I urge my colleagues to pass H.R. 4037 today.

Mr. GOODLING. Mr. Speaker, H.R. 4037 makes two simple but important changes to OSHA's regulation on Hazard Communication.

First, H.R. 4037 clarifies the law with regard to the acceptable use of electronic systems for maintaining ''material safety data sheets,'' which employers are required to maintain and make available to employees by the Hazard Communication standard.

To anyone who has looked at the amount of information required of the typical business by the Hazard Communication standard, it should be evident that an electronic system of keeping that information is preferable to a paper system. And yet OSHA continues to suggest a preference for paper copies of material safety data sheets by putting conditions on the use of electronic systems that it does not put on paper copies.

By encouraging employers, especially small employers, to use electronic systems for maintaining material safety data sheets, H.R. 4037 will make a real impact in reducing OSHA's paperwork burden on employers.

Second, H.R. 4037 requires that summary and emergency information be attached to the front page of the material safety data sheet. This is to make the information more useful and useable for employers and employees.

Mr Speaker, I want to commend the sponsors of H.R. 4037, Representative GRANGER and Representative ROEMER, for their work on this bipartisan bill, as well as Subcommittee Chairman BALLENGER. H.R. 4037 will help make one Federal regulation a little more sensible and compliance a little easier. I urge my colleagues to support H.R. 4037.

Mr. ROEMER. Mr. Speaker, today, the House of Representatives will pass H.R. 4037, a bill of which I am an original cosponsor. I would like to thank my colleagues, Representative KAY GRANGER and Representative CASS BALLENGER, and all of the cosponsors, for their bipartisan efforts to help create and pass this common sense OSHA reform legislation.

Under current law, every business in the country must maintain documentation about the chemicals they keep at a work site. These documents are called Material Safety Data Sheets (MSDS's) and while originally intended to provide critical health and safety information about dangerous chemicals, they have become cumbersome technical documents that can be up to twenty pages long, and are the causes of frequent paperwork violation citations.

H.R. 4037 has three main points. First, it would allow businesses the choice to access the information contained on an MSDS through electronic communications services, like a fax-on-demand system, internet service, or a CD-ROM. This type of service eliminates an enormous amount of regulatory paperwork, while actually increasing access to the information. Current MSDS service companies can provide instantaneous access to critical chemical information, expert technical advice, and coordination with emergency responders. The current paper system can do none of those.

Second, H.R. 4037 would require all MSDS to have an emergency overview at the beginning of the document that lists emergency contacts, hazard warnings, and first aid information. This emergency overview would allow both employers and employees to have immediate access to the most critical information on an MSDS. Currently, this information can be buried near the end of the document, behind pages of confusing technical information.

Finally, the bill instructs the Occupational Safety and Health Administration (OSHA) to conduct a study on the technical level of language used to write MSDS's. Presently, some documents still say things like: ''Avoid ocular contact,'' instead of: ''Keep out of eyes.'' OSHA would make the results of their study available to MSDS writers to provide guidance and improve their quality.

To achieve this bipartisan piece of legislation, we have worked in good faith with every interested party to address the concerns of the AFL-CIO, the Chemical Manufacturers Association, the Department of Labor, and the small business Coalition for Material Safety Data Sheet Reform. Again, I thank my colleagues for their cooperation and hard work on H.R. 4037. I look forward to working with the Senate to ensure its eventual enactment into law.

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

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

The SPEAKER pro tempore (Mr. DICKEY). The question is on the motion offered by the gentleman from North Carolina (Mr. BALLENGER) that the House suspend the rules and pass the bill, H.R. 4037, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BALLENGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4037.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

□ 1045

OCEAN SHIPPING REFORM ACT OF 1998

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 414) to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes, as amended.

The Clerk read as follows:

S. 414

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ocean Shipping Reform Act of 1998''.

SEC. 2. EFFECTIVE DATE.

Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act take effect May 1, 1999.

TITLE I—AMENDMENTS TO THE SHIPPING ACT OF 1984

SEC. 101. PURPOSE.

Section 2 of the Shipping Act of 1984 (46 U.S.C. App. 1701) is amended by—

(1) striking ''and'' after the semicolon in paragraph (2);

(2) striking ''needs.'' in paragraph (3) and inserting ''needs; and'';

(3) adding at the end thereof the following:

''(4) to promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.''.

SEC. 102. DEFINITIONS.

Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended by—

(1) striking ''the government under whose registry the vessels of the carrier operate;'' in paragraph (8) and inserting ''a government;'';

(2) striking paragraph (9) and inserting the following:

''(9) 'deferred rebate' means a return by a common carrier of any portion of freight money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier over a fixed period of time, the payment of which is deferred beyond the completion of service for which it is paid, and is made only if the shipper has agreed to make a further shipment or shipments with that or any other common carrier.'';

(3) striking paragraph (10) and redesignating paragraphs (11) through (27) as paragraphs (10) through (26);

(4) striking ''in an unfinished or semi-finished state that require special handling moving in lot sizes too large for a container,'' in paragraph (10), as redesignated;

(5) striking ''paper board in rolls, and paper in rolls.'' in paragraph (10) as redesignated and inserting ''paper and paper board in rolls or in pallet or skid-sized sheets.'';

(6) striking ''conference, other than a service contract or contract based upon time-volume rates,'' in paragraph (13) as redesignated and inserting ''agreement'';

(7) striking ''conference.'' in paragraph (13) as redesignated and inserting ''agreement and the contract provides for a deferred rebate arrangement.'';

(8) by striking ''carrier.'' in paragraph (14) as redesignated and inserting ''carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49, United States Code.'';

(9) striking paragraph (16) as redesignated and redesignating paragraphs (17) through (26) as redesignated as paragraphs (16) through (25), respectively;

(10) striking paragraph (17), as redesignated, and inserting the following:

''(17) 'ocean transportation intermediary' means an ocean freight forwarder or a non-vessel-operating common carrier. For purposes of this paragraph, the term—

''(A) 'ocean freight forwarder' means a person that—

''(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

''(ii) processes the documentation or performs related activities incident to those shipments; and

''(B) 'non-vessel-operating common carrier' means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.'';

(11) striking paragraph (19), as redesignated and inserting the following:

''(19) 'service contract' means a written contract, other than a bill of lading or a receipt, between one or more shippers and an individual ocean common carrier or an agreement between or among ocean common carriers in which the shipper or shippers makes a commitment to provide a certain volume or portion of cargo over a fixed time period, and the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of any party.''; and

(12) striking paragraph (21), as redesignated, and inserting the following:

''(21) 'shipper' means—

''(A) a cargo owner;

''(B) the person for whose account the ocean transportation is provided;

''(C) the person to whom delivery is to be made;

''(D) a shippers' association; or

''(E) an ocean transportation intermediary, as defined in paragraph (17)(B) of this section, that accepts responsibility for payment of all charges applicable under the tariff or service contract.''.

SEC. 103. AGREEMENTS WITHIN THE SCOPE OF THE ACT.

(a) OCEAN COMMON CARRIERS.—Section 4(a) of the Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended by—

(1) striking ''operators or non-vessel-operating common carriers;'' in paragraph (5) and inserting ''operators;'';

(2) striking ''and'' in paragraph (6) and inserting ''or''; and

(3) striking paragraph (7) and inserting the following:

''(7) discuss and agree on any matter related to service contracts.''.

(b) MARINE TERMINAL OPERATORS.—Section 4(b) of that Act (46 U.S.C. App. 1703(b)) is amended by—

(1) striking ''(to the extent the agreements involve ocean transportation in the foreign commerce of the United States)'';

(2) striking ''and'' in paragraph (1) and inserting ''or''; and

(3) striking ''arrangements.'' in paragraph (2) and inserting ''arrangements, to the extent that such agreements involve ocean transportation in the foreign commerce of the United States.''.

