

AMENDING TITLE 46, UNITED STATES CODE, TO EXTEND THE EXEMPTION  
 FROM THE FIRE-RETARDANT MATERIALS CONSTRUCTION REQUIRE-  
 MENT FOR VESSELS OPERATING WITHIN THE BOUNDARY LINE

JULY 24, 2013.—Committed to the Committee of the Whole House on the State of  
 the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and  
 Infrastructure, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1961]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom  
 was referred the bill (H.R. 1961) to amend title 46, United States  
 Code, to extend the exemption from the fire-retardant materials  
 construction requirement for vessels operating within the Bound-  
 ary Line, having considered the same, report favorably thereon  
 without amendment and recommend that the bill do pass.

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#### PURPOSE OF LEGISLATION

H.R. 1961 would extend the exemption from fire-retardant materials construction requirements for certain vessels operating within the Boundary Line.

#### BACKGROUND AND NEED FOR LEGISLATION

Since 1966, federal law (currently codified at section 3503 of title 46, United States Code) requires passenger vessels with overnight accommodations for 50 or more passengers to be constructed of fire-retardant materials. Section 3503 included an exemption, which expired on November 1, 2008, for certain vessels in operation before 1968 and operating in internal waters. To qualify for the exemption, the vessel owner had to notify passengers that the vessel did not meet fire safety standards; agree to be held liable for any death, injury, or loss caused by fire; and ensure alterations made to nonpublic spaces complied with fire-retardant regulations.

H.R. 1961 would extend the exemption included in section 3503 through October 31, 2028.

#### HEARINGS

No hearings were held on H.R. 1961.

#### LEGISLATIVE HISTORY AND CONSIDERATION

On May 14, 2013, Representative Steve Chabot introduced H.R. 1961, a bill to amend title 46, United States Code, to extend the exemption from the fire-retardant materials construction requirement for vessels operating within the Boundary Line.

On July 18, 2013, the Committee on Transportation and Infrastructure met in open session and ordered the bill reported favorably to the House by voice vote with a quorum present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no record votes taken in connection with consideration of H.R. 1961 or ordering the measure reported. A motion to order H.R. 1961 reported favorably to the House was agreed to by voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely

submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 1961 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 22, 2013.*

Hon. BILL SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,*  
*Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1961, a bill to amend title 46, United States Code, to extend the exemption from the fire-retardant material construction requirement for vessels operating within the boundary line.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 1961—A bill to amend title 46, United States Code, to extend the exemption from the fire-retardant material construction requirement for vessels operating within the boundary line*

In 2008, the Congress removed an exemption in law that allowed certain vessels constructed of wood and containing stateroom accommodations to carry more than 50 passengers. H.R. 1961 would reinstate that exemption and permit those vessels to exceed the 50-passenger limit until 2028. CBO estimates that there is one vessel affected by the exemption, a historic steamboat currently based in Chattanooga, Tennessee.

CBO estimates that enacting the legislation would have no impact on the federal budget because the United States Coast Guard would continue to inspect the vessel under the provisions of the bill or under current law. Enacting H.R. 1961 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1961 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Sarah Puro. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to extend the exemption from the

fire-retardant materials construction requirement for vessels operating within the Boundary Line.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(j) of H. Res. 5, 113th Cong. (2013), the Committee finds that no provision of H.R. 1961 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(k) of H. Res. 5, 113th Cong. (2013), the Committee estimates that enacting H.R. 1961 does not specifically direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

#### FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 1961 does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

#### APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

## SECTION-BY-SECTION ANALYSIS OF LEGISLATION

*Section 1. Extension of exemption*

Section 1 extends through October 31, 2028 the exemption from vessel fire-retardant material construction requirements for certain vessels in operation before 1968 and operating in internal waters.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**TITLE 46, UNITED STATES CODE**

\* \* \* \* \*

**Subtitle II—Vessels and Seamen**

\* \* \* \* \*

**PART B—INSPECTION AND REGULATIONS OF VESSELS**

\* \* \* \* \*

**CHAPTER 35—CARRIAGE OF PASSENGERS**

\* \* \* \* \*

**§ 3503. Fire-retardant materials**

(a) A passenger vessel of the United States having berth or state-room accommodations for at least 50 passengers shall be granted a certificate of inspection only if the vessel is constructed of fire-retardant materials. Before November 1, ~~2008~~ 2028, this section does not apply to any vessel in operation before January 1, 1968, and operating only within the Boundary Line.

