  
13 out, or act as a ship agent or provide ship agent services  
14 in the United States unless the person is domiciled in the  
15 United States and holds a license issued by the Commis-  
16 sion. The Commission shall issue a license to a person that  
17 the Commission determines to be qualified by experience  
18 and character to act as a ship agent.

19           “(b) EXCEPTION.—A person whose primary business  
20 is the provision of ocean transportation by water may pro-  
21 vide ship agent services for its own account without a ship  
22 agent license under this section.

1       “(c) QUALIFICATIONS.—The Commission shall estab-  
 2       lish such other ship agent qualifications as are necessary.  
 3       In establishing qualifications, the Commission shall con-  
 4       sider recognized national and international standards for  
 5       ship agency.

6       **“§ 41003. Financial responsibility**

7       “(a) IN GENERAL.—A person may not advertise, hold  
 8       oneself out, or act as a ship agent unless the person fur-  
 9       nishes a bond, proof of insurance, or other surety in a  
 10      form and amount determined by the Commission to insure  
 11      financial responsibility.

12      “(b) SCOPE OF FINANCIAL RESPONSIBILITY.—A  
 13      bond, insurance, or other surety obtained under this sec-  
 14      tion—

15               “(1) shall be available to pay any penalty as-  
 16               sessed under section 41109 of this title or any order  
 17               for reparation issued under section 41305 of this  
 18               title;

19               “(2) may be available to pay any claim against  
 20               a ship agent arising from its ship agency services—

21                       “(A) with the consent of the insured ship  
 22                       agent and subject to review by the surety com-  
 23                       pany; or

24                       “(B) when the claim is determined valid by  
 25                       the surety company after the ship agent has

1           failed to respond to adequate notice to address  
2           the validity of the claim; and

3           “(3) shall be available to pay any judgment for  
4           damages against a ship agent arising from its ship  
5           agency services, if the claimant has first attempted  
6           to resolve the claim under paragraph (2) and the  
7           claim has not been resolved within a reasonable pe-  
8           riod of time.

9           “(c) REGULATIONS ON COURT JUDGMENTS.—The  
10          Commission shall prescribe regulations for the purpose of  
11          protecting the interests of claimants, ship agents, and sur-  
12          ety companies with respect to the process of pursuing  
13          claims against ship agent bonds, insurance, or sureties  
14          through court judgments. The regulations shall provide  
15          that a judgment for monetary damages may not be en-  
16          forced except to the extent that the damages claimed arise  
17          from the ship agency services of the insured ship agent,  
18          as defined by the Commission.

19          **“§ 41004. Suspension or revocation of license**

20          “(a) FAILURE TO MAINTAIN QUALIFICATIONS OR TO  
21          COMPLY.—The Commission, after notice and opportunity  
22          for a hearing, shall suspend or revoke a ship agent license  
23          if the Commission finds that the ship agent—

24                  “(1) is not qualified to provide ship agency  
25                  services; or

1           “(2) willfully failed to comply with a provision  
 2           of this part or with an order or regulation of the  
 3           Commission.

4           “(b) FAILURE TO MAINTAIN BOND, PROOF OF IN-  
 5           SURANCE, OR OTHER SURETY.—The Commission may re-  
 6           voke a ship agent license for failure to maintain a bond,  
 7           proof of insurance, or other surety as required by section  
 8           41002(a) of this title.”.

9           (b) CONFORMING AMENDMENTS FOR TABLES OF  
 10          CHAPTERS.—The table of chapters at the beginning of  
 11          title 46, United States Code, and at the beginning of sub-  
 12          title IV of such title are each amended by inserting after  
 13          the item relating to chapter 409 the following:

“410. Ship Agents .....41001.”.