SEC. 104. AGREEMENTS.

(a) IN GENERAL.—Section 5 of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended by—

(1) striking subsection (b)(8) and inserting the following:

''(8) provide that any member of the conference may take independent action on any rate or service item upon not more than 5 calendar days' notice to the conference and that, except for exempt commodities not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item;

(2) redesignating subsections (c) through (e) as subsections (d) through (f); and

(3) inserting after subsection (b) the following:

''(c) OCEAN COMMON CARRIER AGREEMENTS.—An ocean common carrier agreement may not—

''(1) prohibit or restrict a member or members of the agreement from engaging in negotiations for service contracts with 1 or more shippers;

''(2) require a member or members of the agreement to disclose a negotiation on a service contract, or the terms and conditions of a service contract, other than those terms or conditions required to be published under section 8(c)(3) of this Act; or

''(3) adopt mandatory rules or requirements affecting the right of an agreement member or agreement members to negotiate and enter into service contracts.

An agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member's or agreement members' service contracts if the guidelines explicitly state the right of members of the agreement not to follow the guidelines. These guidelines shall be confidentially submitted to the Commission.''.

(b) APPLICATION.—

(1) Subsection (e) of section 5 of that Act, as redesignated, is amended by striking ''this Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do'' and inserting ''this Act does''; and

(2) Subsection (f) of section 5 of that Act, as redesignated, is amended by—

(A) striking ''and the Shipping Act, 1916, do'' and inserting ''does'';

(B) striking ''or the Shipping Act, 1916,''; and

(C) inserting ''or are essential terms of a service contract'' after ''tariff''.

SEC. 105. EXEMPTION FROM ANTITRUST LAWS.

Section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706) is amended by—

(1) inserting ''or publication'' in paragraph (2) of subsection (a) after ''filing'';

(2) striking ''or'' at the end of subsection (b)(2);

(3) striking ''States.'' at the end of subsection (b)(3) and inserting ''States; or''; and

(4) adding at the end of subsection (b) the following:

''(4) to any loyalty contract.''.

SEC. 106. TARIFFS.

(a) IN GENERAL.—Section 8(a) of the Shipping Act of 1984 (46 U.S.C. App. 1707(a)) is amended by—

(1) inserting ''new assembled motor vehicles,'' after ''scrap,'' in paragraph (1);

(2) striking ''file with the Commission, and'' in paragraph (1);

(3) striking ''inspection,'' in paragraph (1) and inserting ''inspection in an automated tariff system,'';

(4) striking ''tariff filings'' in paragraph (1) and inserting ''tariffs'';

(5) striking ''freight forwarder'' in paragraph (1)(C) and inserting ''transportation intermediary, as defined in section 3(17)(A),'';

(6) striking ''and'' at the end of paragraph (1)(D);

(7) striking ''loyalty contract,'' in paragraph (1)(E);

(8) striking ''agreement.'' in paragraph (1)(E) and inserting ''agreement; and'';

(9) adding at the end of paragraph (1) the following:

''(F) include copies of any loyalty contract, omitting the shipper's name.''; and

(10) striking paragraph (2) and inserting the following:

''(2) Tariffs shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations, and a reasonable charge may be assessed for such access. No charge may be assessed a Federal agency for such access.''.

(b) SERVICE CONTRACTS.—Subsection (c) of that section is amended to read as follows:

''(c) SERVICE CONTRACTS.—

''(1) IN GENERAL.—An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this Act. The exclusive remedy for a breach of a contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree. In no case may the contract dispute resolution forum be controlled by or in any way affiliated with a controlled carrier as defined in section 3(8) of this Act, or by the government which owns or controls the carrier.

''(2) FILING REQUIREMENTS.—Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste, each contract entered into under this subsection by an individual ocean common carrier or an agreement shall be filed confidentially with the Commission. Each service contract shall include the following essential terms—

''(A) the origin and destination port ranges;

''(B) the origin and destination geographic areas in the case of through intermodal movements;

''(C) the commodity or commodities involved;

''(D) the minimum volume or portion;

''(E) the line-haul rate;

''(F) the duration;

''(G) service commitments; and

''(H) the liquidated damages for nonperformance, if any.

''(3) PUBLICATION OF CERTAIN TERMS.—When a service contract is filed confidentially with the Commission, a concise statement of the essential terms described in paragraphs 2 (A), (C), (D), and (F) shall be published and made available to the general public in tariff format.

''(4) DISCLOSURE OF CERTAIN TERMS.—

''(A) An ocean common carrier, which is a party to or is subject to the provisions of a collective bargaining agreement with a labor organization, shall, in response to a written request by such labor organization, state whether it is responsible for the following work at dock areas and within port areas in the United States with respect to cargo transportation under a service contract described in paragraph (1) of this subsection—

''(i) the movement of the shipper's cargo on a dock area or within the port area or to or from railroad cars on a dock area or within the port area;

''(ii) the assignment of intraport carriage of the shipper's cargo between areas on a dock or within the port area;

''(iii) the assignment of the carriage of the shipper's cargo between a container yard on a dock area or within the port area and a rail yard adjacent to such container yard; and

''(iv) the assignment of container freight station work and container maintenance and repair work performed at a dock area or within the port area.

''(B) The common carrier shall provide the information described in subparagraph (A) of this paragraph to the requesting labor organization within a reasonable period of time.

''(C) This paragraph requires the disclosure of information by an ocean common carrier only if there exists an applicable and otherwise lawful collective bargaining agreement which pertains to that carrier. No disclosure made by an ocean common carrier shall be deemed to be an admission or agreement that any work is covered by a collective bargaining agreement. Any dispute regarding whether any work is covered by a collective bargaining agreement and the responsibility of the ocean common carrier under such agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Relations Act, and without reference to this paragraph.

''(D) Nothing in this paragraph shall have any effect on the lawfulness or unlawfulness under this Act, the National Labor Relations Act, the Taft-Hartley Act, the Federal Trade Commission Act, the antitrust laws, or any other Federal or State law, or any revisions or amendments thereto, of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract under this subsection.

''(E) For purposes of this paragraph the terms 'dock area' and 'within the port area' shall have the same meaning and scope as in the applicable collective bargaining agreement between the requesting labor organization and the carrier.''.

(c) RATES.—Subsection (d) of that section is amended by—

(1) striking the subsection caption and inserting ''(d) TARIFF RATES.—'';

(2) striking ''30 days after filing with the Commission.'' in the first sentence and inserting ''30 calendar days after publication.'';

(3) inserting ''calendar'' after ''30'' in the next sentence; and

(4) striking ''publication and filing with the Commission.'' in the last sentence and inserting ''publication.''.

(d) REFUNDS.—Subsection (e) of that section is amended by—

(1) striking ''tariff of a clerical or administrative nature or an error due to inadvertence'' in paragraph (1) and inserting a comma; and

(2) striking ''file a new tariff,'' in paragraph (1) and inserting ''publish a new tariff, or an error in quoting a tariff,'';

(3) striking ''refund, filed a new tariff with the Commission'' in paragraph (2) and inserting ''refund for an error in a tariff or a failure to publish a tariff, published a new tariff'';

(4) inserting ''and'' at the end of paragraph (2); and

(5) striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(e) MARINE TERMINAL OPERATOR SCHEDULES.—Subsection (f) of that section is amended to read as follows:

''(f) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public, subject to section 10(d) of this Act, a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public shall be enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions.''.

