

117TH CONGRESS
2D SESSION

S. 3816

To amend title 46, United States Code, to establish a United States Marine Highway Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, MARCH 7), 2022

Mr. WICKER (for himself and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend title 46, United States Code, to establish a United States Marine Highway Program, 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 “Marine Highway Pro-
5 motion Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Our Nation’s waterways are an integral
9 part of the transportation network of the United
10 States.

1 (2) Using the Nation’s coastal, inland, and
 2 other waterways can support commercial transpor-
 3 tation, and alleviates surface transportation conges-
 4 tion and burdensome road and bridge repair costs.

5 (3) Marine highways are serviced by docu-
 6 mented United States Flag vessels and manned by
 7 United States citizens, providing added resources for
 8 national security and to aid in times of crisis.

9 (4) According to the United States Army Corps
 10 of Engineers, inland navigation is a key element of
 11 economics development and is essential in maintain-
 12 ing economic competitiveness and national security.

13 **SEC. 3. UNITED STATES MARINE HIGHWAY PROGRAM.**

14 (a) IN GENERAL.—Section 55601 of title 46, United
 15 States Code, is amended to read as follows:

16 **“§ 55601. United States marine highway program**

17 “(a) PROGRAM.—

18 “(1) ESTABLISHMENT.—The Maritime Admin-
 19 istrator shall establish a marine highway program to
 20 be known as the ‘United States marine highway pro-
 21 gram’. Under such program, the Maritime Adminis-
 22 trator shall—

23 “(A) designate marine highway routes as
 24 extensions of the surface transportation system
 25 under subsection (b); and

1 “(B) subject to the availability of appro-
 2 priations, make grants and enter into contracts
 3 and cooperative agreements under subsection
 4 (c).

5 “(2) PROGRAM ACTIVITIES.—In carrying out
 6 the marine highway program established under para-
 7 graph (1), the Maritime Administrator may—

8 “(A) coordinate with ports, State depart-
 9 ments of transportation, localities, other public
 10 agencies, and the private sector on the develop-
 11 ment of landside facilities and infrastructure to
 12 support marine highway transportation;

13 “(B) develop performance measures for
 14 such marine highway program;

15 “(C) collect and disseminate data for the
 16 designation and delineation of marine highway
 17 routes under subsection (b); and

18 “(D) conduct research on solutions to im-
 19 pediments to marine highway services eligible
 20 for assistance under subsection (c)(1).

21 “(b) DESIGNATION OF MARINE HIGHWAY
 22 ROUTES.—

23 “(1) AUTHORITY.—The Maritime Adminis-
 24 trator may designate or modify a marine highway

1 route as an extension of the surface transportation
2 system if—

3 “(A) such a designation or modification is
4 requested by the Governor of a State or terri-
5 tory; and

6 “(B) the Maritime Administrator deter-
7 mines such marine highway route satisfies at
8 least one covered function under subsection (d).

9 “(2) DETERMINATION.—Not later than 180
10 days after the date on which the Maritime Adminis-
11 trator receives a request for designation or modifica-
12 tion of a marine highway route under paragraph (1),
13 the Maritime Administrator shall make a determina-
14 tion of whether to make the requested designation or
15 modification.

16 “(3) NOTIFICATION.—Not later than 14 days
17 after the date on which the Maritime Administrator
18 makes the determination whether to make the re-
19 quested designation or modification, the Maritime
20 Administrator shall send the requester a notification
21 of the determination.

22 “(4) MAP.—Not later than 120 days after the
23 date of enactment of the United States Marine
24 Highway Promotion Act, and thereafter each time a
25 marine highway route is designated or modified, the

1 Administrator shall make publicly available a map
2 showing the location of marine highway routes, in-
3 cluding such routes along the coasts, in the inland
4 waterways, and at sea.

