

116TH CONGRESS
1ST SESSION

H. R. 5498

To amend title 46, United States Code, to allow transportation of merchandise in noncontiguous trade on foreign-flag vessels, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 19, 2019

Mr. CASE introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 46, United States Code, to allow transportation of merchandise in noncontiguous trade on foreign-flag vessels, 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 “Noncontiguous Ship-

5 ping Relief Act of 2019”.

6 **SEC. 2. TRANSPORTATION OF CERTAIN MERCHANDISE.**

7 (a) IN GENERAL.—Section 55102 of title 46, United

8 States Code, is amended by redesignating subsection (c)

1 as subsection (d) and by inserting after subsection (b) the
2 following:

3 “(c) NONCONTIGUOUS TRADE EXEMPTION.—

4 “(1) IN GENERAL.—Subsection (b) shall not
5 apply with respect to transportation in noncontig-
6 uous trade of merchandise on a foreign qualified
7 freight vessel for which the Secretary of Transpor-
8 tation has issued a certificate of documentation
9 under chapter 121.

10 “(2) DEFINITIONS.—For purposes of paragraph
11 (1):

12 “(A) FOREIGN QUALIFIED FREIGHT VES-
13 SEL.—The term ‘foreign qualified freight vessel’
14 means a freight vessel (as that term is defined
15 in section 2101) of not less than 1,000 gross
16 tons that—

17 “(i) was not built in the United States
18 (or if rebuilt, not rebuilt in the United
19 States);

20 “(ii) is registered in a foreign country;
21 and

22 “(iii) employs United States citizens
23 to the extent required of vessels registered
24 under section 12102.

1 “(B) NONCONTIGUOUS TRADE.—The term
2 ‘noncontiguous trade’ has the meaning given to
3 such term in section 53501.”.

4 (b) COASTWISE ENDORSEMENTS.—Section
5 12112(a)(2)(B) of title 46, United States Code, is amend-
6 ed—

7 (1) in clause (ii), by striking “or”;

8 (2) in clause (iii), by striking “and” and insert-
9 ing “or”; and

10 (3) by adding at the end the following:

11 “(iv) is a foreign qualified freight vessel
12 (as defined in section 55102(c)) used for trans-
13 portation referred to in section 55102(c) for
14 which the Secretary of Transportation has
15 issued a certificate of documentation.”.

16 (c) FOREIGN TRANSFER.—Section 56101(a)(2) of
17 title 46, United States Code, is amended—

18 (1) by striking “Paragraph (1)(A)” and insert-
19 ing:

20 “(A) Paragraph (1)(A)”;

21 (2) by adding at the end the following:

22 “(B) Paragraph (1) does not apply with
23 respect to a foreign qualified freight vessel (as
24 defined in section 55102(c)) for which the Sec-
25 retary has issued a certificate of documentation

1 after the date of enactment of this Act and that
2 is used solely for transportation referred to in
3 section 55102(c) may be placed under foreign
4 registry without the approval of the Secretary
5 at any time after that vessel is issued a certifi-
6 cate of documentation. At such time as that
7 vessel is placed under foreign registry, the Sec-
8 retary shall revoke the certificate of documenta-
9 tion issued by the Secretary.”.

10 **SEC. 3. CITIZENSHIP AND TRANSFER PROVISIONS.**

11 (a) CITIZENSHIP OF CORPORATIONS, PARTNERSHIPS,
12 AND ASSOCIATIONS.—Section 50501 of title 46, United
13 States Code, is amended by adding at the end the fol-
14 lowing:

15 “(e)(1) EXCEPTIONS.—The following provisions of
16 this section shall not apply to a foreign qualified freight
17 vessel used for transportation referred to in section
18 55102(c)(2)(B):

19 “(A) Paragraphs (2) and (3) of subsection
20 (b).

21 “(B) Subsection (c).

22 “(2) In paragraph (1) the term ‘foreign quali-
23 fied freight vessel’ has the meaning given that term
24 in section 55102(c).”.

1 (b) APPROVAL OF TRANSFER OF REGISTRY OR OP-
2 ERATION UNDER AUTHORITY OF A FOREIGN COUNTRY OR
3 FOR SCRAPPING IN A FOREIGN COUNTRY; PENALTIES.—

4 Section 56101 of title 46, United States Code, is amended
5 by adding at the end the following:

6 “(f) TRANSFER OF FOREIGN VESSELS.—To promote
7 the transfer of foreign vessels to be documented under
8 chapter 121 of this title for use for transportation referred
9 to in section 55102(c)(2)(B) of this title, the Secretary
10 may grant approval under subsection (a) with respect to
11 such a vessel before the date the vessel is documented.

