

Calendar No. 290

114TH CONGRESS
1ST SESSION**S. 1298****[Report No. 114–164]**

To provide nationally consistent measures of performance of the Nation's ports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 12, 2015

Mr. THUNE (for himself, Mrs. FISCHER, Mr. GARDNER, and Mr. ALEXANDER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 5, 2015

Reported by Mr. THUNE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**A BILL**

To provide nationally consistent measures of performance of the Nation's ports, 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,*

1 **SECTION 1. PORT PERFORMANCE FREIGHT STATISTICS**
 2 **PROGRAM.**

3 (a) IN GENERAL.—Chapter 63 of title 49, United
 4 States Code, is amended by adding at the end the fol-
 5 lowing:

6 **“§ 6314. Port performance freight statistics program**

7 “(a) IN GENERAL.—The Director shall establish, on
 8 behalf of the Secretary, a port performance statistics pro-
 9 gram to provide nationally consistent measures of per-
 10 formance of the Nation’s top 25 ports by tonnage, top 25
 11 ports by 20-foot equivalent unit, and top 25 ports by dry
 12 bulk.

13 “(b) ANNUAL REPORTS.—

14 “(1) PORT CAPACITY AND THROUGHPUT.—Not
 15 later than January 15 of each year, the Director
 16 shall submit an annual report to Congress that in-
 17 cludes statistics on capacity and throughput at these
 18 ports.

19 “(2) PORT PERFORMANCE INDICATORS.—The
 20 Director shall require each United States port au-
 21 thority referred to in subsection (a) that receives
 22 Federal assistance or is subject to Federal regula-
 23 tion to submit an annual report to the Bureau of
 24 Transportation Statistics that includes statistics on
 25 capacity and throughput, including—

1 “(A) the volume of inbound and outbound
2 cargo to include containers, break bulk, vehi-
3 cles, and dry and liquid bulk;

4 “(B) the average number of lifts per hour
5 of containers by crane;

6 “(C) the average vessel unload rate;

7 “(D) the average vessel load rate;

8 “(E) the average vessel turn time;

9 “(F) port transit time;

10 “(G) the average cargo dwell time;

11 “(H) the average container dwell time;

12 “(I) port storage capacity and utilization;

13 “(J) the average wait time for trucks in-
14 side a port complex;

15 “(K) the average truck time at ports; and

16 “(L) the average rail delay at ports.

17 “(e) RECOMMENDATIONS.—The Director shall obtain
18 recommendations for specifications for port performance
19 measures, to identify standard data elements for meas-
20 uring port performance, from—

21 “(1) operating administrations of the Depart-
22 ment of Transportation;

23 “(2) the Coast Guard;

24 “(3) the Maritime Administration;

1 ~~“(4) the Marine Transportation System Na-~~
 2 ~~tional Advisory Council;~~

3 ~~“(5) the Army Corps of Engineers;~~

4 ~~“(6) the Saint Lawrence Seaway Development~~
 5 ~~Corporation; and~~

6 ~~“(7) the Advisory Committee on Supply Chain~~
 7 ~~Competitiveness.~~

8 ~~“(d) ACCESS TO DATA.—The Director shall ensure~~
 9 ~~that the statistics compiled under this section are readily~~
 10 ~~accessible to the public, consistent with applicable security~~
 11 ~~constraints and confidentiality interests.”.~~

12 ~~(b) PROHIBITION ON CERTAIN DISCLOSURES.—Sec-~~
 13 ~~tion 6307(b)(1) of title 49, United States Code, is amend-~~
 14 ~~ed by inserting “or section 6314(b)” after “section~~
 15 ~~6302(b)(3)(B)” each place it appears.~~

16 ~~(c) COPIES OF REPORTS.—Section 6307(b)(2)(A) of~~
 17 ~~title 49, United States Code, is amended by inserting “or~~
 18 ~~section 6314(b)” after “section 6302(b)(3)(B)”.~~

19 ~~(d) TECHNICAL AND CONFORMING AMENDMENT.—~~
 20 ~~The table of sections for chapter 63 of title 49, United~~
 21 ~~States Code, is amended by adding at the end the fol-~~
 22 ~~lowing:~~

~~“6314. Port performance freight statistics program.”.~~

1 **SEC. 2. MONTHLY REPORTS ON PERFORMANCE AT UNITED**
2 **STATES PORTS.**

3 (a) ~~IN GENERAL.~~—Not later than 1 year before the
4 expiration date of a maritime labor agreement for a
5 United States port, 3 months before the expiration date
6 of the maritime labor agreement, and monthly thereafter,
7 the Secretary of Transportation, in consultation with the
8 Secretary of Commerce and the Secretary of Labor, shall
9 submit a report to the Committee on Commerce, Science,
10 and Transportation of the Senate and the Committee on
11 Transportation and Infrastructure of the House of Rep-
12 resentatives that includes port performance indicators at
13 the affected port. If multiple ports are affected by the ex-
14 piration of the maritime labor agreement, the Secretary
15 of Transportation shall submit a report for each affected
16 port.

