

Cantwell_Substitute (modified again)

AMENDMENT NO. _____

Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.

S. _____

To amend title 46, United States Code, with respect to prohibited acts by ocean common carriers or marine terminal operators, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Ms. CANTWELL (for herself, Mr. WICKER, Ms. KLOBUCHAR, and Mr. THUNE)

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ocean Shipping Reform Act of 2022”.
5

6 **SEC. 2. PURPOSES.**

7 Section 40101 of title 46, United States Code, is amended—
8

9 (1) by striking paragraph (2) and inserting the following:
10

1 “(2) ensure an efficient, competitive, and eco-
2 nomical transportation system in the ocean com-
3 merce of the United States;”;

4 (2) in paragraph (3), by inserting “and sup-
5 porting commerce” before “needs”; and

6 (3) by striking paragraph (4) and inserting the
7 following:

8 “(4) promote the growth and development of
9 United States exports through a competitive and ef-
10 ficient system for the carriage of goods by water in
11 the foreign commerce of the United States, and by
12 placing a greater reliance on the marketplace.”.

13 **SEC. 3. SERVICE CONTRACTS.**

14 Section 40502(c) of title 46, United States Code, is
15 amended—

16 (1) in paragraph (7) by striking “; and” and in-
17 serting a semicolon;

18 (2) in paragraph (8) by striking the period and
19 inserting “; and”; and

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

21 “(9) any other essential terms that the Federal
22 Maritime Commission determines necessary or ap-
23 propriate through a rulemaking process.”.

1 **SEC. 4. SHIPPING EXCHANGE REGISTRY.**

2 (a) IN GENERAL.—Chapter 405 of title 46, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 40504. Shipping exchange registry**

6 “(a) IN GENERAL.—No person may operate a ship-
7 ping exchange involving ocean transportation in the for-
8 eign commerce of the United States unless the shipping
9 exchange is registered as a national shipping exchange
10 under the terms and conditions provided in this section
11 and the regulations issued pursuant to this section.

12 “(b) REGISTRATION.—A person shall register a ship-
13 ping exchange by filing with the Federal Maritime Com-
14 mission (referred to in this section as the ‘Commission’)
15 an application for registration in such form as the Com-
16 mission, by rule, may prescribe, containing the rules of
17 the exchange and such other information and documents
18 as the Commission, by rule, may prescribe as necessary
19 or appropriate.

20 “(c) EXEMPTION.—The Commission may exempt,
21 conditionally or unconditionally, a shipping exchange from
22 registration under this section if the Commission finds
23 that the shipping exchange is subject to comparable, com-
24 prehensive supervision and regulation by the appropriate
25 governmental authorities in a foreign country where the
26 shipping exchange is headquartered.

1 “(d) REGULATIONS.—Not later than 3 years after
2 the date of enactment of the Ocean Shipping Reform Act
3 of 2022, the Commission shall issue regulations pursuant
4 to subsection (a), which shall set standards necessary to
5 carry out subtitle IV of this title for registered national
6 shipping exchanges, including the minimum requirements
7 for service contracts established under section 40502 of
8 this title.

9 “(e) DEFINITION OF SHIPPING EXCHANGE.—In this
10 section, the term ‘shipping exchange’ means a platform
11 (digital, over-the-counter, or otherwise) that connects
12 shippers with common carriers for the purpose of entering
13 into underlying agreements or contracts for the transport
14 of cargo, by vessel or other modes of transportation.”.

15 (b) APPLICABILITY.—The registration requirement
16 under section 40504 of title 46, United States Code (as
17 added by subsection (a)), shall take effect on the date on
18 which the Federal Maritime Commission states the rule
19 is effective in the regulations issued under such section.

20 (c) CLERICAL AMENDMENT.—The analysis for chap-
21 ter 405 of title 46, United States Code, is amended by
22 adding at the end the following:

“40504. Shipping exchange registry.”.

