

115TH CONGRESS
1ST SESSION

S. 1119

To authorize appropriations for fiscal years 2018 and 2019 for the Federal Maritime Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2017

Mrs. FISCHER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize appropriations for fiscal years 2018 and 2019 for the Federal Maritime Commission, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Federal Maritime Commission Authorization Act of
6 2017”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Authorization of appropriations.
- Sec. 3. Record of meetings and votes.

Sec. 4. Public participation.

Sec. 5. Preventing deceptive practices.

Sec. 6. Reports filed with the Commission.

Sec. 7. International ocean shipping supply chain information portal demonstration project.

Sec. 8. Transparency.

Sec. 9. Treatment of tug operators.

Sec. 10. Prohibitions and penalties.

1 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—Section 308 of title 46, United
3 States Code, is amended by striking “\$24,700,000 for
4 each of fiscal years 2016 and 2017” and inserting
5 “\$28,490,000 for each of fiscal years 2018 and 2019”.

6 (b) INTERNATIONAL OCEAN SHIPPING SUPPLY
7 CHAIN INFORMATION PORTAL DEMONSTRATION
8 PROJECT.—There is authorized to be appropriated to
9 carry out section 7 of this Act \$1,000,000 for each of fis-
10 cal years 2018 and 2019.

11 **SEC. 3. RECORD OF MEETINGS AND VOTES.**

12 (a) IN GENERAL.—Section 303 of title 46, United
13 States Code, is amended to read as follows:

14 **“§ 303. Meetings**

15 “(a) IN GENERAL.—The Federal Maritime Commis-
16 sion shall be deemed to be an agency for purposes of sec-
17 tion 552b of title 5.

18 “(b) RECORD.—The Commission, through its sec-
19 retary, shall keep a record of its meetings and the votes
20 taken on any action, order, contract, or financial trans-
21 action of the Commission.

1 “(c) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

2 “(1) IN GENERAL.—Notwithstanding section
3 552b of title 5, a majority of the Commissioners
4 may hold a meeting that is not open to public obser-
5 vation to discuss official agency business if—

6 “(A) no formal or informal vote or other
7 official agency action is taken at the meeting;

8 “(B) each individual present at the meet-
9 ing is a Commissioner or an employee of the
10 Commission; and

11 “(C) the General Counsel of the Commis-
12 sion is present at the meeting.

13 “(2) DISCLOSURE OF NONPUBLIC COLLABO-
14 RATIVE DISCUSSIONS.—Except as provided under
15 paragraph (3), not later than 2 business days after
16 the conclusion of a meeting under paragraph (1),
17 the Commission shall make available to the public,
18 in a place easily accessible to the public—

19 “(A) a list of the individuals present at the
20 meeting; and

21 “(B) a summary of the matters discussed
22 at the meeting, except for any matters the
23 Commission properly determines may be with-
24 held from the public under section 552b(c) of
25 title 5.

1 “(3) EXCEPTION.—If the Commission properly
 2 determines matters may be withheld from the public
 3 under section 555b(c) of title 5, the Commission
 4 shall provide a summary with as much general infor-
 5 mation as possible on those matters withheld from
 6 the public.

7 “(4) ONGOING PROCEEDINGS.—If a meeting
 8 under paragraph (1) directly relates to an ongoing
 9 proceeding before the Commission, the Commission
 10 shall make the disclosure under paragraph (2) on
 11 the date of the final Commission decision.

12 “(5) PRESERVATION OF OPEN MEETINGS RE-
 13 QUIREMENTS FOR AGENCY ACTION.—Nothing in this
 14 subsection may be construed to limit the applica-
 15 bility of section 552b of title 5 with respect to a
 16 meeting of the Commissioners other than that de-
 17 scribed in this subsection.

18 “(6) STATUTORY CONSTRUCTION.—Nothing in
 19 this subsection may be construed—

20 “(A) to limit the applicability of section
 21 552b of title 5 with respect to any information
 22 which is proposed to be withheld from the pub-
 23 lic under paragraph (2)(B) of this subsection;
 24 or

1 “(B) to authorize the Commission to with-
 2 hold from any individual any record that is ac-
 3 cessible to that individual under section 552a of
 4 title 5.”.

5 (b) TABLE OF CONTENTS.—The table of contents of
 6 chapter 3 of title 46, United States Code, is amended by
 7 amending the item relating to section 303 to read as fol-
 8 lows:

“303. Meetings.”.

9 **SEC. 4. PUBLIC PARTICIPATION.**

10 (a) NOTICE OF FILING.—Section 40304(a) of title
 11 46, United States Code, is amended to read as follows:

12 “(a) NOTICE OF FILING.—Not later than 7 days
 13 after the date an agreement is filed, the Federal Maritime
 14 Commission shall—

15 “(1) transmit a notice of the filing to the Fed-
 16 eral Register for publication; and

17 “(2) request interested persons to submit rel-
 18 evant information and documents.”.

19 (b) REQUEST FOR INFORMATION AND DOCU-
 20 MENTS.—Section 40304(d) of title 46, United States
 21 Code, is amended by striking “section” and inserting
 22 “part”.