(f) AUTOMATED TARIFF SYSTEM REQUIREMENTS; FORM.—Section 8 of that Act is amended by adding at the end the following:

''(g) REGULATIONS.—The Commission shall by regulation prescribe the requirements for the accessibility and accuracy of automated tariff systems established under this section. The Commission may, after periodic review, prohibit the use of any automated tariff system that fails to meet the requirements established under this section. The Commission may not require a common carrier to provide a remote terminal for access under subsection (a)(2). The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.''.

SEC. 107. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

Section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 U.S.C. App. 1707a) is repealed.

SEC. 108. CONTROLLED CARRIERS.

Section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708) is amended by—

(1) striking ''service contracts filed with the Commission'' in the first sentence of subsection (a) and inserting ''service contracts, or charge or assess rates,'';

(2) striking ''or maintain'' in the first sentence of subsection (a) and inserting ''maintain, or enforce'';

(3) striking ''disapprove'' in the third sentence of subsection (a) and inserting ''prohibit the publication or use of''; and

(4) striking ''filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission'' in the last sentence of subsection (a) and inserting ''that have been suspended or prohibited by the Commission'';

(5) striking ''may take into account appropriate factors including, but not limited to, whether—'' in subsection (b) and inserting ''shall take into account whether the rates or charges which have been published or assessed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs. For purposes of the preceding sentence, the term 'constructive costs' means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade. The Commission may also take into account other appropriate factors, including but not limited to, whether—'';

(6) striking paragraph (1) of subsection (b) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(7) striking ''filed'' in paragraph (1) as redesignated and inserting ''published or assessed'';

(8) striking ''filing with the Commission.'' in subsection (c) and inserting ''publication.'';

(9) striking ''DISAPPROVAL OF RATES.—'' in subsection (d) and inserting ''PROHIBITION OF RATES.—Within 120 days after the receipt of information requested by the Commission under this section, the Commission shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable.'';

(10) striking ''filed'' in subsection (d) and inserting ''published or assessed'';

(11) striking ''may issue'' in subsection (d) and inserting ''shall issue'';

(12) striking ''disapproved.'' in subsection (d) and inserting ''prohibited.'';

(13) striking ''60'' in subsection (d) and inserting ''30'';

(14) inserting ''controlled'' after ''affected'' in subsection (d);

(15) striking ''file'' in subsection (d) and inserting ''publish'';

(16) striking ''disapproval'' in subsection (e) and inserting ''prohibition'';

(17) inserting ''or'' after the semicolon in subsection (f)(1);

(18) striking paragraphs (2), (3), and (4) of subsection (f); and

(19) redesignating paragraph (5) of subsection (f) as paragraph (2).

SEC. 109. PROHIBITED ACTS.

(a) Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended by—

(1) striking paragraphs (1) through (3);

(2) redesignating paragraph (4) as paragraph (1);

(3) inserting after paragraph (1), as redesignated, the following:

''(2) provide service in the liner trade that—

''(A) is not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under section 8 of this Act unless excepted or exempted under section 8(a)(1) or 16 of this Act; or

''(B) is under a tariff or service contract which has been suspended or prohibited by the Commission under section 9 of this Act or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a);'';

(4) redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively;

(5) striking ''except for service contracts,'' in paragraph (4), as redesignated, and inserting ''for service pursuant to a tariff,'';

(6) striking ''rates;'' in paragraph (4)(A), as redesignated, and inserting ''rates or charges;'';

(7) inserting after paragraph (4), as redesignated, the following:

''(5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice in the matter of rates or charges with respect to any port;'';

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

(9) striking paragraph (6) as redesignated and inserting the following:

''(6) use a vessel or vessels in a particular trade for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;'';

(10) striking paragraphs (9) through (13) and inserting the following:

''(8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;

''(9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any port;

''(10) unreasonably refuse to deal or negotiate;'';

(11) redesignating paragraphs (14), (15), and (16) as paragraphs (11), (12), and (13), respectively;

(12) striking ''a non-vessel-operating common carrier'' in paragraphs (11) and (12) as redesignated and inserting ''an ocean transportation intermediary'';

(13) striking ''sections 8 and 23'' in paragraphs (11) and (12) as redesignated and inserting ''sections 8 and 19'';

(14) striking ''or in which an ocean transportation intermediary is listed as an affiliate'' in paragraph (12), as redesignated;

(15) striking ''Act;'' in paragraph (12), as redesignated, and inserting ''Act, or with an affiliate of such ocean transportation intermediary;''

(16) striking ''paragraph (16)'' in the matter appearing after paragraph (13), as redesignated, and inserting ''paragraph (13)''; and

(17) inserting ''the Commission,'' after ''United States,'' in such matter.

(b) Section 10(c) of the Shipping Act of 1984 (46 U.S.C. App. 1709(c)) is amended by—

(1) striking ''non-ocean carriers'' in paragraph (4) and inserting ''non-ocean carriers, unless such negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this Act'';

(2) striking ''freight forwarder'' in paragraph (5) and inserting ''transportation intermediary, as defined by section 3(17)(A) of this Act,'';

(3) striking ''or'' at the end of paragraph (5);

(4) striking ''contract.'' in paragraph (6) and inserting ''contract;''; and

(5) adding at the end the following:

''(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or persons due to those persons' status as shippers' associations or ocean transportation intermediaries; or

''(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or persons due to those persons' status as shippers' associations or ocean transportation intermediaries;''.

(c) Section 10(d) of the Shipping Act of 1984 (46 U.S.C. App. 1709(d)) is amended by—

(1) striking ''freight forwarders,'' and inserting ''transportation intermediaries,'';

(2) striking ''freight forwarder,'' in paragraph (1) and inserting ''transportation intermediary,'';

(3) striking ''subsection (b)(11), (12), and (16)'' and inserting ''subsections (b)(10) and (13)''; and

(4) adding at the end thereof the following:

''(4) No marine terminal operator may give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person.

''(5) The prohibition in subsection (b)(13) of this section applies to ocean transportation intermediaries, as defined by section 3(17)(A) of this Act.''.

SEC. 110. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

Section 11(g) of the Shipping Act of 1984 (46 U.S.C. App. 1710(g)) is amended by—

(1) striking ''section 10(b)(5) or (7)'' and inserting ''section 10(b)(3) or (6)''; and

(2) striking ''section 10(b)(6)(A) or (B)'' and inserting ''section 10(b)(4)(A) or (B).''.

SEC. 111. FOREIGN SHIPPING PRACTICES ACT OF 1988.

Section 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a) is amended by—

(1) striking ''''non-vessel-operating common carrier','' in subsection (a)(1) and inserting ''''ocean transportation intermediary','';

(2) striking ''forwarding and'' in subsection (a)(4);

(3) striking ''non-vessel-operating common carrier'' in subsection (a)(4) and inserting ''ocean transportation intermediary services and'';

(4) striking ''freight forwarder,'' in subsections (c)(1) and (d)(1) and inserting ''transportation intermediary,'';

(5) striking ''filed with the Commission,'' in subsection (e)(1)(B) and inserting ''and service contracts,'';

(6) inserting ''and service contracts'' after ''tariffs'' the second place it appears in subsection (e)(1)(B); and

(7) striking ''(b)(5)'' each place it appears in subsection (h) and inserting ''(b)(6)''.

SEC. 112. PENALTIES.

(a) Section 13(a) of the Shipping Act of 1984 (46 U.S.C. App. 1712(a)) is amended by adding at the end thereof the following: ''The amount of any penalty imposed upon a common carrier under this subsection shall constitute a lien upon the vessels operated by that common carrier and any such vessel may be libeled therefore in the district court of the United States for the district in which it may be found.''.

