

majority in scheduling hearings and hearing the issue, bringing these matters forth.

I understand the genuine concerns of our colleague from upstate New York, the gentleman from Michigan, and others who have concerns about snow removal policy and the application of the disaster assistance rules.

□ 1145

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. BOEHLERT], chairman of the Subcommittee on Water Resources and Environment.

Mr. BOEHLERT. Mr. Speaker, I wish to pay particular credit to the gentleman from New York [Mr. QUINN], my colleague, for his leadership on this issue.

When Mother Nature rears her ugly head, whether it is an earthquake on the West Coast or a storm off the coast of Florida or a heavy winter snowstorm, it can create havoc.

Mr. Speaker, we are not trying to micromanage for FEMA, an Agency for which I have the highest regard. I think James Lee Witt is doing a magnificent job. But we are asking the Agency to come up with a coherent policy so that we can give guidance to our constituents and our communities in the event of disaster.

I thank the gentleman from New York [Mr. QUINN] for his leadership in bringing this issue forward. I commend the chairman and the ranking member for participating in this exercise and providing the leadership necessary to move this legislation forward.

Mr. BORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BE-REUTER). The question is on the motion offered by the gentleman from Pennsylvania [Mr. SHUSTER] that the House suspend the rules and pass the bill, H.R. 3348, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INTERMODAL SAFE CONTAINER TRANSPORTATION ACT AMENDMENTS OF 1996

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4040) to amend title 49, United States Code, relating to intermodal safe container transportation.

The Clerk read as follows:

H.R. 4040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Safe Container Transportation Act Amendments of 1996".

SEC. 2. REFERENCES TO TITLE 49.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. DEFINITIONS.

Section 5901 is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) except as otherwise provided in this chapter, the definitions in sections 10102 and 13102 of this title apply.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) 'gross cargo weight' means the weight of the cargo, packaging materials (including ice), pallets, and dunnage."

SEC. 4. NOTIFICATIONS AND CERTIFICATIONS.

Section 5902 is amended to read as follows:

"§ 5902. Notifications and certifications

"(a) PRIOR NOTIFICATION.—

"(1) IN GENERAL.—If the first carrier to which any loaded container or trailer having a projected gross cargo weight of more than 29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a notification of the projected gross cargo weight and a reasonable description of the contents of the container or trailer before the tendering of the container or trailer. The notification may be transmitted electronically or by telephone.

"(2) APPLICABILITY.—This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.

"(b) CERTIFICATION.—

"(1) IN GENERAL.—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds, to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

"(2) CONTENTS OF CERTIFICATION.—The certification required by paragraph (1) shall include the following:

"(A) The actual gross cargo weight.

"(B) A reasonable description of the contents of the container or trailer.

"(C) The identity of the certifying party.

"(D) The container or trailer number.

"(E) The date of certification or transfer of data to another document, as provided for in paragraph (3).

"(3) TRANSFER OF CERTIFICATION DATA.—A carrier who receives a certification may transfer the information contained in the certification to another document or to electronic format for forwarding to a subsequent carrier. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identity of the party who performed the transfer.

"(4) SHIPPING DOCUMENTS.—For purposes of this chapter, a shipping document, prepared by the person tendering a container or trailer to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

"(5) USE OF 'FREIGHT ALL KINDS' TERM.—The term 'Freight All Kinds' or 'FAK' may not be used for the purpose of certification under this subsection after December 31, 2000, as a description required under paragraph (2)(B) for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the

total weight of the contents of the trailer or container. This subsection does not prohibit the use of such term after December 31, 2000, for rating purposes.

"(6) SEPARATE DOCUMENT MARKING.—If a separate document is used to meet the requirements of paragraph (1), it shall be conspicuously marked 'INTERMODAL CERTIFICATION'.

"(7) APPLICABILITY.—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.

"(c) FORWARDING CERTIFICATIONS TO SUBSEQUENT CARRIERS.—

"(1) GENERAL RULE.—A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouse, or terminal operator shall forward the certification provided under subsection (b) to a subsequent carrier transporting the container or trailer in intermodal transportation before or when the container or trailer is tendered to the subsequent carrier.

"(2) PRESUMPTION OF NO CERTIFICATION REQUIRED.—If no certification is received by the subsequent carrier before or when the container or trailer is being tendered to it, the subsequent carrier may presume that no certification is required.

"(3) LIMITATION ON CONSTRUCTION OF FORWARDING.—The act of forwarding the certification may not be construed as a verification or affirmation of the accuracy or completeness of the information in the certification.

"(4) LIABILITY.—

"(A) IN GENERAL.—If a person inaccurately transfers the information on the certification or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest charge incurred as a result of the inaccurate transfer of information or failure to forward the certification.