12 “(g) FOREIGN QUALIFIED FREIGHT VESSEL.—In
13 subsections (f) and (g), the term ‘foreign qualified freight
14 vessel’ has the meaning given that term in section
15 55102(c) of this title.”.

16 **SEC. 4. LABOR PROVISIONS.**

17 (a) LIABILITY FOR INJURY OR DEATH OF MASTER
18 OR CREW MEMBER.—Section 30104 of title 46, United
19 States Code, is amended by adding at the end the fol-
20 lowing: “In an action brought under this section against
21 a defendant employer that does not reside or maintain an
22 office in the United States (including any territory or pos-
23 session of the United States) and that engages in any en-
24 terprise that makes use of one or more ports in the United
25 States (as defined in section 2101 of this title) jurisdiction

1 shall be under the district court most proximate to the
2 place of the occurrence of the personal injury or death that
3 is the subject of the action.”.

4 (b) ELECTION TO UNDER PARTICIPATE LONGSHORE
5 AND HARBOR WORKERS’ COMPENSATION ACT.—Section
6 30104 of title 46, United States Code, as amended by sub-
7 section (a), is amended—

8 (1) by striking “A seaman” and inserting “(a)
9 IN GENERAL.— A seaman”; and

10 (2) by adding at the end the following:

11 “(b)(1) PARTICIPATION IN AN AUTHORIZED COM-
12 PENSATION PLAN.—The employer of a master or member
13 of the crew of a vessel may participate in an authorized
14 compensation plan under the Longshore and Harbor
15 Workers’ Compensation Act (33 U.S.C. 901 et seq.). An
16 employer that participates in such a plan is subject to such
17 Act.

18 “(2) If an employer participates in an authorized
19 compensation plan under such Act under paragraph (1)—

20 “(A) a master or crew member employed by
21 that employer shall be considered to be an employee
22 for the purposes of that Act; and

23 “(B) the liability of that employer under that
24 Act to the master or crew member, or to any person
25 otherwise entitled to recover damages from the em-

1 ployer based on the injury, disability, or death of the
2 master or crew member, shall be exclusive and in
3 lieu of all other liability.”.

4 (c) MINIMUM REQUIREMENTS.—All vessels, whether
5 documented in the United States or not, operating in the
6 coastwise trade of the United States shall be subject to
7 minimum international labor standards for seafarers
8 under international agreements in force for the United
9 States, as determined by the Secretary of Transportation
10 on the advice of the Secretaries of Labor and Defense.

11 **SEC. 5. REGULATIONS REGARDING VESSELS.**

12 (a) APPLICABLE MINIMUM REQUIREMENTS.—Except
13 as provided in subsection (b), the minimum requirements
14 for vessels engaging in the transportation of cargo or mer-
15 chandise in the United States coastwise trade shall be the
16 recognized international standards in force for the United
17 States (as determined by the Secretary of the department
18 in which the Coast Guard is operating, in consultation
19 with any other official of the Federal Government that the
20 Secretary determines to be appropriate).

21 (b) CONSISTENCY IN APPLICATION OF STAND-
22 ARDS.—In any case in which any minimum requirement
23 for vessels referred to in subsection (a) establishes a lower
24 standard than a minimum that is applicable to vessels that
25 are documented in a foreign country and that are admit-

1 ted to engage in the transportation of cargo and merchan-
2 dise in the United States coastwise trade, the standard
3 applicable to such vessels that are documented in a foreign
4 country shall be the standard to be applied to United
5 States documented vessels.

6 **SEC. 6. ENVIRONMENTAL STANDARDS.**

7 All vessels, whether documented under the laws of the
8 United States or not, engaging in the United States coast-
9 wise trade shall comply with all applicable United States
10 and international environmental standards in force for the
11 United States.

12 **SEC. 7. REQUIREMENTS FOR CERTAIN NONCITIZENS IR-**
13 **REGULARLY ENGAGING IN DOMESTIC COAST-**
14 **WISE TRADE.**

15 (a) IN GENERAL.—Each person or entity that is not
16 a citizen of the United States, as defined in section 104
17 of title 46, United States Code, that owns or operates ves-
18 sels that irregularly engage in the United States domestic
19 coastwise trade shall—

20 (1) name an agent upon whom process may be
21 served;

22 (2) abide by all applicable laws of the United
23 States, including applicable environmental and tax
24 laws; and

1 (3) post evidence of documentation and en-
2 dorsements aboard such vessel indicating the owner
3 or owners of such vessel, including any person con-
4 trolling vessels and the number of port calls and
5 coastwise trips made during that calendar year.

6 (b) PERSONS TREATED AS SINGLE EMPLOYER.—For
7 purposes of paragraph (3), all persons treated as a single
8 employer under subsection (a) or (b) of section 52 of the
9 Internal Revenue Code of 1986 shall be treated as 1 per-
10 son.

○