AMENDMENT NO._______ Calendar No._____

Purpose: In the nature of a substitute.


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:

3 SECTION 1. SHORT TITLE.

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

6 SEC. 2. PURPOSES.

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

9 (1) by striking paragraph (2) and inserting the following:
“(2) ensure an efficient, competitive, and economical transportation system in the ocean commerce of the United States;”;

(2) in paragraph (3), by inserting “and supporting commerce” before “needs”; and

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

“(4) promote the growth and development of United States exports through a competitive and efficient system for the carriage of goods by water in the foreign commerce of the United States, and by placing a greater reliance on the marketplace.”.

SEC. 3. SERVICE CONTRACTS.

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

(1) in paragraph (7) by striking “; and” and inserting a semicolon;

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

(3) by adding at the end the following:

“(9) any other essential terms that the Federal Maritime Commission determines necessary or appropriate through a rulemaking process.”.
SEC. 4. SHIPPING EXCHANGE REGISTRY.

(a) In General.—Chapter 405 of title 46, United States Code, is amended by adding at the end the following:

“§ 40504. Shipping exchange registry

“(a) In General.—No person may operate a shipping exchange involving ocean transportation in the foreign commerce of the United States unless the shipping exchange is registered as a national shipping exchange under the terms and conditions provided in this section and the regulations issued pursuant to this section.

“(b) Registration.—A person shall register a shipping exchange by filing with the Federal Maritime Commission (referred to in this section as the ‘Commission’) an application for registration in such form as the Commission, by rule, may prescribe, containing the rules of the exchange and such other information and documents as the Commission, by rule, may prescribe as necessary or appropriate.

“(c) Exemption.—The Commission may exempt, conditionally or unconditionally, a shipping exchange from registration under this section if the Commission finds that the shipping exchange is subject to comparable, comprehensive supervision and regulation by the appropriate governmental authorities in a foreign country where the shipping exchange is headquartered.
“(d) Regulations.—Not later than 3 years after the date of enactment of the Ocean Shipping Reform Act of 2022, the Commission shall issue regulations pursuant to subsection (a), which shall set standards necessary to carry out subtitle IV of this title for registered national shipping exchanges, including the minimum requirements for service contracts established under section 40502 of this title.

“(e) Definition of Shipping Exchange.—In this section, the term ‘shipping exchange’ means a platform (digital, over-the-counter, or otherwise) that connects shippers with common carriers for the purpose of entering into underlying agreements or contracts for the transport of cargo, by vessel or other modes of transportation.”.

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

(c) Clerical Amendment.—The analysis for chapter 405 of title 46, United States Code, is amended by adding at the end the following:

“40504. Shipping exchange registry.”.

SEC. 5. PROHIBITION ON RETALIATION.

Section 41102 of title 46, United States Code, is amended by adding at the end the following:
“(d) Retaliation and Other Discriminatory Actions.—A common carrier, marine terminal operator, or ocean transportation intermediary, acting alone or in conjunction with any other person, directly or indirectly, may not—

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

“(2) resort to any other unfair or unjustly discriminatory action for—

“(A) the reason that a shipper, an agent of a shipper, an ocean transportation intermediary, or motor carrier has—

“(i) patronized another carrier; or

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

“(B) any other reason.”.

SEC. 6. PUBLIC DISCLOSURE.

Section 46106 of title 46, United States Code, is amended by adding at the end the following:
“(d) PUBLIC DISCLOSURES.—The Federal Maritime Commission shall publish, and annually update, on the website of the Commission—

“(1) all findings by the Commission of false detention and demurrage invoice information by common carriers under section 41104(a)(15) of this title; and

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

SEC. 7. COMMON CARRIERS.