"(B) LIEN.—A subsequent carrier incurring a bond, fine, penalty, or cost (including storage), or interest charge as a result of the inaccurate transfer of the information or the failure to forward the certification shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest charge and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.

"(5) NOTICE TO LEASED OPERATORS.—If a motor carrier knows that the gross cargo weight of an intermodal container or trailer subject to the certification requirements of subsection (b) would result in a violation of applicable State gross vehicle weight laws—

"(A) a motor carrier must inform the operator of a vehicle which is leased by the vehicle operator to a motor carrier which transports an intermodal container or trailer of the gross cargo weight of the container or trailer as certified to the motor carrier pursuant to subsection (b);

"(B) the notice must be provided to the operator prior to the operator being tendered the container or trailer;

"(C) the notice required by this subsection must be in writing, but may be transmitted electronically;

"(D) the motor carrier shall bear the burden of proof to establish that it tendered the required notice to the operator; and

"(E) if the operator of a leased vehicle transporting a container or trailer subject to this chapter should receive a fine because of a violation of a State's gross vehicle weight laws or regulations and lessee motor carrier cannot establish that it tendered to the operator the notice required by this section, the

operator shall be entitled to reimbursement from the motor carrier of the amount of any fine and court costs resulting from the failure of the motor carrier to tender the notice to the operator.

"(d) LIABILITY TO OWNER OR BENEFICIAL OWNER.—If—

"(1) a person inaccurately transfers information on a certification required by subsection (b)(1) or fails to forward a certification to the subsequent carrier;

"(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest charge; and

"(3) a subsequent carrier exercises its rights to a lien under section 5905,

then that person is liable to the owner or beneficial owner or to any other person paying the amount of the lien to the subsequent carrier for the amount of the lien and all costs related to the imposition of the lien, including court costs and legal fees incurred in connection with imposition of the lien.

"(e) NONAPPLICABILITY.—

"(1) CONSOLIDATED SHIPMENTS.—The notification and certification requirements of subsections (a) and (b) do not apply to any intermodal container or trailer containing consolidated shipments loaded by a motor carrier if that motor carrier—

"(A) performs the highway portion of the intermodal movement; or

"(B) assumes the responsibility for any weight-related fine or penalty incurred by any other motor carrier that performs a part of the highway transportation.

"(2) INTERMODAL TRANSPORTATION OF LOADED CONTAINERS.—

"(A) IN GENERAL.—Subsections (a) and (b) and section 5903(c) do not apply to a carrier when the carrier is transferring a loaded container or trailer to another carrier during intermodal transportation, unless the carrier is also the person tendering the loaded container or trailer to the first carrier.

"(B) SPECIAL RULE.—A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouse, or terminal operator is deemed not to be a person tendering a loaded container or trailer to a first carrier under this section, unless the carrier, agent, broker, customs broker, freight forwarder, warehouse, or terminal operator assumes legal responsibility for loading property into the container or trailer."

SEC. 5. PROHIBITIONS.

(a) PROVIDING ERRONEOUS INFORMATION.—Section 5903(a) is amended by inserting "to whom section 5902(b) applies," after "A person".

(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—Section 5903(b) is amended to read as follows:

"(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—

"(1) PRESUMPTION.—If no certification is received by a motor carrier before or when a loaded intermodal container or trailer is tendered to it, the motor carrier may presume that the gross cargo weight of the container or trailer is less than 29,001 pounds.

"(2) COPY OF CERTIFICATION NOT REQUIRED TO ACCOMPANY CONTAINER OR TRAILER.—Notwithstanding any other provision of this chapter, if a certification is required by section 5902(b), a copy of the certification is not required to accompany the intermodal container or trailer."

(c) UNLAWFUL COERCION.—Section 5903(c)(1) is amended by striking "10,000 pounds (including packing materials and pallets)" and inserting "29,000 pounds".

SEC. 6. LIENS.

(a) GENERAL RULE.—Section 5905(a) is amended to read as follows:

"(a) GENERAL RULE.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required, because of a violation of a State's gross vehicle weight laws or regulations, to post a bond or pay a fine, penalty, cost (including storage), or interest charge resulting from—

"(1) erroneous information provided by the certifying party in the certification to the first carrier in violation of section 5903(a),

"(2) the failure of the party required to provide the certification to the first carrier to provide it,

"(3) the failure of a person required under section 5902(c) to forward the certification to forward it, or

"(4) an error occurring in the transfer of information on the certification to another document under section 5902(b)(3) or 5902(c), then the person posting the bond, or paying any fine, penalty, cost (including storage), or interest charge has a lien against the contents equal to the amount of the bond, fine, penalty, cost (including storage), or interest charge incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents or from the person responsible for making or forwarding the certification or transferring the information from the certification to another document."