23 **SEC. 5. PROHIBITION ON RETALIATION.**

24 Section 41102 of title 46, United States Code, is
25 amended by adding at the end the following:

1 “(d) RETALIATION AND OTHER DISCRIMINATORY
2 ACTIONS.—A common carrier, marine terminal operator,
3 or ocean transportation intermediary, acting alone or in
4 conjunction with any other person, directly or indirectly,
5 may not—

6 “(1) retaliate against a shipper, an agent of a
7 shipper, an ocean transportation intermediary, or a
8 motor carrier by refusing, or threatening to refuse,
9 an otherwise-available cargo space accommodation;
10 or

11 “(2) resort to any other unfair or unjustly dis-
12 criminatory action for—

13 “(A) the reason that a shipper, an agent of
14 a shipper, an ocean transportation inter-
15 mediary, or motor carrier has—

16 “(i) patronized another carrier; or

17 “(ii) filed a complaint against the
18 common carrier, marine terminal operator,
19 or ocean transportation intermediary; or

20 “(B) any other reason.”.

21 **SEC. 6. PUBLIC DISCLOSURE.**

22 Section 46106 of title 46, United States Code, is
23 amended by adding at the end the following:

1 “(d) PUBLIC DISCLOSURES.—The Federal Maritime
2 Commission shall publish, and annually update, on the
3 website of the Commission—

4 “(1) all findings by the Commission of false de-
5 tention and demurrage invoice information by com-
6 mon carriers under section 41104(a)(15) of this
7 title; and

8 “(2) all penalties imposed or assessed against
9 common carriers, as applicable, under sections
10 41107, 41108, and 41109, listed by each common
11 carrier.”.

12 **SEC. 7. COMMON CARRIERS.**

13 (a) IN GENERAL.—Section 41104 of title 46, United
14 States Code, is amended—

15 (1) in subsection (a)—

16 (A) in the matter preceding paragraph (1),
17 by striking “may not” and inserting “shall
18 not”;

19 (B) by striking paragraph (3) and insert-
20 ing the following:

21 “(3) unreasonably refuse cargo space accom-
22 modations when available, or resort to other unfair
23 or unjustly discriminatory methods;”;

24 (C) in paragraph (5), by striking“ in the
25 matter of rates or charges” and inserting

1 “against any commodity group or type of ship-
2 ment or in the matter of rates or charges”;

3 (D) in paragraph (10), by adding “, in-
4 cluding with respect to vessel space accommoda-
5 tions” after “negotiate”;

6 (E) in paragraph (12) by striking “; or”
7 and inserting a semicolon;

8 (F) in paragraph (13) by striking the pe-
9 riod and inserting a semicolon; and

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

11 “(14) assess any party for a charge that is in-
12 consistent or does not comply with all applicable pro-
13 visions and regulations, including subsection (c) of
14 section 41102 or part 545 of title 46, Code of Fed-
15 eral Regulations (or successor regulations);

16 “(15) invoice any party for demurrage or deten-
17 tion charges unless the invoice includes information
18 as described in subsection (d) showing that such
19 charges comply with—

20 “(A) all provisions of part 545 of title 46,
21 Code of Federal Regulations (or successor regu-
22 lations); and

23 “(B) applicable provisions and regulations,
24 including the principles of the final rule pub-
25 lished on May 18, 2020, entitled ‘Interpretive

1 Rule on Demurrage and Detention Under the
2 Shipping Act' (or successor rule); or

3 “(16) for service pursuant to a service contract,
4 give any undue or unreasonable preference or advan-
5 tage or impose any undue or unreasonable prejudice
6 or disadvantage against any commodity group or
7 type of shipment.”; and

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

9 “(d) DETENTION AND DEMURRAGE INVOICE INFOR-
10 MATION.—

11 “(1) INACCURATE INVOICE.—If the Commission
12 determines, after an investigation in response to a
13 submission under section 41310, that an invoice
14 under subsection (a)(15) was inaccurate or false,
15 penalties or refunds under section 41107 shall be
16 applied.

17 “(2) CONTENTS OF INVOICE.—An invoice under
18 subsection (a)(15), unless otherwise determined by
19 subsequent Commission rulemaking, shall include ac-
20 curate information on each of the following, as well
21 as minimum information as determined by the Com-
22 mission:

23 “(A) Date that container is made avail-
24 able.

25 “(B) The port of discharge.

1 “(C) The container number or numbers.

2 “(D) For exported shipments, the earliest
3 return date.

4 “(E) The allowed free time in days.

5 “(F) The start date of free time.

6 “(G) The end date of free time.

7 “(H) The applicable detention or demur-
8 rage rule on which the daily rate is based.

9 “(I) The applicable rate or rates per the
10 applicable rule.

11 “(J) The total amount due.