17 (b) ~~CONTENTS.~~—Each report required under sub-
18 section (a) shall include, for the affected port during the
19 previous month—

20 (1) the performance indicators listed under sec-
21 tion ~~6314~~(b)(2) of title 49, United States Code;

22 (2) the number and type of vessels awaiting
23 berthing, including average wait time;

24 (3) the number of cancelled vessel calls;

1 (4) an estimate of the economic impact associ-
 2 ated with any delays both at the port and across the
 3 national economy; and

4 (5) an estimate of the amount of time required
 5 to clear any congestion.

6 (c) EFFECTIVE PERIOD.—The Secretary of Trans-
 7 portation, in consultation with the Secretary of Commerce
 8 and the Secretary of Labor, shall submit a report required
 9 under subsection (a) for an affected port until the date
 10 that a new maritime labor agreement for the port is
 11 agreed to by all of the parties to that maritime labor
 12 agreement.

13 (d) DEFINITION OF MARITIME LABOR AGREE-
 14 MENT.—In this section, the term “maritime labor agree-
 15 ment” has the meaning given such term in section 40102
 16 of title 46, United States Code.

17 **SECTION 1. SHORT TITLE.**

18 *This Act may be cited as the “Port Performance Act”.*

19 **SEC. 2. FINDINGS.**

20 *Congress finds the following:*

21 (1) *America’s ports play a critical role in the*
 22 *Nation’s transportation supply chain network.*

23 (2) *Reliable and efficient movement of goods*
 24 *through the Nation’s ports ensures that American*
 25 *goods are available to customers throughout the world.*

1 (3) *Breakdowns in the transportation supply*
 2 *chain network, particularly at the Nation’s ports, can*
 3 *result in tremendous economic losses for agriculture,*
 4 *businesses, and retailers that rely on timely ship-*
 5 *ments.*

6 (4) *A clear understanding of port productivity*
 7 *and throughput would help—*

8 *(A) to identify freight bottlenecks;*

9 *(B) to indicate performance and trends over*
 10 *time; and*

11 *(C) to inform investment decisions.*

12 **SEC. 3. PORT PERFORMANCE FREIGHT STATISTICS PRO-**
 13 **GRAM.**

14 (a) *IN GENERAL.*—Chapter 63 of title 49, United
 15 States Code, is amended by adding at the end the following:

16 **“§ 6314. Port performance freight statistics program**

17 “(a) *IN GENERAL.*—The Director shall establish, on be-
 18 half of the Secretary, a port performance statistics program
 19 to provide nationally consistent measures of performance
 20 of—

21 “(1) *the Nation’s top 25 ports by tonnage;*

22 “(2) *the Nation’s top 25 ports by 20-foot equiva-*
 23 *lent unit; and*

24 “(3) *the Nation’s top 25 ports by dry bulk.*

25 “(b) *ANNUAL REPORTS.*—

1 “(1) *PORT CAPACITY AND THROUGHPUT*.—Not
 2 *later than January 15 of each year, the Director shall*
 3 *submit an annual report to Congress that includes*
 4 *statistics on capacity and throughput at the ports de-*
 5 *scribed in subsection (a).*

6 “(2) *PORT PERFORMANCE MEASURES*.—*The Di-*
 7 *rector shall collect monthly port performance meas-*
 8 *ures for each of the United States ports referred to in*
 9 *subsection (a) that receives Federal assistance or is*
 10 *subject to Federal regulation to submit an annual re-*
 11 *port to the Bureau of Transportation Statistics that*
 12 *includes monthly statistics on capacity and through-*
 13 *put as applicable to the specific configuration of the*
 14 *port, including—*

15 “(A) *the total capacity of inbound and out-*
 16 *bound cargo, including containers, break bulk,*
 17 *vehicles, and dry and liquid bulk;*

18 “(B) *the total volume of inbound and out-*
 19 *bound cargo, including containers, break bulk,*
 20 *vehicles, and dry and liquid bulk;*

21 “(C) *the average number of lifts per hour of*
 22 *containers by crane;*

23 “(D) *the average vessel turn time by vessel*
 24 *type;*

1 “(E) the average cargo or container dwell
2 time;

3 “(F) port storage capacity and utilization;

4 “(G) the average truck time at ports;

5 “(H) the average rail time at ports; and

6 “(I) any additional metrics, as determined
7 by the Director after receiving recommendations
8 from the working group established under sub-
9 section (c).