(b) LIMITATIONS.—Section 5905(b)(1) is amended—

(1) by inserting after "the first carrier" the following: "or the owner or beneficial owner of the contents"; and

(2) by striking "cost, or interest," and inserting "cost (including storage), or interest charge. The lien shall remain in effect until the lien holder has received payment for all costs and expenses as described in subsection (a)."

SEC. 7. PERISHABLE AGRICULTURAL COMMODITIES.

Section 5906 is amended by striking "Sections 5904(a)(2) and 5905 of this title do" and insert "Section 5905 does".

SEC. 8. EFFECTIVE DATE.

Section 5907 is amended to read as follows:

"§ 5907. Effective date

"This chapter, as amended by the Intermodal Safe Container Transportation Act Amendments of 1996, is effective on the date of the enactment of such Act. The provisions of this chapter shall be implemented 180 days after such date of enactment."

SEC. 9. RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Chapter 59 is amended by adding at the end the following new section:

"§ 5908. Relationship to other laws

"Nothing in this chapter affects—

"(1) chapter 51 (relating to transportation of hazardous material) or the regulations issued under that chapter; or

"(2) any State highway weight or size law or regulation applicable to tractor-trailer combinations."

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by striking the item relating to section 5907 and inserting the following:

"5907. Effective date.

"5908. Relationship to other laws."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from West Virginia [Mr. RAHALL] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill makes several critical changes to the 1992 Intermodal Safe Container Act to permit the act to be effectively implemented by ocean shipping lines, railroads, and trucking companies.

This legislation will ensure that the intermodal container transportation does not cause violations of our highways' weight laws and, also, that commerce is not unduly burdened. It is critical that this bill pass swiftly, because the regulations implementing the 1992 bill will go into effect January 1.

This legislation is completely bipartisan. It is strongly supported by a comprehensive intermodal coalition of ocean shipping lines, railroads, trucking companies and shippers, as well as the Department of Transportation.

Mr. Speaker, I want to thank the gentleman from Wisconsin [Mr. PETRI], the gentlewoman from New York [Ms. MOLINARI], and the gentleman from North Carolina [Mr. COBLE] for their cooperation in swiftly drafting this intermodal bill.

I also want to thank my Democratic colleagues, the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from West Virginia [Mr. RAHALL], the gentleman from West Virginia [Mr. WISE], and the gentleman from Tennessee [Mr. CLEMENT] for their cooperation and support in agreeing to quickly move this legislation.

Mr. Speaker, I strongly urge that my colleagues support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman from Pennsylvania [Mr. SHUSTER], the full committee chairman, and the gentleman from Minnesota [Mr. OBERSTAR], the ranking minority member, for the very effective and capable manner in which they have worked together with me and the gentleman from Wisconsin [Mr. PETRI], the chairman of the subcommittee, in bringing forward this legislation. There has been a good give-and-take on both sides of the aisle.

I also commend the staff that have worked so very long and hard on bringing this bill to us today.

Mr. Speaker, as the full committee chairman has stated, while this bill basically consists of technical amendments, its enactment will fulfill congressional and DOT intent in addressing the issue of liability as it relates to intermodal shipments of potentially overweight freight containers.

Basically, we have a situation where a trucker picks up a container of, say, shoes at the Port of Long Beach that was packed in Taiwan and is headed for a J.C. Penny Store. On its way along our Nation's highways to the store, the trucker is found to be overweight.

Under current law, the trucker pays the fine even though the trucking company had no involvement in the packing of the container and was led to believe it would not cause the truck to be overweight.

In 1992 we passed legislation to address this situation.

However, due to shortcomings in this law, DOT has yet to make effective a final rule implementing it. Hence, the need for this legislation.

The pending bill would facilitate the implementation of the 1992 act by, first allowing the shipper certification of the weight of intermodal containers to be incorporated into shipping papers or transmitted in electronic form.

If the certification is not made, or is incorrect, the shipper is liable for any violations which may occur of our highway weight laws.

And second, this bill sets the weight threshold for container certification at 29,001 pounds. It is my understanding from both DOT and industry that this is a more appropriate threshold than what is in current law.

With that stated, I urge the adoption of the pending measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I also want to commend the gentleman from Pennsylvania [Mr. SHUSTER], our full committee chairman, and the gentleman from Wisconsin [Mr. PETRI], chairman of the Subcommittee on Surface Transportation, for the work that they have done to bring this legislation to this point.

Mr. Speaker, I also commend the gentleman from West Virginia [Mr. RAHALL], on our side, who has devoted a great deal of time and energy to resolving a very puzzling and complex problem; one that on the surface would seem to be amenable to ready resolution.