12 “(K) The email, telephone number, or
13 other appropriate contact information for ques-
14 tions or requests for mitigation of fees.

15 “(L) A statement that the charges are con-
16 sistent with any of Federal Maritime Commis-
17 sion rules with respect to detention and demur-
18 rage.

19 “(M) A statement that the common car-
20 rier’s performance did not cause or contribute
21 to the underlying invoiced charges.

22 “(e) SAFE HARBOR.—If a non-vessel operating com-
23 mon carrier passes through to the relevant shipper an in-
24 voice made by the ocean common carrier, and the Commis-
25 sion finds that the non-vessel operating common carrier

1 is not otherwise responsible for the charge, then the ocean
2 common carrier shall be subject to refunds or penalties
3 pursuant to subsection (d)(1).

4 “(f) ELIMINATION OF CHARGE OBLIGATION.—Fail-
5 ure to include the information required under subsection
6 (d) on an invoice with any demurrage or detention charge
7 shall eliminate any obligation of the charged party to pay
8 the applicable charge.”.

9 (b) RULEMAKING ON DEMURRAGE OR DETENTION.—

10 (1) IN GENERAL.—Not later than 1 year after
11 the date of enactment of this Act, the Federal Mari-
12 time Commission shall issue a final rule further de-
13 fining prohibited practices by common carriers, ma-
14 rine terminal operators, shippers, and ocean trans-
15 portation intermediaries under section 41102(c) of
16 title 46, United States Code, regarding the assess-
17 ment of demurrage or detention charges.

18 (2) CONTENTS.—The rule under paragraph (1)
19 shall seek to further clarify reasonable rules and
20 practices related to the assessment of detention and
21 demurrage charges to address the issues identified
22 in the final rule published on May 18, 2020, entitled
23 “Interpretive Rule on Demurrage and Detention
24 Under the Shipping Act” (or successor rule), includ-
25 ing a determination of which parties may be appro-

1 priately billed for any demurrage, detention, or other
2 similar per container charges.

3 (c) RULEMAKING ON UNFAIR OR UNJUSTLY DIS-
4 CRIMINATORY METHODS.—Not later than 1 year after the
5 date of enactment of this Act, the Federal Maritime Com-
6 mission shall issue a final rule defining unfair or unjustly
7 discriminatory methods under section 41104(a)(3) of title
8 46, as amended by this section.

9 (d) RULEMAKING ON UNREASONABLE REFUSAL TO
10 DEAL OR NEGOTIATE WITH RESPECT TO VESSEL SPACE
11 ACCOMMODATIONS.—Not later than 30 days after the
12 date of enactment of this Act, the Federal Maritime Com-
13 mission, in consultation with the Commandant of the
14 United States Coast Guard, shall initiate a rulemaking de-
15 fining unreasonable refusal to deal or negotiate with re-
16 spect to vessel space under section 41104(a)(10) of title
17 46, as amended by this section. The Federal Maritime
18 Commission shall issue a final rule not later than 6
19 months after the date of enactment of this Act.

20 **SEC. 8. ASSESSMENT OF PENALTIES OR REFUNDS.**

21 (a) IN GENERAL.—Title 46, United States Code, is
22 amended—

23 (1) in section 41107—

24 (A) in the section heading, by inserting

25 “**or refunds**” after “**penalties**”;

1 (B) in subsection (a), by inserting “or, in
2 addition to or in lieu of a civil penalty, is liable
3 for the refund of a charge” after “civil pen-
4 alty”; and

5 (C) in subsection (b), by inserting “or, in
6 addition to or in lieu of a civil penalty, the re-
7 fund of a charge,” after “civil penalty”; and
8 (2) section 41109 is amended—

9 (A) by striking subsections (a) and (b) and
10 inserting the following:

11 “(a) GENERAL AUTHORITY.—Until a matter is re-
12 ferred to the Attorney General, the Federal Maritime
13 Commission may—

14 “(1) after notice and opportunity for a hearing,
15 in accordance with this part—

16 “(A) assess a civil penalty; or

17 “(B) in addition to, or in lieu of, assessing
18 a civil penalty under subparagraph (A), order a
19 refund of money (including additional amounts
20 in accordance with section 41305(c)), subject to
21 subsection (b)(2); and

22 “(2) compromise, modify, or remit, with or
23 without conditions, a civil penalty or refund imposed
24 under paragraph (1).