(b) Section 13(b) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)) is amended by—

(1) striking ''section 10(b)(1), (2), (3), (4), or (8)'' in paragraph (1) and inserting ''section 10(b)(1), (2), or (7)'';

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(3) inserting before paragraph (5), as redesignated, the following:

''(4) If the Commission finds, after notice and an opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Commission may request that the Secretary of the Treasury refuse or revoke any clearance required for a vessel operated by that common carrier. Upon request by the Commission, the Secretary of the Treasury shall, with respect to the vessel concerned, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).''; and

(4) striking ''paragraphs (1), (2), and (3)'' in paragraph (6), as redesignated, and inserting ''paragraphs (1), (2), (3), and (4)''.

(c) Section 13(f)(1) of the Shipping Act of 1984 (46 U.S.C. App. 1712(f)(1)) is amended by—

(1) striking ''or (b)(4)'' and inserting ''or (b)(2)'';

(2) striking ''(b)(1), (4)'' and inserting ''(b)(1), (2)''; and

(3) adding at the end thereof the following ''Neither the Commission nor any court shall order any person to pay the difference between the amount billed and agreed upon in writing with a common carrier or its agent and the amount set fourth in any tariff or service contract by that common carrier for the transportation service provided.''.

SEC. 113. REPORTS AND CERTIFICATES.

Section 15 of the Shipping Act of 1984 (46 U.S.C. App. 1714) is amended by—

(1) striking ''and certificates'' in the section heading;

(2) striking ''(a) REPORTS.—'' in the subsection heading for subsection (a); and

(3) striking subsection (b).

SEC. 114. EXEMPTIONS.

Section 16 of the Shipping Act of 1984 (46 U.S.C. App. 1715) is amended by striking ''substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce.'' and inserting ''result in substantial reduction in competition or be detrimental to commerce.''.

SEC. 115. AGENCY REPORTS AND ADVISORY COMMISSION.

Section 18 of the Shipping Act of 1984 (46 U.S.C. App. 1717) is repealed.

SEC. 116. OCEAN FREIGHT FORWARDERS.

Section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) is amended by—

(1) striking ''freight forwarders'' in the section caption and inserting ''transportation intermediaries'';

(2) striking subsection (a) and inserting the following:

''(a) LICENSE.—No person in the United States may act as an ocean transportation intermediary unless that person holds a license issued by the Commission. The Commission shall issue an intermediary's license to any person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.'';

(3) redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(4) inserting after subsection (a) the following:

''(b) FINANCIAL RESPONSIBILITY.—

''(1) No person may act as an ocean transportation intermediary unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

''(2) A bond, insurance, or other surety obtained pursuant to this section—

''(A) shall be available to pay any order for reparation issued pursuant to section 11 or 14 of this Act, or any penalty assessed pursuant to section 13 of this Act;

''(B) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities described in section 3(17) of this Act with the consent of the insured ocean transportation intermediary and subject to review by the surety company, or when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

''(C) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities under section 3(17) of this Act, provided the claimant has first attempted to resolve the claim pursuant to subparagraph (B) of this paragraph and the claim has not been resolved within a reasonable period of time.

''(3) The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

''(4) An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.'';

(5) striking, each place such term appears—

(A) ''freight forwarder'' and inserting ''transportation intermediary'';

(B) ''a forwarder's'' and inserting ''an intermediary's'';

(C) ''forwarder'' and inserting ''intermediary''; and

(D) ''forwarding'' and inserting ''intermediary'';

(6) striking ''a bond in accordance with subsection (a)(2).'' in subsection (c), as redesignated, and inserting ''a bond, proof of insurance, or other surety in accordance with subsection (b)(1).'';

(7) striking ''FORWARDERS.—'' in the caption of subsection (e), as redesignated, and inserting ''INTERMEDIARIES.—'';

(8) striking ''intermediary'' the first place it appears in subsection (e)(1), as redesignated and as amended by paragraph (5)(A), and inserting ''intermediary, as defined in section 3(17)(A) of this Act,'';

(9) striking ''license'' in paragraph (1) of subsection (e), as redesignated, and inserting ''license, if required by subsection (a),'';

(10) striking paragraph (3) of subsection (e), as redesignated, and redesignating paragraph (4) as paragraph (3); and

(11) adding at the end of subsection (e), as redesignated, the following:

''(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean transportation intermediary, as defined in section 3(17)(A) of this Act, may—

''(A) deny to any member of the conference or group the right, upon notice of not more than 5 calendar days, to take independent action on any level of compensation paid to an ocean transportation intermediary, as so defined; or

''(B) agree to limit the payment of compensation to an ocean transportation intermediary, as so defined, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a tariff and which

are assessed against the cargo on which the intermediary services are provided.''.

SEC. 117. CONTRACTS, AGREEMENTS, AND LICENSES UNDER PRIOR SHIPPING LEGISLATION.

Section 20 of the Shipping Act of 1984 (46 U.S.C. App. 1719) is amended by—

(1) striking subsection (d) and inserting the following:

''(d) EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.—All agreements, contracts, modifications, licenses, and exemptions previously issued, approved, or effective under the Shipping Act, 1916, or the Shipping Act of 1984, shall continue in force and effect as if issued or effective under this Act, as amended by the Ocean Shipping Reform Act of 1998, and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act, as amended by the Ocean Shipping Reform Act of 1998.'';

(2) inserting the following at the end of subsection (e):

''(3) The Ocean Shipping Reform Act of 1998 shall not affect any suit—

''(A) filed before the effective date of that Act; or

''(B) with respect to claims arising out of conduct engaged in before the effective date of that Act filed within 1 year after the effective date of that Act.

''(4) Regulations issued by the Federal Maritime Commission shall remain in force and effect where not inconsistent with this Act, as amended by the Ocean Shipping Reform Act of 1998.''.

SEC. 118. SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS.

Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721) is repealed.

TITLE II—AUTHORIZATION OF APPROPRIATIONS FOR THE FEDERAL MARITIME COMMISSION

SEC. 201. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1998.

There are authorized to be appropriated to the Federal Maritime Commission, $15,000,000 for fiscal year 1998.

SEC. 202. FEDERAL MARITIME COMMISSION ORGANIZATION.

Section 102(d) of Reorganization Plan No. 7 of 1961 (75 Stat. 840) is amended to read as follows:

''(d) A vacancy or vacancies in the membership of Commission shall not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the members serving on the Commission is required to dispose of any matter before the Commission.''.

SEC. 203. REGULATIONS.

Not later than March 1, 1999, the Federal Maritime Commission shall prescribe final regulations to implement the changes made by this Act.

TITLE III—AMENDMENTS TO OTHER SHIPPING AND MARITIME LAWS

SEC. 301. AMENDMENTS TO SECTION 19 OF THE MERCHANT MARINE ACT, 1920.

(a) IN GENERAL.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876) is amended by—

(1) striking ''forwarding and'' in subsection (1)(b);

(2) striking ''non-vessel-operating common carrier operations,'' in subsection (1)(b) and inserting ''ocean transportation intermediary services and operations,'';

(3) striking ''methods or practices'' and inserting ''methods, pricing practices, or other practices'' in subsection (1)(b);

(4) striking ''tariffs of a common carrier'' in subsection 7(d) and inserting ''tariffs and service contracts of a common carrier'';

(5) striking ''use the tariffs of conferences'' in subsections (7)(d) and (9)(b) and inserting ''use tariffs of conferences and service contracts of agreements'';

(6) striking ''tariffs filed with the Commission'' in subsection (9)(b) and inserting ''tariffs and service contracts'';

(7) striking ''freight forwarder,'' each place it appears and inserting ''transportation intermediary,''; and

(8) striking ''tariff'' each place it appears in subsection (11) and inserting ''tariff or service contract''.