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

(1) in subsection (a)—

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

(B) by striking paragraph (3) and inserting the following:

“(3) unreasonably refuse cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods;”;

(C) in paragraph (5), by striking “in the matter of rates or charges” and inserting
"against any commodity group or type of shipment or in the matter of rates or charges";

(D) in paragraph (10), by adding "including with respect to vessel space accommodations" after "negotiate";

(E) in paragraph (12) by striking "; or"

and inserting a semicolon;

(F) in paragraph (13) by striking the period and inserting a semicolon; and

(G) by adding at the end the following:

"(14) assess any party for a charge that is inconsistent or does not comply with all applicable provisions and regulations, including subsection (c) of section 41102 or part 545 of title 46, Code of Federal Regulations (or successor regulations);"

"(15) invoice any party for demurrage or detention charges unless the invoice includes information as described in subsection (d) showing that such charges comply with—"

"(A) all provisions of part 545 of title 46, Code of Federal Regulations (or successor regulations); and"

"(B) applicable provisions and regulations, including the principles of the final rule published on May 18, 2020, entitled 'Interpretive
Rule on Demurrage and Detention Under the
Shipping Act’ (or successor rule); or

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

(2) by adding at the end the following:

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

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

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

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

“(B) The port of discharge.
“(C) The container number or numbers.

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

“(E) The allowed free time in days.

“(F) The start date of free time.

“(G) The end date of free time.

“(H) The applicable detention or demurrage rule on which the daily rate is based.

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

“(J) The total amount due.

“(K) The email, telephone number, or other appropriate contact information for questions or requests for mitigation of fees.

“(L) A statement that the charges are consistent with any of Federal Maritime Commission rules with respect to detention and demurrage.

“(M) A statement that the common carrier’s performance did not cause or contribute to the underlying invoiced charges.

“(e) SAFE HARBOR.—If a non-vessel operating common carrier passes through to the relevant shipper an invoice made by the ocean common carrier, and the Commission finds that the non-vessel operating common carrier
is not otherwise responsible for the charge, then the ocean
common carrier shall be subject to refunds or penalties
pursuant to subsection (d)(1).

“(f) Elimination of Charge Obligation.—Failure to include
the information required under subsection (d) on an invoice
with any demurrage or detention charge shall eliminate
any obligation of the charged party to pay the applicable charge.”.

(b) Rulemaking on Demurrage or Detention.—

(1) In general.—Not later than 1 year after
the date of enactment of this Act, the Federal Mari-
time Commission shall issue a final rule further de-
fining prohibited practices by common carriers, mar-
ine terminal operators, shippers, and ocean trans-
portation intermediaries under section 41102(c) of
title 46, United States Code, regarding the assess-
ment of demurrage or detention charges.

(2) Contents.—The rule under paragraph (1)
shall seek to further clarify reasonable rules and
practices related to the assessment of detention and
demurrage charges to address the issues identified
in the final rule published on May 18, 2020, entitled
“Interpretive Rule on Demurrage and Detention
Under the Shipping Act” (or successor rule), includ-
ing a determination of which parties may be appro-
priately billed for any demurrage, detention, or other similar per container charges.

(c) Rulemaking on Unfair or Unjustly Discriminatory Methods.—Not later than 1 year after the date of enactment of this Act, the Federal Maritime Commission shall issue a final rule defining unfair or unjustly discriminatory methods under section 41104(a)(3) of title 46, as amended by this section.

(d) Rulemaking on Unreasonable Refusal to Deal or Negotiate With Respect to Vessel Space Accommodations.—Not later than 30 days after the date of enactment of this Act, the Federal Maritime Commission, in consultation with the Commandant of the United States Coast Guard, shall initiate a rulemaking defining unreasonable refusal to deal or negotiate with respect to vessel space under section 41104(a)(10) of title 46, as amended by this section. The Federal Maritime Commission shall issue a final rule not later than 6 months after the date of enactment of this Act.

SEC. 8. ASSESSMENT OF PENALTIES OR REFUNDS.