25 “(b) DETERMINATION OF AMOUNT.—

1 “(1) FACTORS FOR CONSIDERATION.—In deter-
2 mining the amount of a civil penalty assessed or re-
3 fund of money ordered pursuant to subsection (a),
4 the Federal Maritime Commission shall take into
5 consideration—

6 “(A) the nature, circumstances, extent,
7 and gravity of the violation committed;

8 “(B) with respect to the violator—

9 “(i) the degree of culpability;

10 “(ii) any history of prior offenses;

11 “(iii) the ability to pay; and

12 “(iv) such other matters as justice
13 may require; and

14 “(C) the amount of any refund of money
15 ordered pursuant to subsection (a)(1)(B).

16 “(2) COMMENSURATE REDUCTION IN CIVIL
17 PENALTY.—

18 “(A) IN GENERAL.—In any case in which
19 the Federal Maritime Commission orders a re-
20 fund of money pursuant to subsection (a)(1)(B)
21 in addition to assessing a civil penalty pursuant
22 to subsection (a)(1)(A), the amount of the civil
23 penalty assessed shall be decreased by any addi-
24 tional amounts included in the refund of money

1 in excess of the actual injury (as defined in sec-
2 tion 41305(a)).

3 “(B) TREATMENT OF REFUNDS.—A re-
4 fund of money ordered pursuant to subsection
5 (a)(1)(B) shall be—

6 “(i) considered to be compensation
7 paid to the applicable claimant; and

8 “(ii) deducted from the total amount
9 of damages awarded to that claimant in a
10 civil action against the violator relating to
11 the applicable violation.”;

12 (B) in subsection (e), by striking “may not
13 be imposed” and inserting “or refund of money
14 under subparagraph (A) or (B), respectively, of
15 subsection (a)(1) may not be imposed”;

16 (C) in subsection (e), by inserting “or
17 order a refund of money” after “penalty”;

18 (D) in subsection (f), by inserting “, or
19 that is ordered to refund money,” after “as-
20 sessed”; and

21 (E) in subsection (g), in the first sentence,
22 by inserting “or a refund required under this
23 section” after “penalty”.

1 **SEC. 9. DATA COLLECTION.**

2 (a) IN GENERAL.—Chapter 411 of title 46, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“SEC. 41110. DATA COLLECTION.**

6 “The Federal Maritime Commission shall publish on
7 its website a calendar quarterly report that describes the
8 total import and export tonnage and the total loaded and
9 empty 20-foot equivalent units per vessel (making port in
10 the United States, including any territory or possession
11 of the United States) operated by each ocean common car-
12 rier covered under this chapter. Ocean common carriers
13 under this chapter shall provide to the Commission all nec-
14 essary information, as determined by the Commission, for
15 completion of this report.”.

16 (b) CLERICAL AMENDMENT.—The analysis for chap-
17 ter 411 of title 46, United States Code, is amended by
18 adding at the end the following:

“41110. Data collection.”.

19 **SEC. 10. CHARGE COMPLAINTS.**

20 (a) IN GENERAL.—Chapter 413 of title 46, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

23 **“§ 41310. Charge complaints**

24 “(a) IN GENERAL.—A person may submit to the
25 Federal Maritime Commission, and the Commission shall

1 accept, information concerning complaints about charges
2 assessed by an ocean common carrier. The information
3 submitted to the Commission may include the bill of lading
4 numbers, certifications, or any other relevant information.

5 “(b) INVESTIGATION.—Upon receipt of a submission
6 under subsection (a), with respect to a charge assessed
7 by a common carrier, the Commission shall promptly in-
8 vestigate the charge with regard to compliance with sec-
9 tion 41104(a) and section 41102. The common carrier
10 shall—

11 “(1) be provided an opportunity to submit addi-
12 tional information related to the charge in question;
13 and

14 “(2) bear the burden of establishing the reason-
15 ableness of any demurrage or detention charges
16 which are the subject of any complaint proceeding
17 challenging a common carrier demurrage or deten-
18 tion charge pursuant to section 545.5 of title 46,
19 Code of Federal regulations (or successor regula-
20 tions).

21 “(c) REFUND.—Upon receipt of submissions under
22 subsection (a), if the Commission determines that a
23 charge does not comply with section 41104(a) or 41102,
24 the Commission shall promptly order the refund of
25 charges paid.