(b) STYLISTIC CONFORMITY.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), as amended by subsection (a), is further amended by—

(1) redesignating subdivisions (1) through (12) as subsections (a) through (l), respectively;

(2) redesignating subdivisions (a), (b), and (c) of subsection (a), as redesignated, as paragraphs (1), (2), and (3);

(3) redesignating subdivisions (a) through (d) of subsection (f), as redesignated, as paragraphs (1) through (4), respectively;

(4) redesignating subdivisions (a) through (e) of subsection (g), as redesignated, as paragraphs (1) through (5), respectively;

(5) redesignating clauses (i) and (ii) of subsection (g)(4), as redesignated, as subparagraphs (A) and (B), respectively;

(6) redesignating subdivisions (a) through (e) of subsection (i), as redesignated, as paragraphs (1) through (5), respectively;

(7) redesignating subdivisions (a) and (b) of subsection (j), as redesignated, as paragraphs (1) and (2), respectively;

(8) striking ''subdivision (c) of paragraph (1)'' in subsection (c), as redesignated, and inserting ''subsection (a)(3)'';

(9) striking ''paragraph (2)'' in subsection (c), as redesignated, and inserting ''subsection (b)'';

(10) striking ''paragraph (1)(b)'' each place it appears and inserting ''subsection (a)(2)'';

(11) striking ''subdivision (b),'' in subsection (g)(4), as redesignated, and inserting ''paragraph (2),'';

(12) striking ''paragraph (9)(d)'' in subsection (j)(1), as redesignated, and inserting ''subsection (i)(4)''; and

(13) striking ''paragraph (7)(d) or (9)(b)'' in subsection (k), as redesignated, and inserting ''subsection (g)(4) or (i)(2)''.

SEC. 302. TECHNICAL CORRECTIONS.

(a) PUBLIC LAW 89–777.—Sections 2 and 3 of the Act of November 6, 1966 (46 U.S.C. App. 817d and 817e) are amended by striking ''they in their discretion'' each place it appears and inserting ''it in its discretion''.

(b) TARIFF ACT OF 1930.—Section 641(i) of the Tariff Act of 1930 (19 U.S.C. 1641) is repealed.

TITLE IV—CERTAIN LOAN GUARANTEES AND COMMITMENTS

SEC. 401. CERTAIN LOAN GUARANTEES AND COMMITMENTS.

(a) The Secretary of Transportation may not issue a guarantee or commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a liner vessel under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) after the date of enactment of this Act unless the Chairman of the Federal Maritime Commission certifies that the operator of such vessel—

(1) has not been found by the Commission to have violated section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1701a), within the previous 5 years; and

(2) has not been found by the Commission to have committed a violation of the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.), which involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port within the previous 5 years.

(b) The Secretary of Commerce may not issue a guarantee or a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a fishing vessel under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) if the fishing vessel operator has been—

(1) held liable or liable in rem for a civil penalty pursuant to section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858) and not paid the penalty;

(2) found guilty of an offense pursuant to section 309 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859) and not paid the assessed fine or served the assessed sentence;

(3) held liable for a civil or criminal penalty pursuant to section 105 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375) and not paid the assessed fine or served the assessed sentence; or

(4) held liable for a civil penalty by the Coast Guard pursuant to title 33 or 46, United States Code, and not paid the assessed fine.

The SPEAKER pro tempore (Mr. DICKEY). Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from Tennessee (Mr. CLEMENT) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHUSTER).

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

Mr. Speaker, this is the Ocean Shipping Reform Act of 1998 which modernizes our system of international ocean shipping. This reform is long overdue. In fact, in the last Congress, the House overwhelmingly passed Ocean Shipping Reform. However, there was no action in the other body.

The bill before us today maintains the essential reforms contained in that previous bill, and the most important of these reforms is the authority for American businesses to keep their ocean transportation costs confidential from their foreign competitors.

Today our ocean transportation systems are competing against foreign exporters and foreign importers, and indeed, American exporters and importers are required to publicly file their ocean transportation contract prices. This bill will allow American businesses to keep those transportation costs confidential from their foreign competitors, and it will level the international playing field for our U.S. exporters. Further delay in not passing this bill will sacrifice any chance of reform in this Congress.

This bill is strongly supported by millions of U.S. businesses, including the National Industrial Transportation League and the American Flag Carriers. It is supported by the administration and it is supported by organized labor.

I would emphasize to my colleagues that competitive American ocean shipping is becoming more and more important to our country as we compete

more and more in a global economy. In fact, let me share a statistic that I find a bit stunning.

The average American plant, if it wants to ship product overseas from a seaport, must ship its product to that port an average distance of 1,500 miles. For a German company in Germany, it must ship its product to a seaport only 300 miles. For a Japanese company, it must ship its product to a seaport only 30 miles. So one can see the relative disadvantage we have in transportation costs, and therefore, the extraordinary need for us to make our transportation system as efficient as possible.

This, of course, means the multimodal nature of our transportation system, from an efficient railroad system, an efficient trucking system, shipping into those ports, to modernize ports which can handle those products to be shipped overseas, and the actual passage, the actual ocean shipping itself.

For all of these reasons we need to pass this legislation today as one of the steps in making American global transportation more efficient. For that reason, I urge my colleagues to support this legislation.

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

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

Mr. Speaker, I rise in strong support of the Senate bill, S. 414, the Ocean Shipping Reform Act of 1997. S. 414 will significantly increase competition in international shipping, and help make U.S. industries more competitive by decreasing their transportation costs to overseas markets.

In the last Congress the House passed H.R. 2149, the Ocean Shipping Reform Act of 1995, legislation which was widely criticized for allowing international shipping conferences to enter into totally confidential contracts with shippers while maintaining their antitrust immunity. The Ocean Shipping Reform Act of 1997 does not allow for totally confidential contracts by conferences. Carriers in conferences must continue to disclose to the Federal Maritime Commission the commodity, volume, origin, and destination port ranges, as well as the contract duration.

In the interests of eliminating unnecessary government involvement, tariffs and rates will not need to be filed with the Federal Maritime Commission. We are going to allow the electronic technology in the marketplace to promote competition by requiring that tariffs and rates be made available on the Internet. People around the world will have instantaneous access to the rates and services provided by water carriers.

Many of the complaints about the Shipping Act of 1984 centered around restrictions that international shipping conferences had placed upon their members. For many years, conferences had restricted the ability of their members to enter into service contracts with their customers. S. 414 solves this problem by prohibiting a conference from restricting its members from entering into service contracts. Similarly, a conference may not require its members to disclose the terms of the service contracts that they enter into.

Mr. Speaker, this bill will increase competition among international carriers. It will benefit both large and small companies that desire to have their goods exported.

The Ocean Shipping Reform Act of 1997 has broad support from shipping lines, such as Sea-Land and American President Lines, from shoreside labor, including the ILA and the ILWU, the American Association of Port Authorities, and the National Industrial Transportation League.

There is one group, Transportation Intermediaries, that has concerns about S. 414. These companies do not operate the vessels on which the cargo is carried, but resell their space to shippers. One of the purposes of the Shipping Act is to promote investment in international shipping. This bill attempts to give people reason to invest in shipping by allowing the company that operates the vessel on which the goods are transported to have a more confidential contract with shippers than those that do not operate the vessel.

International shipping is continuing to evolve with larger, more efficient ships. By promoting investment in these types of ship operations, we will help to decrease the cost of transporting goods in the future.

However, if we do not see this type of investment and increased competition as a result of enactment of S. 414, I do not believe that Congress will hesitate to revisit these issues to promote competition in international shipping.

