

MAR 07 2014

SENATE RESOLUTION

REQUESTING CONGRESS TO EXEMPT HAWAII (JOINED BY PUERTO RICO AND ALASKA) FROM THE U.S. BUILD REQUIREMENT OF THE JONES ACT FOR LARGE OCEANGOING SHIPS.

1 WHEREAS, interstate ocean shipping is a vital economic link
2 between the seven (7) noncontiguous domestic jurisdictions of
3 the United States and the contiguous forty-eight (48) mainland
4 states of the union; and

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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
8 Act, is a federal cabotage law that restricts the carriage of
9 cargo between coastwise points in the United States to vessels
10 that are U.S.-built, U.S.-flag, U.S.-owned and U.S.-crewed; and

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12 WHEREAS, the coastwise laws of the U.S. including the Jones
13 Act encompass four (4) of the seven (7) 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

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22 WHEREAS, there is historical exemption from the U.S.-build
23 requirement of the Jones Act for all commercial vessels engaged
24 in the domestic Guam trade (46 U.S.C. § 12111) known as the "Guam
25 Exemption" and the other three (3) noncontiguous jurisdictions
26 encompassed by the coastwise laws, namely Hawaii, joined by
27 Alaska and Puerto Rico, are seeking a more limited, similar,
28 exemption; and

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30 WHEREAS, the Guam Exemption is of limited utility to Guam
31 because the natural westbound trade lane from the U.S. West
32 Coast to Guam passes through Hawaii making it difficult for
33 ocean common carriers to mount financially viable voyages
34 without carrying cargo to both Hawaii and Guam effectively
35 binding Guam's interstate trade to the U.S.-build requirement



1 despite its exemption and prompting Guam to support the limited
2 extension of their exemption to Hawaii; and

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

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

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

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34 WHEREAS, the ocean shipment of LNG requires specialist
35 tanker ships known as "LNG Carriers" none of which have been
36 built in the U.S. since the mid-1970's and new construction in
37 the U.S. would be cost prohibitive and potentially result in
38 failure as did Project America denying Hawaii access to U.S. LNG
39 sources unless the noncontiguous trades are exempted from the
40 U.S.-built requirement; and

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42 WHEREAS, the U.S.-build requirement of the Jones Act
43 creates an artificial scarcity of major capital ships, erects
44 substantial barriers to entry domestic trades, and severely



1 restricts the contestability of the domestic ocean
2 transportation markets; and

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4 WHEREAS, U.S. deep-draft construction is typically three or
5 more times the cost than ships built in Japan or South Korea and
6 U.S. ship production is very limited - building an average of
7 less than three deep draft merchant ships annually in the U.S.
8 since the mid-1980's - putting the major U.S. shipbuilding yards
9 at a distinct disadvantage in terms of economies of scale
10 adversely affecting their ability to apply new technology,
11 expertise and experience in the construction of large modern
12 oceangoing ships as compared to their international peers; and

13
14 WHEREAS, the high cost and low production of the U.S.
15 shipbuilding industry has resulted in an ageing and inefficient
16 deep-sea Jones Act fleet that disproportionately imposes an
17 economic burden on and adversely affects Hawaii and the other
18 noncontiguous jurisdictions; and

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20 WHEREAS, the average age of containerships employed in
21 noncontiguous trade is twenty-eight years compared to the
22 international average of twelve years, and international
23 maritime insurance data show that accident rates increase with
24 increasing ship-age spiking after twenty years; and

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26 WHEREAS, foreign and U.S.-built ships alike are designed
27 and built to the universal standards established by the nearly
28 50 international conventions and agreements, and numerous
29 protocols and amendments administered by the United Nation
30 (UN)'s International Maritime Organization (IMO), which have
31 been ratified by the United States and made part of U.S. law;
32 and

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

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39 WHEREAS the U.S.-build requirement of the Jones Act for
40 large oceangoing ships in noncontiguous domestic trades is not
41 essential for the national defense of the United States because
42 the remaining eight domestic shipbuilding yards capable of
43 constructing large oceangoing ships mainly build naval ships and
44 produce so few merchant ships each year that this activity does



1 not represent sufficient shipbuilding capacity to address the
2 shipbuilding needs of a major war time contingency and sustains
3 a limited industrial base unable to support ongoing naval
4 construction programs; and

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6 WHEREAS, granting an exemption to the U.S.-build
7 requirement allows aging ships to be more quickly and
8 economically replaced by less expensive and more fuel efficient
9 ships in accordance with efforts to conserve resources and
10 protect the environment; and