1 “(d) PENALTIES.—In the event of a finding that a
2 charge does not comply with section 41104(a) or 41102
3 after submission under subsection (a), a civil penalty
4 under section 41107 shall be applied to the common car-
5 rier making such charge.

6 “(e) CONSIDERATIONS.—If the common carrier as-
7 sessing the charge is acting in the capacity of a non-vessel-
8 operating common carrier, the Commission shall, while
9 conducting an investigation under subsection (b), con-
10 sider—

11 “(1) whether the non-vessel-operating common
12 carrier is responsible for the noncompliant assess-
13 ment of the charge, in whole or in part; and

14 “(2) whether another party is ultimately re-
15 sponsible in whole or in part and potentially subject
16 to action under subsections (c) and (d).”.

17 (b) CLERICAL AMENDMENT.—The analysis for chap-
18 ter 413 of title 46, United States Code, is amended by
19 adding at the end the following:

“41310. Charge complaints.”.

20 **SEC. 11. INVESTIGATIONS.**

21 (a) AMENDMENTS.—Section 41302 of title 46,
22 United States Code, is amended—

23 (1) in subsection (a), in the first sentence, by
24 striking “or agreement” and inserting “agreement,
25 fee, or charge”; and

1 (2) in subsection (b)—

2 (A) in the subsection heading, by striking
3 “**Agreement**” and inserting “**Agreement,**
4 **fee, or charge**”; and

5 (B) by inserting “, fee, or charge” after
6 “agreement”.

7 (b) REPORT.—The Federal Maritime Commission
8 shall publish on a publicly available website of the Com-
9 mission a report containing the results of the investigation
10 entitled “Fact Finding No. 29, International Ocean
11 Transportation Supply Chain Engagement”.

12 **SEC. 12. AWARD OF ADDITIONAL AMOUNTS.**

13 Section 41305(c) of title 46, United States Code is
14 amended by striking “41102(b)” and inserting “sub-
15 section (b) or (c) of section 41102”.

16 **SEC. 13. ENFORCEMENT OF REPARATION ORDERS.**

17 Section 41309 of title 46, United States Code, is
18 amended—

19 (1) in subsection (a), by striking “reparation,
20 the person to whom the award was made” and in-
21 serting “a refund of money or reparation, the person
22 to which the refund or reparation was awarded”;
23 and

24 (2) in subsection (b), in the first sentence—

1 (A) by striking “made an award of repara-
2 tion” and inserting “ordered a refund of money
3 or any other award of reparation”; and

4 (B) by inserting “(except for the Commis-
5 sion or any component of the Commission)”
6 after “parties in the order”.

7 **SEC. 14. ANNUAL REPORT TO CONGRESS.**

8 Section 46106(b) of title 46, United States Code, is
9 amended—

10 (1) in paragraph (5), by striking “and” at the
11 end;

12 (2) in paragraph (6), by striking the period and
13 inserting “; and”; and

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

15 “(7) an identification of any otherwise con-
16 cerning practices by ocean common carriers, particu-
17 larly such carriers that are controlled carriers, that
18 are—

19 “(A) State-owned or State-controlled enter-
20 prises; or

21 “(B) owned or controlled by, a subsidiary
22 of, or otherwise related legally or financially
23 (other than a minority relationship or invest-
24 ment) to a corporation based in a country—

1 “(i) identified as a nonmarket econ-
2 omy country (as defined in section 771(18)
3 of the Tariff Act of 1930 (19 U.S.C.
4 1677(18))) as of the date of enactment of
5 this paragraph;

6 “(ii) identified by the United States
7 Trade Representative in the most recent
8 report required by section 182 of the
9 Trade Act of 1974 (19 U.S.C. 2242) as a
10 priority foreign country under subsection
11 (a)(2) of that section; or

12 “(iii) subject to monitoring by the
13 United States Trade Representative under
14 section 306 of the Trade Act of 1974 (19
15 U.S.C. 2416).”.

16 **SEC. 15. TECHNICAL AMENDMENTS.**

17 (1) Section 41108(a) of title 46, United States
18 Code, is amended by striking “section 41104(1), (2),
19 or (7)” and inserting “paragraphs (1), (2), or (7) of
20 section 41104(a)”.

21 (2) Section 41109(c) of title 46, United States
22 Code, is amended by striking “section 41102(a) or
23 41104(1) or (2) of this title” and inserting “sub-
24 section (a) or (d) of section 41102 or paragraphs (1)
25 or (2) of section 41104(a)”.