Mr. Speaker, I would like to take a moment to mention one other essential of S. 414 that is being dropped from that bill. Title IV, as passed by the Senate, grants limited burial and funeral benefits to Merchant Mariners who served in World War II between August 16, 1945, and December 31, 1946.

In 1987, the Department of Defense granted veterans status to Merchant Mariners who served between December 7th, 1941, and August 16, 1945. However, the dangers of the war did not end on that day. Foreign harbors continued to have dangerous mines. At least 11 merchant ships were sunk during those 14½ months between 1945 and at the end of 1946.

Mr. Speaker, over 310 members of the House have cosponsored H.R. 1126, which would have granted these Merchant Mariners full veterans status. The provisions that were contained in S. 414 would have simply allowed these men to be buried in our national cemeteries, and be given a flag and a headstone for their valiant service to our country. I do not think that was too much to ask.

However, when considered in its entirety, S. 414 is a major step forward in promoting competition in international shipping when compared to the Shipping Act of 1984. I strongly urge my colleagues to support passage of this bill so that it can be signed into law by the President.

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

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

Mr. Speaker, we bring this bill to the floor today in consultation with the Committee on the Judiciary. I ask to include for the RECORD the letters between the Committee on Transportation and Infrastructure and the Committee on the Judiciary concerning the committees' respective jurisdictions over this legislation.

The letters referred to are as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, August 3, 1998.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, U.S. House of Representatives, Washington, DC.

DEAR BUD: I understand that you intend to move to suspend the rules and pass S.414, the ''Ocean Shipping Reform Act of 1998,'' as passed by the Senate.

Title I of S.414, as passed by the Senate, makes a variety of amendments to the regime under which ocean common carrier conferences enjoy antitrust immunity. Under Rule X(1)(j)(15), the Committee on the Judiciary has jurisdiction over the antitrust provisions of the Act.

Because of the leadership's request that we move this bill to the floor quickly and the delicate political balance involved in this compromise legislation, I am willing to waive this Committee's right to a referral of S.414. I will not attempt to impede this legislation from going forward so long as it remains in exactly the form it was passed by the Senate, other than the provisions of Title IV, which I understand will be removed at the request of the Committee on Veterans' Affairs. However, my doing so does not constitute any waiver of the Committee's jurisdiction over these provisions and does not prejudice its rights in any future legislation relating to these provisions or any other antitrust immunity provided in the Act. I will, of course, insist that Members of this Committee be named as conferees on these provisions or any other antitrust immunity provided in the Act should the bill go to the conference.

I want to note, however, that I am very concerned about the situation of the non-vessel-owning common carriers, or NVOCCs, the freight forwarders, and the shipping associations. These groups were not included in the compromise that was reached in the Senate, and I believe that the provisions of this bill will harm them. For that reason, I will not be able to support S. 414 when it comes to the floor, and I intend to speak against it. I understand that you also are concerned about the plight of these groups and that you intend to take further action to address their concerns in the next Congress. This action will include hearings and other oversight activities as the amendments to the Shipping Act of 1984 are implemented.

If the foregoing meets with your understanding of the matter, I would appreciate your placing this letter and your response in the record during the debate on S.414. Thank you for your cooperation in this matter.

Sincerely,

HENRY J. HYDE,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, August 4, 1998.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter waiving your Committee's right to a referral of amendments to the Shipping Act of 1984 contained in S. 414, the Ocean Shipping Reform Act. I agree that the waiver should not be viewed as a waiver of any jurisdictional claim that you might have over the bill. As you know, ocean shipping reform has been an extremely controversial subject, and I appreciate your continuing support of my effort to modernize international ocean shipping.

Since the House of Representatives passed H.R. 2149, the Ocean Shipping Reform Act of 1996, the Senate has worked to pass a bill that maintained the most essential provisions of H.R. 2149. Earlier this year, the Senate passed S. 414, the Ocean Shipping Reform Act of 1998. That bill is not identical to H.R. 2149, but it retains the provisions from the House bill that are the most important to millions of American businesses. These provisions give American businesses the freedom to keep their ocean transportation contract prices confidential from their foreign competitors. This change in the law will improve the competitive position of American exporters, and stimulate American exports.

I believe we must act now to pass S. 414. This bill is a huge step forward in the process of deregulation of international ocean shipping. If we delay action on this important matter any longer, we will lose this chance to modernize ocean shipping transportation practices and level the playing field for American businesses.

I understand that you have strong concerns about the provisions in S. 414 related to shipping intermediaries and other matters. During the next Congress, I will work with you, the shipping intermediaries, and the Federal Maritime Commission to bring a more level playing field to all U.S. businesses involved in ocean shipping.

Please be assured that I will submit our correspondence on S. 414 for the RECORD when we take the bill up on the House Floor.

With kind personal regards, I am

Sincerely,

BUD SHUSTER,
Chairman.

Mr. Speaker, I am pleased to yield 3½ minutes to the distinguished gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in reluctant opposition to S. 414, the Ocean Shipping Reform Act of 1998. Two years ago I stood here and supported H.R. 2149, another version of shipping reform. The bill we consider today differs from the 1996 bill in important ways, and I cannot support it.

Current law provides an antitrust exemption for ocean-going ships, most of which are foreign-owned, to form cartels that legally enter into price-fixing agreements at the expense of American shippers. As chairman of the committee with jurisdiction over antitrust, I find that system difficult to accept.

If we were writing on a blank slate, I do not think such a system would pass. However, I understand the political reality that this system has been in the law since 1916, and it probably cannot be eliminated in one shot. I reluctantly accept that change probably has to come incrementally. However, in making that incremental change, we should follow the fundamental principles of medicine: First, do no harm.

I think this bill does harm in some important ways. First and most importantly, one group of small businesses, many of whom are my constituents, will suffer severe harm if this bill becomes law. At every port there are businesses that consolidate small shipments into large shipments, thereby getting lower rates for small shippers.

These businesses go by various names, nonvessel operating common carriers, freight forwarders, or shipping associations, but they all perform basically the same economic function. In doing so, they compete directly with the ocean-going common carriers for shipping business.

This bill puts these small businesses at a severe disadvantage. It allows their competitors to use secret contracts to undermine the cartels, but it requires these small businesses to publish their rates for all to see. It does not take an economic genius to realize that this system will soon drive them out of business.

Second, I am concerned that this bill actually encourages the joint negotiation of inland shipping rates. Thus, not only will the rates for the ocean part of the trip be set by legally-sanctioned price-fixing cartels, but now those same cartels will be encouraged to jointly negotiate rates for the overland trip to the port, as well. I see no justification for this further extension of cartel behavior.

Let me just repeat, I would like to see the entire antitrust exemption eliminated. Failing that, I would like to allow all of the competitors to use secret contracts so that the cartels are undermined. But I am not willing to make those changes in a way that gives one group of competitors an insurmountable advantage over another, and unfortunately, that is what this bill does.

This compromise was reached in the Senate after the committee reported the bill, but before it reached the floor. We are now taking it up on the floor without any committee consideration. We are told if we change one word the whole thing will fall apart. I understand that reality as well, and thus, I have not insisted on a referral. However, I can only go so far, and I cannot support this bill, which harms my constituents. I urge my colleagues to defeat it.

I want to thank my colleagues, the gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from Maryland (Mr. GILCHREST). I appreciate their commitment to conduct vigorous oversight of the situation of the various types of freight consolidators if this bill becomes law, and I intend to conduct such oversight in the Committee on the Judiciary, as well.

Mr. SHUSTER. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Maryland (Mr. Gilchrest), the distinguished chairman of our subcommittee.