\* \* \* \* \*

## DISSENTING VIEWS

Perhaps no other peril invokes fear on a ship more than the threat of fire. The history of maritime trade is replete with a long list of tragic losses of hundreds of vessels and thousands of lives due to catastrophic fire. Consequently, the prevention of fires on ships remains a paramount concern among all seafaring nations.

An inferno aboard the ocean liner, SS MORRO CASTLE in 1934 claimed the lives of 137 passengers and crew off the New Jersey coast. This disaster provoked the United States in 1937 to adopt new stringent regulations requiring the use of automatic fire doors, ship-wide fire alarms, emergency generators, mandatory crew training in fire fighting procedures, greater attention to fire drills and procedures, and importantly, the use of fire retardant construction materials. These new measures built upon basic fire safety standards that had been in effect since 1914 when the International Maritime Organization (IMO) adopted the International Convention of the Safety of Life at Sea (SOLAS).

In the 1960s, a series of fires aboard international passenger ships, most notably the YARMOUTH CASTLE fire disaster on November 13, 1965 that killed 90 passengers and crew, highlighted deficiencies in existing fire safety regulations. Since 1966, all passenger vessels operating in the U.S. must have been built of non-combustible materials, and must have either a fixed fire sprinkler system or fixed fire detection system installed. The IMO ultimately adopted these and many other changes to strengthen fire protection, fire detection and fire extinction requirements in the 1974 SOLAS Convention. These requirements have been incorporated into the International Fire Safety Systems (FSS) Code and the IMO continues to refine and improve fire safety standards.

Yet even with contemporary fire safety requirements fire can, and does, wreak havoc on gleaming, modern passenger vessels. Members only have to look at press clippings from the Carnival SPLENDOR fire in 2010, the 2012 fire that disabled the Carnival TRIUMPH, or the 2013 fire aboard Royal Caribbean Lines GRANDEUR OF THE SEAS to realize that fire can happen at any time, on any ship. These fires underscore the reason why the National Transportation Safety Board includes fire safety across all modes of transportation, including vessels, on its Most Wanted List (<http://www.nts.gov/safety/mwl.html>).

Recognizing this history and the very serious threat of maritime fire, it is discomfiting for the majority to move legislation so contrary to public safety. H.R. 1961 would reinstate an ill-advised statutory exemption from the requirement that all passenger vessels carrying over 50 passengers on overnight excursions be constructed with fire retardant materials for an aged, paddlewheel steamship built in 1927, the DELTA QUEEN. The irresponsibility of the action is accentuated by the absence of any oversight by the majority.

The list of factors about this vessel for which we know little or nothing illustrates that the majority has acted less on fact and more on blind faith in approving this bill.

First, nothing is known about the present condition of the vessel. She has sat immobile and out of service along the Coolidge Park Landing in Chattanooga, Tennessee since 2009. She may have been maintained in an exemplary manner. But considering that the vessel's prior owner, Ambassadors International, filed for Chapter 11 bankruptcy protection in 2011, odds are that she has not been adequately maintained. The Committee has acted without knowing if the vessel has become even less fire safe than when she was last inspected in 2008, or if the Coast Guard would even issue a Certificate of Inspection to operate now.

Second, since 2008 when the Congress voted down legislation to extend the DELTA QUEEN's exemption, ownership of the vessel has changed hands from Ambassadors International to TAC Cruises LLC, an affiliate of Xanterra Holding Corp. Recent newspaper articles report a new sale of the vessel is pending but the investors remain unknown. Absent any oversight, we have no way of knowing whether the pending owners have any competence in maritime operations. For that matter, we have no way of knowing whether the prospective owners appreciate the genuine risk of fire on the DELTA QUEEN.

Additionally, the bill's advocates claim that the prospective new owners have plans to invest \$7 million to \$9 million to retrofit the vessel to address fire safety deficiencies. To date, however, no plans have been presented for the Committee's review. Furthermore, I am concerned that the open-ended nature of the exemption may be more a disincentive, than incentive, for future intensive capital investment in the DELTA QUEEN.

