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## HOUSE RESOLUTION

REQUESTING CONGRESS TO EXEMPT THE NONCONTIGUOUS DOMESTIC TRADES  
OF ALASKA, HAWAII, AND PUERTO RICO FROM THE UNITED STATES  
BUILD REQUIREMENT OF THE JONES ACT FOR LARGE OCEANGOING  
SHIPS.

1           WHEREAS, interstate ocean shipping is a vital economic link  
2 between the seven noncontiguous domestic jurisdictions of the  
3 United States and the contiguous forty-eight mainland states of  
4 the union; and

5  
6           WHEREAS, Section 27 of the Merchant Marine Act of 1920,  
7 P.L. 66-261 (46 U.S.C. 55102), commonly known as the Jones Act,  
8 is a federal cabotage law that restricts the carriage of cargo  
9 between coastwise points in the United States to vessels that  
10 are U.S.-built, U.S.-flag, U.S.-owned and U.S.-crewed; and

11  
12           WHEREAS, the coastwise laws of the U.S. including the Jones  
13 Act, encompass four of the seven noncontiguous domestic  
14 jurisdictions, namely, the State of Alaska, the Territory of  
15 Guam, the State of Hawaii, and the Commonwealth of Puerto Rico,  
16 while the Territory of American Samoa, the Commonwealth of the  
17 Northern Mariana Islands, and the Virgin Islands of the United  
18 States are fully exempt from the Jones Act as a result of the  
19 international treaties associated with their annexation to the  
20 U.S.; and

21  
22           WHEREAS, there is a historical exemption from the U.S.-  
23 build requirement of the Jones Act for all commercial vessels  
24 engaged in the domestic Guam trade (46 U.S.C. 12111) known as  
25 the "Guam Exemption" and the other three noncontiguous  
26 jurisdictions encompassed by the coastwise laws, namely Alaska,  
27 Hawaii, and Puerto Rico, are now seeking a similar but more  
28 limited exemption for large oceangoing ships engaged in their  
29 domestic trades; and

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31           WHEREAS, the Guam Exemption is of limited usefulness to the  
32 Territory because the natural westbound trade lane from the U.S.  
33 West Coast to Guam passes through Hawaii, making it difficult



1 for the ocean common carriers to mount financially viable  
2 voyages without carrying cargo to both Hawaii and Guam,  
3 effectively shackling Guam's interstate trade to the U.S.-built  
4 requirement despite their exemption and causing Guam to support  
5 the limited extension of their exemption to the jurisdictions of  
6 Alaska, Hawaii, and Puerto Rico proposed herein; and  
7

8 WHEREAS, the late U.S. Senator Daniel K Inouye inserted in  
9 the Omnibus Appropriations Act of 2003 a limited exemption from  
10 the U.S.-built requirement of the vessel documentation laws  
11 granting three large foreign-built U.S.-flag cruise ships a  
12 coastwise endorsement to operate in the Hawaii trade (P.L. 108-  
13 7, division B, title II, section 211), known as the "Hawaii  
14 Cruise Trade Exemption," recognizing that U.S. shipyards could  
15 not successfully construct large specialist cruise ships after  
16 the failure of an earlier program to do the same and which  
17 Senator Inouye sponsored, known as "Project America" and was  
18 contained in the Department of Defense Appropriations Act for  
19 Fiscal Year 1998 (P.L. 105-56 section 8109); and  
20

21 WHEREAS, current Hawaii Governor Neil Abercrombie in his  
22 State of the State address on January 22, 2013, strongly  
23 implored the Hawaii State Legislature "to move forward with" him  
24 to "embark on a path to LNG (liquefied natural gas) [that] will  
25 result in long term avoided costs" and "allow us to purchase  
26 fuel from American sources" because "our State, our residents,  
27 our constituents, our businesses and communities need relief"  
28 while "to do nothing puts everyone in the State at risk"; and  
29

30 WHEREAS, the former Governor of Puerto Rico Luis Fortuno  
31 established an LNG program, which includes gaining access to  
32 domestic sources for the Commonwealth, and his successor  
33 Governor Alejandro Garcia Padilla is following suit to reduce  
34 their energy costs, and Governor Sean Parnell of Alaska is  
35 developing the State's North Slope LNG resources for export  
36 primarily to Asia and shipment to Hawaii as well; and  
37