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12 WHEREAS, more than half of the large oceangoing Jones Act
13 fleet is employed in the coastwise noncontiguous domestic
14 trades, thus imposing more than 50% of the additional cost
15 burden of operating Jones Act ships on less than 2% of the U.S.
16 population; and

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18 WHEREAS, all other modes of domestic transportation in the
19 U.S. are permitted to use foreign manufactured equipment for
20 commercial operation without restriction including aircraft,
21 railroad cars and locomotives, trucks, automobiles and mass
22 transit vehicles; and

23
24 WHEREAS, in December 1994, the United States signed the
25 Organization for Economic Cooperation and Development (OECD)'s
26 final act of the "Agreement Respecting Normal Competitive
27 Conditions in the Commercial Shipbuilding and Repair Industry"
28 (known as the OECD Shipbuilding Agreement) that would allow
29 certain foreign built ships in the domestic Jones Act trades,
30 but it has not been ratified by the U.S. Congress; and

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32 WHEREAS, the U.S. domestic build provisions of the Jones
33 Act do not comply with ongoing Multilateral Trade Negotiations
34 (MTN) that began under the General Agreement on Tariffs and
35 Trade (GATT) and continues with the World Trade Organization
36 (WTO); and

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38 WHEREAS, U.S.-build requirement of the Jones Act is an
39 absolute merchandise import restriction contrary to
40 international trade agreements; and

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42 WHEREAS, the residents of Hawaii and the other coastwise
43 noncontiguous jurisdictions subsidize an inefficient and



1 commercially uncompetitive U.S. major ship building industry;
2 and

3
4 WHEREAS, the exemption described herein is a limited and
5 narrowly targeted reform of the Jones Act that would not change
6 the existing U.S.-flag, U.S.-ownership and U.S.-crew provisions
7 of the Jones Act as they currently apply to the coastwise
8 noncontiguous domestic trades, would not allow foreign seamen or
9 foreign ship-owners in any domestic trade where they are not
10 currently allowed, would not apply to the domestic tug and barge
11 industry anywhere in the U.S. including in the Jones Act
12 noncontiguous jurisdictions, would not affect any domestic
13 shipping along the coasts of the contiguous U.S. mainland, in
14 the intercoastal trades, on the inland waterways or on the Great
15 lakes, and would not negatively impact any maritime industry
16 jobs in the noncontiguous jurisdictions; and

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18 WHEREAS, the passage of federal legislation exempting the
19 noncontiguous domestic trades from the U.S.-build requirement
20 for large self-propelled ships would revitalize U.S.-flag
21 shipping by allowing foreign-built ships into, removing barriers
22 to entry and encouraging more effective competition in those
23 trades, and generally making more U.S.-flag merchant ships
24 available to support military operations; and

25
26 BE IT RESOLVED by the Senate of the Twenty-seventh
27 Legislature of the State of Hawaii, Regular Session of 2014,
28 that this body respectfully requests the Congress of the United
29 States to pass legislation granting an exemption from the U.S.-
30 build requirement of the Jones Act in the noncontiguous domestic
31 trade of Hawaii for large self-propelled oceangoing ships
32 (Alaska and Puerto Rico support and seek the same exemption);
33 and

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35 BE IT FURTHER RESOLVED that the Hawaii State Senate
36 respectfully requests the President of the United States and his
37 administration to support the congressional legislation
38 requested herein; and

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40 BE IT FURTHER RESOLVED that Hawaii's congressional
41 delegation is urged to work with their colleagues from Alaska,
42 Guam and Puerto Rico to introduce in Congress federal
43 legislation that would exempt the Hawaii and other noncontiguous



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1 trades from the U.S.-build requirement of the Jones Act for
2 large oceangoing ships; and
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4 BE IT FURTHER RESOLVED that the Hawaii congressional
5 delegation is urged to request Congress to exempt Hawaii, along
6 with Alaska and Puerto Rico, from the U.S.-build requirement of
7 the Jones Act for large self-propelled oceangoing ships; and
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9 BE IT FURTHER RESOLVED that certified copies of this
10 Resolution be transmitted to the President of the United States,
11 the President of the United States Senate, the Speaker of the
12 United States House of Representatives, the Secretary of the
13 United States Department of Transportation, members of Hawaii's
14 congressional delegation, members of Alaska, Guam, and Puerto
15 Rico's congressional delegations, and the Governors of Alaska,
16 Guam, Hawaii and Puerto Rico.
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OFFERED BY: _____