1 (3) Section 41305 of title 46, United States
2 Code, as amended by section 12 of this Act, is fur-
3 ther amended—

4 (A) in subsection (c), by striking
5 “41104(3) or (6), or 41105(1) or (3) of this
6 title” and inserting “paragraph (3) or (6) of
7 section 41104(a), or paragraph (1) or (3) of
8 section 41105”; and

9 (B) in subsection (d), by striking “section
10 41104(4)(A) or (B) of this title” and inserting
11 “subparagraph (A) or (B) of section
12 41104(a)(4)”.

13 **SEC. 16. DWELL TIME STATISTICS.**

14 (a) DEFINITIONS.—In this section:

15 (1) DIRECTOR.—The term “Director” means
16 the Director of the Bureau of Transportation Statis-
17 tics.

18 (2) MARINE CONTAINER.—The term “marine
19 container” means an intermodal container with a
20 length of—

21 (A) not less than 20 feet; and

22 (B) not greater than 45 feet.

23 (3) OUT OF SERVICE PERCENTAGE.—The term
24 “*out of service* percentage” means the proportion of

1 the chassis fleet for any defined geographical area
2 that is out of service at any one time.

3 (4) STREET DWELL TIME.—The term “street
4 dwell time”, with respect to a piece of equipment,
5 means the quantity of time during which the piece
6 of equipment is in use outside of the terminal.

7 (b) AUTHORITY TO COLLECT DATA.—

8 (1) IN GENERAL.—Each port, marine terminal
9 operator, and chassis owner or provider with a fleet
10 of over 50 chassis that supply chassis for a fee shall
11 submit to the Director such data as the Director de-
12 termines to be necessary for the implementation of
13 this section, subject to subchapter III of chapter 35
14 of title 44, United States Code.

15 (2) APPROVAL BY OMB.—Subject to the avail-
16 ability of appropriations, not later than 60 days
17 after the date of enactment of this Act, the Director
18 of the Office of Management and Budget shall ap-
19 prove an information collection for purposes of this
20 section.

21 (c) PUBLICATION.—Subject to the availability of ap-
22 propriations, not later than 240 days after the date of en-
23 actment of this Act, and not less frequently than monthly
24 thereafter, the Director shall publish statistics relating to
25 the dwell time of equipment used in intermodal transpor-

1 tation at the top 25 intermodal freight facilities, includ-
2 ing—

3 (1) total street dwell time, from all causes, of
4 marine containers and marine container chassis; and

5 (2) the average out of service percentage, which
6 shall not be identifiable with any particular port,
7 marine terminal operators, or chassis provider.

8 (d) FACTORS.—Subject to the availability of appro-
9 priations, to the maximum extent practicable, the Director
10 shall publish the statistics described in subsection (c) on
11 a local, regional, and national basis.

12 (e) SUNSET.—The authority under this section shall
13 expire December 31, 2026.

14 **SEC. 17. FEDERAL MARITIME COMMISSION ACTIVITIES.**

15 (a) PUBLIC SUBMISSIONS TO COMMISSION.—The
16 Commission shall—

17 (1) establish on the public website of the Com-
18 mission a webpage that allows for the submission of
19 comments, complaints, concerns, reports of non-
20 compliance, requests for investigation, and requests
21 for alternative dispute resolution; and

22 (2) direct each submission under the link estab-
23 lished under paragraph (1) to the appropriate com-
24 ponent office of the Commission.

1 (b) AUTHORIZATION OF OFFICE OF CONSUMER AF-
2 FAIRS AND DISPUTE RESOLUTION SERVICES.—The Com-
3 mission shall maintain an Office of Consumer Affairs and
4 Dispute Resolution Services to provide nonadjudicative
5 ombuds assistance, mediation, facilitation, and arbitration
6 to resolve challenges and disputes involving cargo ship-
7 ments, household good shipments, and cruises subject to
8 the jurisdiction of the Commission.