38 WHEREAS, the ocean shipment of LNG requires specialist  
39 tanker ships known as "LNG Carriers", none of which have been  
40 built in the U.S. since the mid-1970's, and new construction in  
41 the U.S. would be cost prohibitive and potentially result in  
42 failure as did Project America denying Hawaii and Puerto Rico  
43 access to U.S. LNG sources and Alaska from supplying LNG to



1 other States unless the noncontiguous trades are exempted from  
2 the U.S. built requirement; and

3  
4 WHEREAS, the noncontiguous jurisdictions are completely  
5 dependent on ocean shipping for interstate surface  
6 transportation and their geography precludes access to  
7 alternatives such as interstate railroad, highway, and pipeline  
8 transportation that are readily available and provide  
9 competitive carriage within the contiguous United States; and

10  
11 WHEREAS, the Jones Act generally restricts competition in  
12 the domestic ocean shipping industry, has led to monopoly-like  
13 shipping markets for interstate ocean common carrier  
14 transportation in the coastwise noncontiguous domestic trades,  
15 and has left many shippers in the contract carriage (non-common  
16 carrier) sectors of those trades without access to the kinds of  
17 efficient ocean transportation for commodities - such as bulk  
18 grains and livestock - which are readily available to the rest  
19 of the world; and

20  
21 WHEREAS, the U.S.-build requirement of the Jones Act in  
22 particular creates an artificial scarcity of major capital  
23 ships, erects substantial barriers to entry for domestic trades,  
24 and severely restricts the contestability of the domestic ocean  
25 transportation markets; and

26  
27 WHEREAS, U.S. deep-draft ship construction is typically  
28 three or more times the cost in Japan and South Korea and U.S.  
29 ship production is very limited - building on average fewer than  
30 three deep draft merchant ships annually in the U.S. since the  
31 mid-1980's - putting the major U.S. shipbuilding yards at a  
32 distinct disadvantage in terms of economies of scale adversely  
33 affecting their ability to apply new technology, expertise, and  
34 experience in the construction of large modern oceangoing ships  
35 as compared to their international peers; and

36  
37 WHEREAS, the high cost and low production of the U.S.  
38 shipbuilding industry has resulted in an aging and inefficient  
39 deep-sea Jones Act fleet that disproportionately imposes a  
40 considerable economic cost on, and adversely affects, the  
41 noncontiguous jurisdictions; and

42  
43 WHEREAS, the average age of the Jones Act containerships  
44 employed in the coastwise noncontiguous domestic trades is



1 twenty-eight years compared to the international average of  
2 twelve years for containerships, and international maritime  
3 insurance data clearly shows that ship accident rates correlate  
4 to the age of ships spiking after twenty years; and  
5

6 WHEREAS, foreign and U.S.-built ships alike are designed  
7 and built to the universal standards established by the nearly  
8 50 international conventions and agreements and numerous  
9 protocols and amendments administered by the United Nation's  
10 International Maritime Organization (IMO), which have been  
11 ratified by the United States and made part of U.S. law; and  
12

13 WHEREAS, the United States Coast Guard (USCG) inspects all  
14 foreign-built ships seeking to become registered vessels of the  
15 United States to ensure that they comply with all U.S. ship  
16 construction and safety laws and regulations; and  
17

18 WHEREAS, the U.S.-build requirement of the Jones Act for  
19 large oceangoing ships in noncontiguous domestic trades is not  
20 essential for the national defense of the United States because  
21 the remaining eight major domestic shipbuilding yards capable of  
22 constructing large oceangoing ships primarily build naval ships  
23 and produce so few merchant ships each year that this activity  
24 does not represent sufficient shipbuilding capacity to begin  
25 addressing the shipbuilding requirements of a major war time  
26 contingency and sustains a limited industrial base unable to  
27 support ongoing naval construction programs; and  
28

29 WHEREAS, more than half of the large oceangoing Jones Act  
30 fleet is employed in the coastwise noncontiguous domestic  
31 trades, thus imposing more than fifty per cent of the additional  
32 cost burden of operating large oceangoing Jones Act ships on  
33 less than two per cent of the U.S. population; and  
34

35 WHEREAS, all other modes of domestic transportation in the  
36 U.S. are permitted to use foreign manufactured equipment for  
37 commercial operation without restriction including aircraft,  
38 railroad cars and locomotives, trucks, automobiles, and mass  
39 transit vehicles; and  
40