10 “(c) RECOMMENDATIONS.—

11 “(1) IN GENERAL.—The Director shall obtain
12 recommendations for—

13 “(A) specifications and data measurements
14 for the port performance measures listed in sub-
15 section (b)(2);

16 “(B) additionally needed data elements for
17 measuring port performance; and

18 “(C) a process for the Department of Trans-
19 portation to collect timely and consistent data,
20 including identifying safeguards to protect pro-
21 prietary information described in subsection
22 (b)(2).

23 “(2) WORKING GROUP.—Not later than 60 days
24 after the date of the enactment of this Act, the Direc-
25 tor shall commission a working group composed of—

1 “(A) *operating administrations of the De-*
2 *partment of Transportation;*

3 “(B) *the Coast Guard;*

4 “(C) *the Federal Maritime Commission;*

5 “(D) *U.S. Customs and Border Protection;*

6 “(E) *the Marine Transportation System*
7 *National Advisory Council;*

8 “(F) *the Army Corps of Engineers;*

9 “(G) *the Saint Lawrence Seaway Develop-*
10 *ment Corporation;*

11 “(H) *the Advisory Committee on Supply*
12 *Chain Competitiveness;*

13 “(I) *1 representative from the rail industry;*

14 “(J) *1 representative from the trucking in-*
15 *dustry;*

16 “(K) *1 representative from the port man-*
17 *agement industry;*

18 “(L) *1 representative from the maritime*
19 *shipping industry;*

20 “(M) *1 representative from the maritime*
21 *labor industry;*

22 “(N) *representatives of the National Freight*
23 *Advisory Committee of the Department; and*

24 “(O) *representatives of the Transportation*
25 *Research Board of the National Academies.*

9 (b) *PROHIBITION ON CERTAIN DISCLOSURES.*—Sec-
10 tion 6307(b)(1) of title 49, United States Code, is amended
11 by inserting “or section 6314(b)” after “section
12 6302(b)(3)(B)” each place it appears.

(d) *TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 49, United States Code, is amended by adding at the end the following:*

19 *SEC. 4. MONTHLY REPORTS ON PERFORMANCE AT UNITED*
20 *STATES PORTS.*

(a) IN GENERAL.—Not later than 1 year before the expiration date of a maritime labor agreement that applies to facilities of a United States port, 3 months before the expiration date of the maritime labor agreement, and monthly thereafter until a new agreement is agreed to, the

1 *Secretary of Transportation, in consultation with the Sec-*
 2 *retary of Commerce and the Secretary of Labor, shall sub-*
 3 *mit a report to the Committee on Commerce, Science, and*
 4 *Transportation of the Senate and the Committee on Trans-*
 5 *portation and Infrastructure of the House of Representa-*
 6 *tives that includes port performance indicators at the af-*
 7 *ected port. If multiple ports are affected by the expiration*
 8 *of the maritime labor agreement, the Secretary of Transpor-*
 9 *tation shall submit a report for each affected port.*

10 (b) *CONTENTS.—Each report required under sub-*
 11 *section (a) shall include, for the affected port during the*
 12 *previous month—*

13 (1) *the performance indicators listed under sec-*
 14 *tion 6314(b)(2) of title 49, United States Code;*

15 (2) *the number and type of vessels awaiting*
 16 *berthing, including average wait time;*

17 (3) *the number of cancelled vessel calls;*

18 (4) *an estimate of the economic impact associ-*
 19 *ated with any delays both at the port and across the*
 20 *national economy;*

21 (5) *an estimate of the amount of time required*
 22 *to clear any congestion;*

23 (6) *the average number of positions ordered and*
 24 *filled; and*

1 (7) *any other factors that might have created*
2 *delays, including weather, equipment maintenance or*
3 *failures, or infrastructure development or repair.*

4 (c) *EFFECTIVE PERIOD.*—*The Secretary of Transpor-*
5 *tation, in consultation with the Secretary of Commerce and*
6 *the Secretary of Labor, shall submit a report required under*
7 *subsection (a) for an affected port until the date on which*
8 *a new maritime labor agreement that applies to the facili-*
9 *ties of the port is agreed to by all of the parties to that*
10 *maritime labor agreement.*

11 (d) *DEFINITION OF MARITIME LABOR AGREEMENT.*—
12 *In this section, the term “maritime labor agreement” has*
13 *the meaning given such term in section 40102 of title 46,*
14 *United States Code.*

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