5 “(c) ASSISTANCE FOR MARINE HIGHWAY SERV-
6 ICES.—

7 “(1) IN GENERAL.—The Maritime Adminis-
8 trator may make grants to, or enter into contracts
9 or cooperative agreements with an applicant to im-
10 plement a marine highway service or component of
11 a marine highway service, if the Administrator de-
12 termines the service—

13 “(A) satisfies at least one covered function
14 under subsection (d);

15 “(B) uses vessels documented under chap-
16 ter 121;

17 “(C) develops, expands, or promotes—

18 “(i) marine highway transportation
19 services;

20 “(ii) shipper utilization of marine
21 highway transportation; or

22 “(iii) infrastructure for which assist-
23 ance is not available under section 5307(h)
24 of title 49; or

1 “(D) implements strategies developed
2 under section 55603.

3 “(2) APPLICATION.—To be eligible to receive a
4 grant or enter into a contract or cooperative agree-
5 ment under this subsection to implement a marine
6 highway service, an applicant shall—

7 “(A) submit an application in such form
8 and manner, at such time, and containing such
9 information as the Maritime Administrator may
10 require, including a comprehensive description
11 of—

12 “(i) the regions to be served by the
13 marine highway service;

14 “(ii) the marine highway route that
15 the service will use, which may include con-
16 nection to existing or planned transpor-
17 tation infrastructure and intermodal facili-
18 ties, key navigational factors such as avail-
19 able draft, channel width, bridge air draft,
20 or lock clearance, and any foreseeable im-
21 pacts on navigation or commerce, and a
22 map of the proposed route;

23 “(iii) the marine highway service sup-
24 porters, which may include business affili-
25 ations, private sector stakeholders, State

1 departments of transportation, metropoli-
2 tan planning organizations, municipalities,
3 or other governmental entities (including
4 Tribal governments), as applicable;

5 “(iv) the estimated volume of pas-
6 sengers or cargo using the service, and
7 predicted changes in such volume during
8 the 5-year period following the date of the
9 application;

10 “(v) the need for the service;

11 “(vi) the definition of the success goal
12 for the service, such as volumes of cargo or
13 passengers moved, or contribution to envi-
14 ronmental mitigation, safety, reduced vehi-
15 cle miles traveled, or reduced maintenance
16 and repair costs;

17 “(vii) the methodology for imple-
18 menting the service, including a description
19 of the proposed operational framework of
20 the service including the origin, destina-
21 tion, and any intermediate stops on the
22 route, transit times, vessel types, and serv-
23 ice frequency; and

24 “(viii) any existing programs or ar-
25 rangements that can be used to supple-

1 ment or leverage assistance under the pro-
2 gram; and

3 “(B) demonstrate to the satisfaction of the
4 Maritime Administrator that—

5 “(i) the marine highway service is fi-
6 nancially viable;

7 “(ii) the funds or other assistance
8 provided under this subsection will be
9 spent or used efficiently and effectively;
10 and

11 “(iii) a market exists for the services
12 of the proposed marine highway service, as
13 evidenced by contracts or written state-
14 ments of intent from potential customers.

15 “(3) TIMING OF GRANT NOTICE.—The Mari-
16 time Administrator shall post a Notice of Funding
17 Opportunity regarding grants, contracts, and cooper-
18 ative agreements under this subsection not more
19 than 90 days after the date of enactment of the ap-
20 propriations Act for the fiscal year concerned.

21 “(4) GRANT APPLICATION FEEDBACK.—Fol-
22 lowing the award of grants for a particular fiscal
23 year, the Maritime Administrator may provide feed-
24 back to applicants to help applicants improve future

1 applications if the feedback is requested by that ap-
2 plicant.

3 “(5) TIMING OF GRANTS.—The Maritime Ad-
4 ministrator shall award grants, contracts, and coop-
5 erative agreements under this subsection not later
6 than 270 days after the date of the enactment of the
7 appropriations Act for the fiscal year concerned.

8 “(6) NON-FEDERAL SHARE.—

9 “(A) IN GENERAL.—An applicant shall
10 provide not less than 20 percent of the costs
11 from non-Federal sources, except as provided in
12 subparagraph (B).