(a) In General.—Title 46, United States Code, is amended—

(1) in section 41107—

(A) in the section heading, by inserting “or refunds” after “penalties”;
(B) in subsection (a), by inserting “or, in addition to or in lieu of a civil penalty, is liable for the refund of a charge” after “civil penalty”; and

(C) in subsection (b), by inserting “or, in addition to or in lieu of a civil penalty, the refund of a charge,” after “civil penalty”; and

(2) section 41109 is amended—

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

“(a) GENERAL AUTHORITY.—Until a matter is referred to the Attorney General, the Federal Maritime Commission may—

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

“(A) assess a civil penalty; or

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

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

“(b) DETERMINATION OF AMOUNT.—
“(1) FACTORS FOR CONSIDERATION.—In determining the amount of a civil penalty assessed or refund of money ordered pursuant to subsection (a), the Federal Maritime Commission shall take into consideration—

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

“(B) with respect to the violator—

“(i) the degree of culpability;

“(ii) any history of prior offenses;

“(iii) the ability to pay; and

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

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

“(2) COMMENSURATE REDUCTION IN CIVIL PENALTY.—

“(A) IN GENERAL.—In any case in which the Federal Maritime Commission orders a refund of money pursuant to subsection (a)(1)(B) in addition to assessing a civil penalty pursuant to subsection (a)(1)(A), the amount of the civil penalty assessed shall be decreased by any additional amounts included in the refund of money
in excess of the actual injury (as defined in section 41305(a)).

“(B) TREATMENT OF REFUNDS.—A refund of money ordered pursuant to subsection (a)(1)(B) shall be—

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

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

(B) in subsection (c), by striking “may not be imposed” and inserting “or refund of money under subparagraph (A) or (B), respectively, of subsection (a)(1) may not be imposed”; (C) in subsection (e), by inserting “or order a refund of money” after “penalty”; (D) in subsection (f), by inserting “, or that is ordered to refund money,” after “assessed”; and

(E) in subsection (g), in the first sentence, by inserting “or a refund required under this section” after “penalty”.
SEC. 9. DATA COLLECTION.

(a) In General.—Chapter 411 of title 46, United States Code, is amended by adding at the end the following:

"SEC. 41110. DATA COLLECTION.

"The Federal Maritime Commission shall publish on its website a calendar quarterly report that describes the total import and export tonnage and the total loaded and empty 20-foot equivalent units per vessel (making port in the United States, including any territory or possession of the United States) operated by each ocean common carrier covered under this chapter. Ocean common carriers under this chapter shall provide to the Commission all necessary information, as determined by the Commission, for completion of this report."

(b) Clerical Amendment.—The analysis for chapter 411 of title 46, United States Code, is amended by adding at the end the following:

"41110. Data collection."

SEC. 10. CHARGE COMPLAINTS.

(a) In General.—Chapter 413 of title 46, United States Code, is amended by adding at the end the following:

"§ 41310. Charge complaints

"(a) In General.—A person may submit to the Federal Maritime Commission, and the Commission shall
accept, information concerning complaints about charges assessed by an ocean common carrier. The information submitted to the Commission may include the bill of lading numbers, certifications, or any other relevant information.

“(b) INVESTIGATION.—Upon receipt of a submission under subsection (a), with respect to a charge assessed by a common carrier, the Commission shall promptly investigate the charge with regard to compliance with section 41104(a) and section 41102. The common carrier shall—

“(1) be provided an opportunity to submit additional information related to the charge in question; and

“(2) bear the burden of establishing the reasonableness of any demurrage or detention charges which are the subject of any complaint proceeding challenging a common carrier demurrage or detention charge pursuant to section 545.5 of title 46, Code of Federal regulations (or successor regulations).

“(c) REFUND.—Upon receipt of submissions under subsection (a), if the Commission determines that a charge does not comply with section 41104(a) or 41102, the Commission shall promptly order the refund of charges paid.
“(d) PENALTIES.—In the event of a finding that a charge does not comply with section 41104(a) or 41102 after submission under subsection (a), a civil penalty under section 41107 shall be applied to the common carrier making such charge.

“(e) CONSIDERATIONS.—If the common carrier assessing the charge is acting in the capacity of a non-vessel-operating common carrier, the Commission shall, while conducting an investigation under subsection (b), consider—

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

“(2) whether another party is ultimately responsible in whole or in part and potentially subject to action under subsections (e) and (d).”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 413 of title 46, United States Code, is amended by adding at the end the following:

“41310. Charge complaints.”.