41 WHEREAS, in December 1994, the U.S. signed the Organization  
42 for Economic Cooperation and Development's final act of the  
43 "Agreement Respecting Normal Competitive Conditions in the  
44 Commercial Shipbuilding and Repair Industry" (known as the OECD



1 Shipbuilding Agreement) that would allow certain foreign built  
2 ships in the domestic Jones Act trades, but it has not been  
3 ratified by the U.S. Congress; and  
4

5 WHEREAS, the U.S. domestic build provisions of the Jones  
6 Act do not comply with ongoing Multilateral Trade Negotiations  
7 that began under the General Agreement on Tariffs and Trade and  
8 continues with the World Trade Organization; and  
9

10 WHEREAS, the U.S.-build requirement of the Jones Act is an  
11 absolute merchandise import restriction contrary to  
12 international trade agreements; and  
13

14 WHEREAS, the residents of the coastwise noncontiguous  
15 jurisdictions subsidize an inefficient and commercially  
16 uncompetitive U.S. major ship building industry; and  
17

18 WHEREAS, the exemption described herein is a limited and  
19 narrowly targeted reform of the Jones Act that would not change  
20 the existing U.S.-flag, U.S.-ownership and U.S.-crew provisions  
21 of the Jones Act as they currently apply to the coastwise  
22 noncontiguous domestic trades, would not allow foreign-seamen or  
23 foreign-shipowners in any domestic trade where they are not  
24 currently allowed, would not apply to the domestic tug and barge  
25 industry anywhere in the U.S. including in the Jones Act  
26 noncontiguous jurisdictions, would not affect any domestic  
27 shipping along the coasts of the contiguous U.S. mainland, in  
28 the intercoastal trades, on the inland waterways, or on the  
29 Great Lakes, and would not negatively impact any maritime  
30 industry jobs in the noncontiguous jurisdictions; and  
31

32 WHEREAS, the passage of federal legislation exempting the  
33 noncontiguous domestic trades from the U.S.-build requirement  
34 for large self-propelled ships would revitalize U.S.-flag  
35 shipping by allowing new foreign-built ships into the  
36 noncontiguous domestic trade, removing barriers to entry and  
37 encouraging more effective competition in those trades, and  
38 generally making more U.S.-flag merchant ships available to  
39 support military operations; now, therefore,  
40

41 BE IT RESOLVED by the House of Representatives of the  
42 Twenty-seventh Legislature of the State of Hawaii, Regular  
43 Session of 2013, that this body respectfully requests the  
44 Congress of the United States to pass legislation granting an



1 exemption from the U.S.-build requirement of the Jones Act in  
2 the noncontiguous domestic trades of Alaska, Hawaii, and Puerto  
3 Rico for large self-propelled oceangoing ships; and  
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5 BE IT FURTHER RESOLVED that this body respectfully requests  
6 the President of the United States and his administration to  
7 support the congressional legislation requested herein; and  
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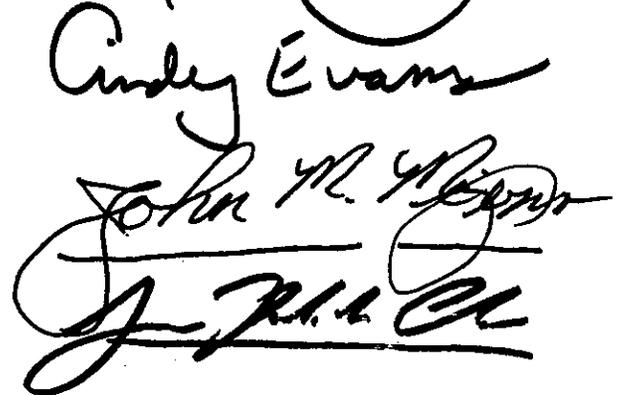
9 BE IT FURTHER RESOLVED that the Hawaii congressional  
10 delegation is urged to request Congress to exempt Alaska,  
11 Hawaii, and Puerto Rico from the U.S. build requirement of the  
12 Jones Act for large self-propelled oceangoing ships; and  
13

14 BE IT FURTHER RESOLVED that certified copies of this  
15 Resolution be transmitted to the President of the United States,  
16 the President of the United States Senate, the Speaker of the  
17 United States House of Representatives, the Secretary of the  
18 United States Department of Transportation, members of Alaska,  
19 Guam, Hawaii, and Puerto Rico's congressional delegations, and  
20 to the Governors of Alaska, Guam, Hawaii and Puerto Rico.  
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OFFERED BY:







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