9 (c) ENHANCING CAPACITY FOR INVESTIGATIONS.—

10 (1) IN GENERAL.—Pursuant to section 41302
11 of title 46, United States Code, not later than 18
12 months after the date of enactment of this Act, the
13 Chairperson of the Commission shall staff within the
14 Bureau of Enforcement, the Bureau of Certification
15 and Licensing, the Office of the Managing Director,
16 the Office of Consumer Affairs and Dispute Resolu-
17 tion Services, and the Bureau of Trade Analysis not
18 fewer than 7 total positions to assist in investiga-
19 tions and oversight, in addition to the positions with-
20 in the Bureau of Enforcement, the Bureau of Cer-
21 tification and Licensing, the Office of the Managing
22 Director, the Office of Consumer Affairs and Dis-
23 pute Resolution Services, and the Bureau of Trade
24 Analysis on that date of enactment.

1 (2) DUTIES.—The additional staff appointed
2 under paragraph (1) shall provide support—

3 (A) to Area Representatives of the Bureau
4 of Enforcement;

5 (B) to attorneys of the Bureau of Enforce-
6 ment in enforcing the laws and regulations sub-
7 ject to the jurisdiction of the Commission;

8 (C) for the alternative dispute resolution
9 services of the Commission; or

10 (D) for the review of agreements and ac-
11 tivities subject to the authority of the Commis-
12 sion.

13 **SEC. 18. TEMPORARY EMERGENCY AUTHORITY.**

14 (a) DEFINITIONS.—In this section:

15 (1) COMMON CARRIER.—The term “common
16 carrier” has the meaning given the term in section
17 40102 of title 46, United States Code.

18 (2) MOTOR CARRIER.—The term “motor car-
19 rier” has the meaning given the term in section
20 13102 of title 49, United States Code.

21 (3) RAIL CARRIER.—The term “rail carrier”
22 has the meaning given the term in section 10102 of
23 title 49, United States Code.

1 (4) SHIPPER.—The term “shipper” has the
2 meaning given the term in section 40102 of title 46,
3 United States Code.

4 (b) PUBLIC INPUT ON INFORMATION SHARING.—

5 (1) IN GENERAL.—Not later than 60 days after
6 the date of enactment of this Act, the Commission
7 shall issue a request for information, seeking public
8 comment regarding—

9 (A) whether congestion of the carriage of
10 goods has created an emergency situation of a
11 magnitude such that there exists a substantial,
12 adverse effect on the competitiveness and reli-
13 ability of the international ocean transportation
14 supply system;

15 (B) whether an emergency order under
16 this section would alleviate such an emergency
17 situation; and

18 (C) the appropriate scope of such an emer-
19 gency order, if applicable.

20 (2) CONSULTATION.—During the public com-
21 ment period under paragraph (1), the Commission
22 may consult, as the Commission determines to be
23 appropriate, with—

24 (A) other Federal departments and agen-
25 cies; and

1 (B) persons with expertise relating to mar-
2 itime and freight operations.

3 (c) AUTHORITY TO REQUIRE INFORMATION SHAR-
4 ING.—On making a unanimous determination described in
5 subsection (d), the Commission may issue an emergency
6 order requiring any common carrier or marine terminal
7 operator to share directly with relevant shippers, rail car-
8 riers, or motor carriers information relating to cargo
9 throughput and availability, in order to ensure the effi-
10 cient transportation, loading, and unloading of cargo to
11 or from—

12 (1) any inland destination or point of origin;

13 (2) any vessel; or

14 (3) any point on a wharf or terminal.

15 (d) DESCRIPTION OF DETERMINATION.—

16 (1) IN GENERAL.—A determination referred to
17 in subsection (c) is a unanimous determination by
18 the commissioners on the Commission that conges-
19 tion of common carriage of goods has created an
20 emergency situation of a magnitude such that there
21 exists a substantial, adverse effect on the competi-
22 tiveness and reliability of the international ocean
23 transportation supply system.

24 (2) FACTORS FOR CONSIDERATION.—In issuing
25 an emergency order pursuant to subsection (c), the

1 Commission shall tailor the emergency order with re-
2 spect to temporal and geographic scope, taking into
3 consideration the likely burdens on ocean carriers
4 and marine terminal operators and the likely bene-
5 fits on congestion relating to the purposes described
6 in section 40101 of title 46, United States Code.

7 (e) PETITIONS FOR EXCEPTION.—

8 (1) IN GENERAL.—A common carrier or marine
9 terminal operator subject to an emergency order
10 issued pursuant to this section may submit to the
11 Commission a petition for exception from 1 or more
12 requirements of the emergency order, based on a
13 showing of undue hardship or other condition ren-
14 dering compliance with such a requirement impracti-
15 cable.