Mr. GILCHREST. Mr. Speaker, I thank the chairman for yielding time to me. I am not sure if I need the entire 4 minutes. I want to address some of the concerns that the chairman of the Committee on the Judiciary raised.

One is the antitrust exemption, and he is correct, we have tried to deal with this particular issue, and ocean shipping in general, in an international way since 1916. This has been addressed in Congress in 1961, during the 1970s recession, then in 1984 in the Ocean Shipping Act, and again as recently as a couple of years ago, in order to stabilize ocean shipping in an international way, understanding that 85 percent of the regulated ocean shipping is basically controlled by the international community or our foreign competitors.

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To deal with this issue in an incremental fashion would mean that we are trying to do no harm to U.S. shipping, the main goal of this legislation. It is not a panacea. It does not solve all of the problems for those people who are involved in the shipping industry, especially the freight forwarders that the gentleman from Illinois (Mr. HYDE) mentioned, but it does, in an incremental fashion, create stability and a further advantage for the U.S. shipping industry, with the U.S. shipping industry being able to enter into private contracts, the shippers and the carriers.

This has not been done before. Our foreign competitors were able to enter into private contracts, which was a big disadvantage to U.S. shippers, and if that was a big disadvantage to U.S. shippers, it was not helpful to those who are categorized as a freight forwarder.

We do have to deal with those constituents of the gentleman from Illinois (Mr. HYDE), the gentleman from Illinois (Mr. FAWELL), myself and a number of other Members in the area of what we might call travel agents, those people who try to decide, someone who has a small business, who cannot fill up many containers or who may not be able to fill up one container, how do we consolidate all those small businesses so that we can get their goods on these ships and ship overseas at the lowest rate possible? The competition in there is very great.

I would say to the chairman of the Committee on the Judiciary that we are very cognizant of that particular problem. As we go through this legislation again next year, those areas of concern will be addressed and the freight forwarders and people in that particular arena, we want to make sure that those small businesses stay in

business, because they add such a great deal to the free and open marketplace.

The chairman of the Committee on Transportation and Infrastructure talking about the intermodal system, which the gentleman from Illinois (Mr. HYDE) also raised, in order to be competitive with the rest of the world, knowing that we do not ship these goods, understanding how short the distance is shipping from Japan to the ports and from Germany to the ports or from Holland to the ports and from the Midwest to our coastal areas, our intermodal system must be very organized, very structured, very aligned.

We are doing what we can for the whole international marketplace for the United States to be able to compete not only with the shipping but with the intermodal transportation system.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I just want to express my thanks to the gentleman for his assurances that he will give this problem continuing attention. I will be very interested in his performance. I am very grateful for his understanding.

Mr. GILCHREST. Mr. Speaker, I thank the chairman of the Committee on the Judiciary, and I thank the gentleman for yielding me the time.

Mr. CLEMENT. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ), my friend.

Mr. MENENDEZ. Mr. Speaker, I want to thank the distinguished gentleman for yielding me the time.

As a representative of one of the Nation's largest ports in the Ports of Elizabeth and Newark within the context of the Port of New York, I had opposed ocean shipping before in the last Congress, but I rise in support of S. 414, the Ocean Shipping Reform Act of 1998.

I do want to express, however, some concerns. We clearly should not underestimate the importance of this topic. Ocean shipping is the very means that our Nation trades with the world. Ocean-going vessels move more than 95 percent of all the international trade, and small businesses account for the majority of all export and import trade.

Unfortunately, small business did not end up being part of this compromise which produced the current version. In my district, small businesses have made it clear to me that S. 414 is not perfect. While S. 414 is an attempt to introduce more competition, and that is good, in the ocean-shipping industry, freight forwarders, nonvessel operating common carriers, shipper associations and independently owned businesses, all important and vital elements in the international ocean-borne commerce community, have reservations about the bill.

I have sincere concerns for the many ocean freight forwarders and NVOCCs that are active in New Jersey. I want to reiterate the thoughts of my Democratic colleague, Senator BREAUX, who called upon the Federal Maritime Commission to actively monitor how this legislation impacts small businesses and freight forwarders in the areas of ocean freight forwarder compensation and whether confidential contracts will undermine the forwarder's place as an integral service provider to smaller business active in the international trade community.

I am glad to hear that the chairman of the subcommittee as well as the chairman of the Committee on the Judiciary are going to continue to pursue these concerns.

Let me reiterate my support for the bill, which represents careful negotiation by labor groups and shippers. It was clearly no small task to reach the agreement that we will be voting on. However, I hope that we will continue to examine the effects of the bill to ensure that unintended consequences do not take place.

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

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

In closing, I would simply emphasize that this bill has the support of NIT league, the shippers who use the ocean-going vessels, of the AFL–CIO, labor, and of the administration, and it is a big step in the right direction. It does not solve all of the problems, but certainly moves in the right direction.

I would urge passage of this important legislation.

Mr. OBERSTAR. Mr. Speaker, I rise in support of S. 414, the Ocean Shipping Reform Act of 1997. This bill is the culmination of a process that began in the Transportation Committee last Congress with House passage of the Ocean Shipping Reform Act of 1995. That bill, H.R. 2149, would have drastically changed the way international common carriage by water is regulated. I was very concerned about that bill because of the unrestricted authority it gave conferences or cartels to enter into confidential contracts.

The approach contained in S. 414 is much more balanced. That is why it is supported by vessel operators, manufacturers, ports, seagoing labor, and shoreside labor.

Enactment of S. 414 will allow individual carriers and conferences to enter into more confidential contracts than they are allowed today. However, they must continue to disclose with the Federal Maritime Commission the commodity, volume, origin and destination port ranges, and contract duration. Similarly, carriers and conferences will no longer have to file tariffs with the Commission, but they must make their tariffs publicly available electronically, such as through the internet.

S. 414 prohibits conferences from requiring its individual members to disclose their service contract terms and prohibits conferences from restricting in any way the ability to their members to enter into service contracts with shippers. Along with this, S. 414 will allow individual carriers to act independently of the conferences with notice of 5 calendar days, instead of the current 10 business days.

Mr. Speaker, the changes made by S. 414 will profoundly change international shipping by increasing competition among carriers and by allowing carriers to offer a broader array of services to their customers.

Not everyone is totally happy with S. 414. Under the bill, only the person operating the vessel on which the goods are actually carried can enter into a confidential service contract with a shipper. The basis for this is simple: these people have invested millions of dollars in the vessel and pay for its operating cost. Why should they be treated the same as someone who has not invested any money in the vessel on which the goods are transported? This bill attempts to give an incentive for capital investment in these ships. Others may argue that allowing people that do not operate the vessel on which the goods are transported to enter into confidential contracts will help promote competition and reduce rates. However, investment in new, more efficient ships, will also increase capacity and decrease rates. The FMC is going to continue to oversee these contracts and will be responsible for ensuring that the conferences and their members do not engage in anti-competitive practices such as voluntarily pooling information on their service contracts with each other.

Mr. Speaker, I must say that I am very disappointed that an amendment to S. 414 has been added that eliminates a Senate provision that would have granted merchant mariners who served during World War II the same burial benefits as other veterans from that war. Merchant Mariners suffered the second highest casualty rate of any service during the war, second only to the Marine Corps. The convoys of ships they operated were the lifeline to England and enabled our forces to free Europe. The provisions in the bill were but a small way of our nation telling these gallant men thanks. The benefits that would have been provided for in the Senate passed bill would have been a small part of the benefits provided for by H.R. 1126, which currently has over 310 cosponsors.