SEC. 11. INVESTIGATIONS.

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

(1) in subsection (a), in the first sentence, by striking “or agreement” and inserting “agreement, fee, or charge”; and
(2) in subsection (b)—

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

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

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

SEC. 12. AWARD OF ADDITIONAL AMOUNTS.

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

SEC. 13. ENFORCEMENT OF REPARATION ORDERS.

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

(1) in subsection (a), by striking “reparation, the person to whom the award was made” and inserting “a refund of money or reparation, the person to which the refund or reparation was awarded”; and

(2) in subsection (b), in the first sentence—
(A) by striking “made an award of reparation” and inserting “ordered a refund of money or any other award of reparation”; and

(B) by inserting “(except for the Commission or any component of the Commission)” after “parties in the order”.

SEC. 14. ANNUAL REPORT TO CONGRESS.

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

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

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

(3) by adding at the end the following:

“(7) an identification of any otherwise concerning practices by ocean common carriers, particularly such carriers that are controlled carriers, that are—

“(A) State-owned or State-controlled enterprises; or

“(B) owned or controlled by, a subsidiary of, or otherwise related legally or financially (other than a minority relationship or investment) to a corporation based in a country—
“(i) identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this paragraph;

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

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

SEC. 15. TECHNICAL AMENDMENTS.

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

(2) Section 41109(c) of title 46, United States Code, is amended by striking “section 41102(a) or 41104(1) or (2) of this title” and inserting “subsection (a) or (d) of section 41102 or paragraphs (1) or (2) of section 41104(a)”.

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

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

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

SEC. 16. DWELL TIME STATISTICS.

(a) DEFINITIONS.—In this section:

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

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

(A) not less than 20 feet; and

(B) not greater than 45 feet.

(3) OUT OF SERVICE PERCENTAGE.—The term “out of service percentage” means the proportion of
the chassis fleet for any defined geographical area
that is out of service at any one time.

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

(b) AUTHORITY TO COLLECT DATA.—

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

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

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

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

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

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

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

SEC. 17. FEDERAL MARITIME COMMISSION ACTIVITIES.

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

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

(2) direct each submission under the link estab-
lished under paragraph (1) to the appropriate com-
ponent office of the Commission.
(b) Authorization of Office of Consumer Affairs and Dispute Resolution Services.—The Commission shall maintain an Office of Consumer Affairs and Dispute Resolution Services to provide nonadjudicative ombuds assistance, mediation, facilitation, and arbitration to resolve challenges and disputes involving cargo shipments, household good shipments, and cruises subject to the jurisdiction of the Commission.

(e) Enhancing Capacity for Investigations.—

(1) In general.—Pursuant to section 41302 of title 46, United States Code, not later than 18 months after the date of enactment of this Act, the Chairperson of the Commission shall staff within the Bureau of Enforcement, the Bureau of Certification and Licensing, the Office of the Managing Director, the Office of Consumer Affairs and Dispute Resolution Services, and the Bureau of Trade Analysis not fewer than 7 total positions to assist in investigations and oversight, in addition to the positions within the Bureau of Enforcement, the Bureau of Certification and Licensing, the Office of the Managing Director, the Office of Consumer Affairs and Dispute Resolution Services, and the Bureau of Trade Analysis on that date of enactment.
(2) DUTIES.—The additional staff appointed under paragraph (1) shall provide support—

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

(B) to attorneys of the Bureau of Enforcement in enforcing the laws and regulations subject to the jurisdiction of the Commission;

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

(D) for the review of agreements and activities subject to the authority of the Commission.

SEC. 18. TEMPORARY EMERGENCY AUTHORITY.

(a) DEFINITIONS.—In this section:

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

(2) MOTOR CARRIER.—The term “motor carrier” has the meaning given the term in section 13102 of title 49, United States Code.

(3) RAIL CARRIER.—The term “rail carrier” has the meaning given the term in section 10102 of title 49, United States Code.
(4) **SHIPPER.**—The term “shipper” has the meaning given the term in section 40102 of title 46, United States Code.