13 “(B) RURAL AREAS.—The Maritime Ad-
14 ministrator may increase the Federal share of
15 service costs above 80 percent for a service lo-
16 cated in a rural area.

17 “(C) PREFERENCE.—In awarding grants,
18 or entering in contracts or cooperative agree-
19 ments under this subsection, the Maritime Ad-
20 ministrator shall give a preference to marine
21 highway services that present the most finan-
22 cially viable transportation services and require
23 the lowest percentage Federal share of the
24 costs.

1 “(7) REUSE OF UNEXPENDED GRANT FUNDS.—
2 Notwithstanding paragraph (5), amounts awarded
3 under this subsection that are not expended by the
4 recipient for 3 fiscal years after the award is made
5 shall be returned to the Maritime Administrator and
6 remain available to make grants and enter into con-
7 tracts and cooperative agreements under this sub-
8 section.

9 “(8) ADMINISTRATIVE COSTS.—Not more than
10 3 percent of the total amount made available to
11 carry out this subsection for any fiscal year may be
12 used for the necessary administrative costs associ-
13 ated with grants, contracts, and cooperative agree-
14 ments made under this subsection.

15 “(9) PROCEDURAL SAFEGUARDS.—The Mari-
16 time Administrator, in consultation with the Office
17 of the Inspector General, shall issue guidelines to es-
18 tablish appropriate accounting, reporting, and review
19 procedures to ensure that—

20 “(A) amounts made available to carry out
21 this subsection are used for the purposes for
22 which they were made available;

23 “(B) recipients of funds under this sub-
24 section (including through grants, contracts, or

1 cooperative agreements) have properly ac-
 2 counted for all expenditures of such funds; and

3 “(C) any such funds that are not obligated
 4 or expended for the purposes for which they
 5 were made available are returned to the Admin-
 6 istrator.

7 “(10) CONDITIONS ON PROVISION OF FUNDS.—
 8 The Maritime Administrator may not award funds
 9 an applicant under this subsection unless the Mari-
 10 time Administrator determines that—

11 “(A) sufficient funding is available to meet
 12 the non-Federal share requirement of para-
 13 graph (6);

14 “(B) the marine highway service for which
 15 such funds are provided will be completed with-
 16 out unreasonable delay; and

17 “(C) the recipient of such funds has au-
 18 thority to implement the proposed marine high-
 19 way service.

20 “(d) COVERED FUNCTIONS.—A covered function
 21 under this subsection is one of the following:

22 “(1) Promotion of marine highway transpor-
 23 tation.

24 “(2) Provision of a coordinated and capable al-
 25 ternative to landside transportation.

1 “(3) Mitigation or relief of landside congestion.

2 “(e) PROHIBITED USES.—Funds awarded under this
3 section may not be used to—

4 “(1) raise sunken vessels, construct buildings or
5 other physical facilities, or acquire land unless such
6 activities are necessary for the establishment or op-
7 eration of a marine highway service implemented
8 using grant funds provided, or pursuant to a con-
9 tract or cooperative entered into under, subsection
10 (c); or

11 “(2) distribute resources outside the United
12 States.

13 “(f) GEOGRAPHIC DISTRIBUTION.—In making
14 grants, contracts, and cooperative agreements under this
15 section the Maritime Administrator shall take such meas-
16 ures so as to ensure an equitable geographic distribution
17 of funds.

18 “(g) AUDITS AND EXAMINATIONS.—All recipients
19 (including recipients of grants, contracts, and cooperative
20 agreements) under this section shall maintain such
21 records as the Maritime Administrator may require and
22 make such records available for review and audit by the
23 Maritime Administrator.”.