16 (2) DETERMINATION.—The Commission shall
17 make a determination regarding a petition for excep-
18 tion under paragraph (1) by—

19 (A) majority vote; and

20 (B) not later than 21 days after the date
21 on which the petition is submitted.

22 (3) INAPPLICABILITY PENDING REVIEW.—The
23 requirements of an emergency order that is the sub-
24 ject of a petition for exception under this subsection

1 shall not apply to the petitioner during the period
2 for which the petition is pending.

3 (f) LIMITATIONS.—

4 (1) TERM.—An emergency order issued pursu-
5 ant to this section—

6 (A) shall remain in effect for a period of
7 not longer than 60 days; but

8 (B) may be renewed by a unanimous deter-
9 mination of the Commission.

10 (2) SUNSET.—The authority provided by this
11 section shall terminate on the date that is 18
12 months after the date of enactment of this Act.

13 (3) INVESTIGATIVE AUTHORITY UNAF-
14 FECTED.—Nothing in this section shall affect the in-
15 vestigative authorities of the Commission as de-
16 scribed in subpart R of part 502 of title 46, Code
17 of Federal Regulations.

18 **SEC. 19. BEST PRACTICES FOR CHASSIS POOLS.**

19 (a) IN GENERAL.—Not later than April 1, 2023, the
20 Commission shall enter into an agreement with the Trans-
21 portation Research Board of the National Academies of
22 Sciences, Engineering, and Medicine under which the
23 Transportation Research Board shall carry out a study
24 and develop best practices for on-terminal or near-ter-
25 minal chassis pools that provide service to marine terminal

1 operators, motor carriers, railroads, and other stake-
2 holders that use the chassis pools, with the goal of opti-
3 mizing supply chain efficiency and effectiveness.

4 (b) REQUIREMENTS.—In developing best practices
5 under subsection (a), the Transportation Research Board
6 shall—

7 (1) take into consideration—

8 (A) practical obstacles to the implementa-
9 tion of chassis pools; and

10 (B) potential solutions to those obstacles;

11 and

12 (2) address relevant communication practices,
13 information sharing, and knowledge management.

14 (c) PUBLICATION.—The Commission shall publish
15 the best practices developed under this section on a pub-
16 licly available website by not later than April 1, 2024.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to the Commission to carry
19 out this section \$500,000.

20 **SEC. 20. LICENSING TESTING.**

21 (a) IN GENERAL.—Not later than 90 days after the
22 date of enactment of this Act, the Administrator of the
23 Federal Motor Carrier Safety Administration (referred to
24 in this section as the “Administrator”) shall conduct a re-
25 view of the discretionary waiver authority described in the

1 document issued by the Administrator entitled “Waiver
2 for States Concerning Third Party CDL Skills Test Ex-
3 aminers In Response to the COVID–19 Emergency” and
4 dated August 31, 2021, for safety concerns.

5 (b) PERMANENT WAIVER.—If the Administrator
6 finds no safety concerns after conducting a review under
7 subsection (a), the Administrator shall, notwithstanding
8 any other provision of law, make the waiver permanent.

9 (c) RULEMAKING.—Not later than 90 days after com-
10 pleting the review under subsection (a), the Administrator
11 shall revise section 384.228 of title 49, Code of Federal
12 Regulations, to provide that the discretionary waiver au-
13 thority referred to in subsection (a) shall be permanent.

14 **SEC. 21. PLANNING.**

15 Section 6702(g) of title 49, United States Code, is
16 amended—

17 (1) by striking “Of the amounts” and inserting
18 the following:

19 “(1) IN GENERAL.—Of the amounts”; and

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

21 “(2) NONAPPLICABILITY OF CERTAIN LIMITA-
22 TIONS.—Subparagraphs (A) and (B) of subsection
23 (c)(2) shall not apply with respect to amounts made
24 available for planning, preparation, or design under
25 paragraph (1).”.

1 **SEC. 22. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 46108 of title 46, United States Code, is
3 amended by striking “\$29,086,888 for fiscal year 2020
4 and \$29,639,538 for fiscal year 2021” and inserting
5 “\$32,869,000 for fiscal year 2022, \$38,260,000 for fiscal
6 year 2023, \$43,720,000 for fiscal year 2024, and
7 \$49,200,000 for fiscal year 2025”.