(b) **PUBLIC INPUT ON INFORMATION SHARING.**—

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

(A) whether congestion of the carriage of goods has created an emergency situation of a magnitude such that there exists a substantial, adverse effect on the competitiveness and reliability of the international ocean transportation supply system;

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

(C) the appropriate scope of such an emergency order, if applicable.

(2) **CONSULTATION.**—During the public comment period under paragraph (1), the Commission may consult, as the Commission determines to be appropriate, with—

(A) other Federal departments and agencies; and
(B) persons with expertise relating to maritime and freight operations.

(c) Authority To Require Information Sharing.—On making a unanimous determination described in subsection (d), the Commission may issue an emergency order requiring any common carrier or marine terminal operator to share directly with relevant shippers, rail carriers, or motor carriers information relating to cargo throughput and availability, in order to ensure the efficient transportation, loading, and unloading of cargo to or from—

(1) any inland destination or point of origin;
(2) any vessel; or
(3) any point on a wharf or terminal.

(d) Description of Determination.—

(1) In General.—A determination referred to in subsection (c) is a unanimous determination by the commissioners on the Commission that congestion of common carriage of goods has created an emergency situation of a magnitude such that there exists a substantial, adverse effect on the competitiveness and reliability of the international ocean transportation supply system.

(2) Factors for Consideration.—In issuing an emergency order pursuant to subsection (c), the
Commission shall tailor the emergency order with respect to temporal and geographic scope, taking into consideration the likely burdens on ocean carriers and marine terminal operators and the likely benefits on congestion relating to the purposes described in section 40101 of title 46, United States Code.

(e) PETITIONS FOR EXCEPTION.—

(1) IN GENERAL.—A common carrier or marine terminal operator subject to an emergency order issued pursuant to this section may submit to the Commission a petition for exception from 1 or more requirements of the emergency order, based on a showing of undue hardship or other condition rendering compliance with such a requirement impracticable.

(2) DETERMINATION.—The Commission shall make a determination regarding a petition for exception under paragraph (1) by—

(A) majority vote; and

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

(3) INAPPLICABILITY PENDING REVIEW.—The requirements of an emergency order that is the subject of a petition for exception under this subsection
shall not apply to the petitioner during the period for which the petition is pending.

(f) LIMITATIONS.—

(1) TERM.—An emergency order issued pursuant to this section—

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

(B) may be renewed by a unanimous determination of the Commission.

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

(3) INVESTIGATIVE AUTHORITY UNAFFECTED.—Nothing in this section shall affect the investigative authorities of the Commission as described in subpart R of part 502 of title 46, Code of Federal Regulations.

SEC. 19. BEST PRACTICES FOR CHASSIS POOLS.

(a) IN GENERAL.—Not later than April 1, 2023, the Commission shall enter into an agreement with the Transportation Research Board of the National Academies of Sciences, Engineering, and Medicine under which the Transportation Research Board shall carry out a study and develop best practices for on-terminal or near-terminal chassis pools that provide service to marine terminal
operators, motor carriers, railroads, and other stakeholders that use the chassis pools, with the goal of optimizing supply chain efficiency and effectiveness.

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

(1) take into consideration—

(A) practical obstacles to the implementation of chassis pools; and

(B) potential solutions to those obstacles;

and

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

(e) PUBLICATION.—The Commission shall publish the best practices developed under this section on a publicly available website by not later than April 1, 2024.

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

SEC. 20. LICENSING TESTING.

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

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

(c) RULEMAKING.—Not later than 90 days after completing the review under subsection (a), the Administrator shall revise section 384.228 of title 49, Code of Federal Regulations, to provide that the discretionary waiver authority referred to in subsection (a) shall be permanent.

SEC. 21. PLANNING.

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

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

“(1) IN GENERAL.—Of the amounts”; and

(2) by adding at the end the following:

“(2) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Subparagraphs (A) and (B) of subsection (e)(2) shall not apply with respect to amounts made available for planning, preparation, or design under paragraph (1).”.
SEC. 22. AUTHORIZATION OF APPROPRIATIONS.

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