Last, no reasons have been provided by the bill's sponsor or its proponents to justify granting this exemption through October, 2028—a full fifteen years. Each of the nine previous exemptions granted by the Congress had been for five years. This bill would grant the owners of the DELTA QUEEN an exemption three times as long as any previous exemption. Granting this exemption is a profoundly bad idea considering the advanced age of the vessel. But granting it without any justification is an abdication of the Committee's oversight responsibilities.

Contrast these points with what we do know.

The DELTA QUEEN is an American stern wheel steamboat that was built in 1927. The vessel's steam boilers and engines are virtual antiques, and the vessel's superstructure is built almost entirely out of wood. While intrinsic to the vessel's designation as a National Historic Landmark, both present significant fire hazards. This is an indisputable fact. Also indisputable is the fact that the DELTA QUEEN would have ceased to operate decades ago, at least from overnight voyages carrying fifty or more passengers, in the absence of statutory exemptions from the fire retardant construction materials requirement.

Second, the Coast Guard's 2008 Traveling Inspector Special Inspection report found numerous deficiencies in the vessel's condition and operation and noted that "the Coast Guard has consistently opposed legislation to prolong the service life of the DELTA

QUEEN.” This report also substantiated that the vessel’s wood construction or propulsion technology “present an unnecessary and unacceptable accumulation of combustible fire load” that remains a risk to its passengers and crew. Oral communications from the Coast Guard prior to the mark-up affirmed that the Coast Guard’s positions remain unchanged from those stated in the 2008 report.

Third, we know that the casualty history of the DELTA QUEEN is abysmal. According to the Coast Guard’s Marine Information for Safety and Law Enforcement (MISLE) data base, since 1992 the DELTA QUEEN has suffered 38 casualty events. The most recent fire occurred on March 22, 2008 in the generator room which necessitated the discharge of the fixed CO2 extinguishing system. Fortunately no one was injured. Records indicate that this fire was a result of an electrical short in the generator; just one piece of aged equipment on a vessel full of the same. The casualty record and age of the vessel strongly suggests that another fire is likely to happen. The difference, of course, is that the next fire may be deadly.

Fourth, we know that the renewal of this exemption is not necessary to maintain the economic viability of the DELTA QUEEN. The vessel would still be able to carry passengers on day time excursions for sight-seeing or charters, provided, of course, that the vessel’s condition and operation still allows the Coast Guard to issue a Certificate of Inspection.

We also know that navigation on the Mississippi River and its main tributaries is fraught with significant hazards. Heavy commercial ship traffic, variable water levels and visibility, swift currents, narrow channels, shifting shoals and sandbars, and both engineered and natural obstructions make navigation on these inland waterways a constant challenge. Accordingly, the navigation history of the Mississippi drainage is littered with a litany of marine casualties including vessel collisions and allisions, groundings, capsizings, spills, sinkings, and yes, deadly fires. It is simply foolish to allow a vessel that the Coast Guard considers an unacceptable fire hazard to passengers and crew to return to overnight service on this river system.

In closing, I recognize that the majority is motivated in the interest of preserving the DELTA QUEEN as a functioning part of America’s maritime history and to provide new jobs for U.S. mariners. But as much as I am sympathetic to those objectives, they are outweighed by the future risk of fire on board this vessel. The public’s safety must come first.

Keeping the DELTA QUEEN in service is not necessary to preserve the vessel, witness the fate of her sister, the DELTA KING, which now sits inactive along the Sacramento River waterfront preserved as a floating hotel (<http://www.deltaking.com/>). Also, for those seeking to experience riding on a paddle wheel vessel, modern replicas are available today for overnight excursions on the Mississippi River. For example, the QUEEN OF THE MISSISSIPPI is a modern paddle wheeler built entirely to fire safety standards that was launched in 2012 by American Cruise Lines.

And regarding the creation of maritime jobs, I agree entirely with the objective. However, I contend that there are many other positive actions we could take to create maritime jobs, such as ad-



hering to the Jones Act, enforcing U.S. cargo preference requirements, expanding short sea shipping and revitalizing domestic shipbuilding, than to enable the DELTA QUEEN to return to overnight service by passing this legislation.

JOHN GARAMENDI.

