

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.

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

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 Agents41001.”.

○