In 1992, when we passed the Intermodal Safe Container Transportation Act, we thought that the legislation had corrected the problems. A broad consensus of transportation interests got together to support this legislation to encourage compliance with U.S. highway weight limits by ensuring that the party that first tendered cargo for intermodal shipment would be responsible for verifying the weight of that intermodal container and for providing appropriate documentation.

Unfortunately, DOT could not write regulations to make the law work. Try as they might, there was a combination of problems, conflicting interests, difficulty in writing appropriate language, to prevent the issuance of those regulations. So when I say it took a great deal of effort on the part of the leadership of the subcommittee to work this out, it certainly did. It was a matter that the Department itself, with all of their staffing, could not resolve.

So the parties went back to the drawing board, they reached agreement on a measure that the gentleman from West Virginia [Mr. RAHALL] has, I think, quite adequately described.

In 1989, the Federal Highway Administration estimated that some 1 million

containers moving through U.S. ports over a 1-year period would likely cause highway weight violations based on most commonly used truck configurations. Some 40 percent of the 20-foot containers would potentially cause overweight trucks; 17 percent of 40-foot containers were more than 10,000 pounds over the cargo weight.

Truckers should not have to bear that responsibility. Goods should not have to be impeded in their movement to marketplace, and bridges should not have to be encumbered and highways should not have to accept that additional pounding due to our ocean shipping interests.

So the legislation we have today will provide workable tools to allow carriers to comply with highway weight limitations and improve enforcement by ensuring that the one responsible, the party that loads the container, is the one liable if a subsequent violation occurs.

Mr. Speaker, that is what we bring to the House today. I want to thank the gentleman from West Virginia for the splendid effort that he has invested in bringing this issue to resolution, and again to our full committee chairmen for resolving the matter.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I rise in support of H.R. 4040, the Intermodal Safe Container Act Amendments of 1996.

I want to thank my colleagues BUD SHUSTER, SUSAN MOLINARI, and HOWARD COBLE, and my Democratic colleagues JAMES OBERSTAR, NICK RAHALL, BOB WISE, and BOB CLEMENT, for their cooperation in swiftly moving this legislation.

This legislation corrects several problems in the 1992 Intermodal Safe Container Act which sets standards for the intermodal transfer of freight containers between ocean shipping lines, railroads, and motor carriers so that no trucks hauling containers are overweight. The 1992 act has been delayed by DOT only until January 1, 1997.

A coalition of ocean carriers, railroads, motor carriers, and freight shippers recommended changes to the 1992 act, since these problems could not be corrected by DOT. DOT supports these changes. These recommendations are the basis of this legislation.

This bill encourages compliance with highway weight rules. It clearly establishes that shippers must provide a certification that identifies the weight and contents of the container. If this certification is not made or is incorrect, the shippers are automatically liable for any resultant highway weight violations.

The Act speeds shipments by permitting all carriers to use electronic certifications and reduces paperwork by permitting a bill of lading to be used as the certification.

The weight threshold for a container certification has been set at 29,001 pounds. This reduces the burden of complying with the act, but still ensures that all containers likely to cause overweight violations will be identified.

Finally, it provides a phase-in for carriers to adapt to the new requirements.

I urge my colleagues to support the bill.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. SHUSTER] that the House suspend the rules and pass the bill, H.R. 4040.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SMITHSONIAN INSTITUTION NATIONAL AIR AND SPACE MUSEUM DULLES CENTER

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1995) to authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes.

The Clerk read as follows:

S. 1995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSTRUCTION OF MUSEUM CENTER.

The Board of Regents of the Smithsonian Institution is authorized to construct the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport.

SEC. 2. LIMITATION ON USE OF FUNDS.

No appropriated funds may be used to pay any expense of the construction authorized by section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Ohio [Mr. TRAFICANT] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation authorizes the construction of the Smithsonian National Air and Space Museum extension at Dulles Airport. To date, \$8 million had been authorized in appropriations for planning and design of this project. The construction of this facility will allow airplane, spacecraft, and aviation-related equipment currently stored outdoors to be safely housed in structures which meet museum standards, as well as create a restoration facility capable of handling the largest artifacts in the collection.

Mr. Speaker, these include such aircraft as the B-29 *Enola Gay*, the space shuttle *Enterprise*, and the SR-71 Blackbird. A request for \$5 million is included in the fiscally year 1997 budget to continue funding through the design development phase and begin the construction documents phase.

The final \$2 million authorized will be requested in fiscal year 1998 to complete the construction documents for the building.

Mr. Speaker, it is important to emphasize that no Federal funds will be made available for the construction