1 **SEC. 4. MULTISTATE, STATE, AND REGIONAL TRANSPOR-**
 2 **TATION PLANNING.**

3 Chapter 556 of title 46, United States Code, is
 4 amended by inserting after section 55602 the following:

5 **“SEC. 55603. MULTISTATE, STATE, AND REGIONAL TRANS-**
 6 **PORTATION PLANNING.**

7 “(a) IN GENERAL.—The Maritime Administrator, in
 8 consultation with the heads of other appropriate Federal
 9 departments and agencies, State and local governments,
 10 and appropriate private sector entities, may develop strat-
 11 egies to encourage the use of marine highway transpor-
 12 tation for the transportation of passengers and cargo.

13 “(b) STRATEGIES.—If the Maritime Administrator
 14 develops the strategies described in subsection (a), the
 15 Maritime Administrator may—

16 “(1) assess the extent to which States and local
 17 governments include marine highway transportation
 18 and other marine transportation solutions in trans-
 19 portation planning;

20 “(2) encourage State departments of transpor-
 21 tation to develop strategies, where appropriate, to
 22 incorporate marine highway transportation, ferries,
 23 and other marine transportation solutions for re-
 24 gional and interstate transport of freight and pas-
 25 sengers in transportation planning; and

1 “(3) encourage groups of States and multistate
2 transportation entities to determine how marine
3 highway transportation can address congestion, bot-
4 tlenecks, and other interstate transportation chal-
5 lenges.”.

6 **SEC. 5. RESEARCH ON MARINE HIGHWAY TRANSPOR-**
7 **TATION.**

8 Section 55604 of title 46, United States Code, is
9 amended—

10 (1) by redesignating paragraphs (1) through
11 (3) as paragraphs (4) through (6), respectively; and
12 (2) by inserting before paragraph (4), as redes-
13 igned by paragraph (1), the following new para-
14 graphs:

15 “(1) the economic importance of marine high-
16 way transportation to the United States economy;

17 “(2) the importance of marine highway trans-
18 portation to rural areas;

19 “(3) pairs of United States regions and terri-
20 tories, and within-region areas, that do not yet have
21 marine highway services underway, but that could
22 benefit from the establishment of marine highway
23 services;”.

1 **SEC. 6. DEFINITIONS.**

2 Section 55605 of title 46, United States Code, is
3 amended to read as follows: “

4 **“§ 55605. Definitions**

5 “In this chapter—

6 “(1) the term ‘marine highway transportation’
7 means the carriage by a documented vessel of
8 cargo—

9 “(A) that is—

10 “(i) contained in intermodal cargo
11 containers and loaded by crane on the ves-
12 sel;

13 “(ii) loaded on the vessel by means of
14 wheeled technology;

15 “(iii) shipped in discrete units or
16 packages that are handled individually,
17 palletized, or unitized for purposes of
18 transportation; or

19 “(iv) freight vehicles carried aboard
20 commuter ferry boats; and

21 “(B) that is—

22 “(i) loaded at a port in the United
23 States and unloaded either at another port
24 in the United States or at a port in Can-
25 ada or Mexico; or

1 “(ii) loaded at a port in Canada or
 2 Mexico and unloaded at a port in the
 3 United States;

4 “(2) the term ‘marine highway service’ means a
 5 planned or contemplated new service, or expansion
 6 of an existing service, on a marine highway route,
 7 that seeks to provide new modal choices to shippers,
 8 offer more desirable services, reduce transportation
 9 costs, or provide public benefits; and

10 “(3) the term ‘marine highway route’ means a
 11 route on commercially navigable coastal, inland, or
 12 intracoastal waters of the United States, including
 13 connections between the United States and contig-
 14 uous territories, that is designated under section
 15 55601(b).”.

16 **SEC. 7. CLERICAL AMENDMENTS.**

17 The analysis for chapter 556 of title 46, United
 18 States Code, is amended—

19 (1) by striking the item relating to section
 20 55601 and inserting the following:

“55601. United States marine highway program.”;

21 (2) by inserting after the item relating to sec-
 22 tion 55602 the following:

“55603. Multistate, State, and regional transportation planning.”; and

- 1 (3) by striking the item relating to section
- 2 55605 and inserting the following:

“55605. Definitions.”.