23 (c) SAVING CLAUSE.—Nothing in this section, or the
 24 amendments made by this section, may be construed—

1 (1) to prevent the Federal Maritime Commis-
 2 sion from requesting from a person, at any time, any
 3 additional information or documents the Commission
 4 considers necessary to carry out chapter 403 of title
 5 46, United States Code;

6 (2) to prescribe a specific deadline for the sub-
 7 mission of relevant information and documents in re-
 8 sponse to a request under section 40304(a)(2) of
 9 title 46, United States Code; or

10 (3) to limit the authority of the Commission to
 11 request information under section 40304(d) of title
 12 46, United States Code.

13 **SEC. 5. PREVENTING DECEPTIVE PRACTICES.**

14 (a) **LICENSE REQUIREMENT.**—Section 40901(a) of
 15 title 46, United States Code, is amended, in the first sen-
 16 tence, by striking “act” and inserting “act, including hold-
 17 ing itself out by solicitation, advertisement, or otherwise,”.

18 (b) **FINANCIAL RESPONSIBILITY.**—Section 40902(a)
 19 of title 46, United States Code, is amended, in the lan-
 20 guage preceding paragraph (1), by striking “act” and in-
 21 serting “act, including holding itself out by solicitation,
 22 advertisement, or otherwise,”.

23 **SEC. 6. REPORTS FILED WITH THE COMMISSION.**

24 Section 40104(a) of title 46, United States Code, is
 25 amended to read as follows:

1 “(a) REPORTS.—

2 “(1) IN GENERAL.—The Federal Maritime
3 Commission may require a common carrier or ma-
4 rine terminal operator, or an officer, receiver, trust-
5 ee, lessee, agent, or employee of the common carrier
6 or marine terminal operator to file with the Commis-
7 sion a periodical or special report, an account,
8 record, rate, or charge, or a memorandum of facts
9 and transactions related to the business of the com-
10 mon carrier or marine terminal operator, as applica-
11 ble.

12 “(2) REQUIREMENTS.—The report, account,
13 record, rate, charge, or memorandum shall—

14 “(A) be made under oath if the Commis-
15 sion requires; and

16 “(B) be filed in the form and within the
17 time prescribed by the Commission.”.

18 **SEC. 7. INTERNATIONAL OCEAN SHIPPING SUPPLY CHAIN**
19 **INFORMATION PORTAL DEMONSTRATION**
20 **PROJECT.**

21 (a) IN GENERAL.—The Federal Maritime Commis-
22 sion may enter into a cooperative agreement (as that term
23 is used in section 6305 of title 31, United States Code)
24 with one or more private, academic, or other non-Federal
25 persons to develop and demonstrate the feasibility of an

1 Internet-based national seaport information portal for the
2 collection and dissemination of information to increase
3 overall supply chain visibility, reliability, and resilience
4 with respect to international ocean shipping.

5 (b) INFORMATION.—Information referred to in sub-
6 section (a) includes the information needs of key elements
7 of the import-shipping and export-shipping supply chains,
8 including those regarding container availability, chassis
9 availability, trucking operations, and other ocean carrier,
10 seaport, and marine terminal operations.

11 **SEC. 8. TRANSPARENCY.**

12 (a) IN GENERAL.—Beginning not later than 60 days
13 after the date of the enactment of this Act, the Federal
14 Maritime Commission shall submit to the Committee on
15 Commerce, Science, and Transportation of the Senate and
16 the Committee on Transportation and Infrastructure of
17 the House of Representatives biannual reports that de-
18 scribe the Commission’s progress toward addressing the
19 issues raised in each unfinished regulatory proceeding, re-
20 gardless of whether the proceeding is subject to a statu-
21 tory or regulatory deadline.

22 (b) FORMAT OF REPORTS.—Each report under sub-
23 section (a) shall, among other things, clearly identify for
24 each unfinished regulatory proceeding—

25 (1) the popular title;

- 1 (2) the current stage of the proceeding;
- 2 (3) an abstract of the proceeding;
- 3 (4) what prompted the action in question;
- 4 (5) any applicable statutory, regulatory, or judi-
- 5 cial deadline;
- 6 (6) the associated docket number;
- 7 (7) the date the rulemaking was initiated;
- 8 (8) a date for the next action; and
- 9 (9) if a date for next action identified in the
- 10 previous report is not met, the reason for the delay.

11 **SEC. 9. TREATMENT OF TUG OPERATORS.**

12 (a) EXCEPTIONS.—Section 40307(b)(1) of title 46,
 13 United States Code, is amended by inserting “tug opera-
 14 tors,” after “motor carriers,”.

15 (b) CONCERTED ACTION.—Section 41105(4) of title
 16 46, United States Code, is amended—

17 (1) by striking “non-ocean carrier” and insert-
 18 ing “tug operator, non-ocean carrier,”; and

19 (2) by inserting “tug operators or” after
 20 “States by those”.

21 **SEC. 10. PROHIBITIONS AND PENALTIES.**

22 Section 41104(11) of title 46, United States Code,
 23 is amended by striking “a tariff as required by section
 24 40501 of this title and”.

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