And why was this section deleted? Because, the gentleman from Arizona, Mr. STUMP, the Chairman of the Veterans Affairs Committee, refused to agree to scheduling S. 414 for the House floor with the merchant mariners benefits provisions included, unless his bill, H.R. 3211, restricting who can be buried in Arlington National Cemetery was passed by the Senate. Why won't the Senate consider his bill? Because it does not allow for heroes like Officer John Gibson to be buried in Arlington National Cemetery under a waiver process. The gentleman from Arizona opposes burial of national heroes such as Officer Gibson in Arlington Cemetery and does not want U.S. merchant mariners who served their country during World War II buried in any national cemetery, even though 310 members of this body disagree with him. I believe this is terribly wrong and that the Republican leadership should not prevent all of these people who served our country from being buried in our national cemeteries simply because one Member is opposed.

Mr. Speaker, on balance, I believe that S. 414 is a good bill. Our Committee is going to continue its oversight of international shipping to ensure that there is fair competition and that the needs of U.S. exporters are being met. Therefore, I urge my colleagues to support passage of S. 414, the Ocean Shipping Reform Act of 1997.

Mr. FAWELL. Mr. Speaker, I rise today to express my concern about S. 414, the Ocean Shipping Reform Act of 1998. I have always supported deregulation, because I believe the free market is the best way to receive goods and services at the best price. Unfortunately, S. 414 does not fully deregulate the ocean shipping industry. This bill has the potential to benefit only the large shipping companies at the expense of small and medium-size exporters, importers, and freight intermediaries.

Under a 1916 law, all steamship companies are granted ''antitrust immunity,'' thereby exempting them from compliance with the Sherman Antitrust Act. As a result, steamship companies have historically grouped together in what are known as ''conferences'' to consider, establish, and enforce collective transportation rates. This situation puts the shipping public at a disadvantage.

To counterbalance the antitrust exemption, all charges and rates are ''transparent''—made available to the public, to ensure that there is no discrimination against small business and even the government.

S. 414, however, would give steamship conferences the ability to negotiate contracts in a confidential environment. These ''secret'' contracts could very well allow the conferences to provide lower costs to large shippers at the expense of small businesses and the U.S. government, which purchases about $1 billion of ocean transportation per year. If S. 414 becomes law, there will be no way of determining what the private sector is paying to transport goods. As a result, steamship companies could force the government, along with small businesses, to subsidize the lower rates extended secretly to these large shippers.

I do not oppose shipping deregulation, as long as it is done for the benefit of large as well as small shippers. S. 414 in its current form creates inequalities that could easily drive small shipping companies and shipping intermediaries out of business. This bill should be considered before a House committee and brought back to the House after these inequities are resolved and S. 414 benefits all shippers.

Mr. EVANS. Mr. Speaker, during World War II thousands of young men volunteered for service in the United States Merchant Marine. Many of these mariners were recruited specifically to staff ships under the control and direction of the United States Government to assist the U.S. war effort. These seamen were subject to government control, their vessels were controlled by the government under the authority of the War Shipping Administration and, like branches of military service, they traveled under sealed orders and were subject to the Code of Military Justice.

Some volunteers joined the Merchant Marines because their youthful age or minor physical problems, such as poor eyesight, made them ineligible for service in the Army, Navy, or Marine Corps. Others were encouraged by military recruiters to volunteer for service in the Merchant Marines because the recruiter recognized that the special skills offered by the volunteer could best be put to use for our country by service in the Merchant Marines. Most importantly, all were motivated by their deep love of country and personal sense of patriotism to contribute to the war effort.

In order to staff our growing merchant fleet during World War II, the U.S. Maritime Commission established training camps around the country under the direct supervision of the Coast Guard. After completing basic training, which included both small arms and cannon proficiency, seamen became active members of the U.S. Merchant Marine. These seamen, often at great personal risk, helped deliver troops and war supplies needed for every Allied invasion site from Guadalcanal to Omaha Beach. I have heard from the merchant mariners who were responsible in 1946 for transporting tons of German mustard and other poisonous gas containers from Europe to the San Jacinto ordinance base in Texas.

More than 6,500 Merchant Mariners who served our country during World War II gave the ultimate sacrifice of their lives, including 37 who died as prisoners of war, and almost 5,000 World War II Merchant Mariners remain officially missing and are presumed dead. In addition, 733 U.S. Merchant ships were destroyed. Even after the surrender of Japan, members of our Merchant Marine fleet were in mortal danger as they continued to support the war effort by entering mined harbors to transport our troops safely home. After the war ended, they carried food and medicine to millions of the world's starving people.

In spite of the illustrious service of the World War II U.S. Merchant Marine, the Secretary of the Air Force, Edward Aldridge, inexplicably and erroneously made the decision in 1988 to define the dates for World War II service differently for Merchant Marines than for those who served in the other American forces. The effect of this decision was to deny veteran status to those mariners who served between the dates of August 15, 1945 and December 31, 1946, the official end of World War II.

It is important to remember that during the time period addressed by this bill, August 15, 1945 through December 31, 1946, 12 U.S. Flag Merchant Vessels were lost or damaged as a result of striking mines, and some of the Merchant Mariners serving on these vessels were killed or injured. Fully understanding the tremendous risks they faced, mariners nonetheless willingly went into mined harbors so that they could bring our American troops home to their families and friends. I believe these courageous Merchant Mariners, who were subject to the risks and dangers of war between V–J Day and the official end of the war, have been wrongfully denied veteran status. They faced the very real hazards of wartime hostile actions and should not be denied the status of veteran of purposes of laws administered by the Department of Veterans Affairs because their seagoing contributions began after August 15, 1945.

In recognition of the service rendered and dangers faced by those mariners who served during the period of August 15, 1945 through December 31, 1946, on March 19, 1997, I introduced the Merchant Mariner Fairness Act (H.R. 1126). H.R. 1126 will finally provide appropriate recognition: veteran status for a few thousand World War II American Merchant Mariners. While this status will enable them to be eligible for veterans' benefits, it is likely that the only benefit most will receive is proper recognition of their contributions to the war effort and the right to a veterans' funeral. The merchant mariners who would be granted veteran status by this bill are aging. They will not qualify for educational benefits. As Medicare beneficiaries, most already have long standing relationships with their medical providers and are unlikely to seek VA health care. Nonetheless, the Merchant Mariners of World War II will receive the long-overdue thanks from the nation they served faithfully and courageously. The Merchant Mariners Fairness Act would correct this erroneous administrative decision by making the service eligibility period for World War II Merchant Mariners identical to that established for others.

As of yesterday, H.R. 1126 has been cosponsored by 310 Members of the House. Clearly, there is widespread and bipartisan support for H.R. 1126 and an overwhelming majority of the House agree with me on granting veteran status to this select group of Merchant Mariners of World War II. Unfortunately, the House has not yet taken action on the Merchant Mariners Fairness Act.

It has been more than than a half century since the end of World War II. How much longer must these aging Merchant Mariners, who are the forgotten partriots of World War II, wait for their service to our Nation to be properly and fully honored and acknowledged?

As approved by the other body, S. 414, the Ocean Shipping Reform Act of 1998, contained an important provision granting veteran status and limited veteran's benefits to a select group of World War II merchant mariners. With the number of days remaining in the 105th Congress rapidly dwindling, enactment of S. 414 as approved by the other body, would have properly provided the long overdue recognition to the Merchant Mariners who bravely served our Nation during the final days of World War II by granting veteran status and limited veterans' benefits. At long last, our Nation would have appropriately acknowledged their sacrifice and service to our Nation during wartime.

I regret, however, that the provisions contained in S. 414 bestowing veterans' status to those mariners, who served between the dates of August 15, 1945 and the official end of World War II, have been deleted from this legislation being considered by the House. As a result of striking these provisions from S. 414, those mariners who served between the dates of August 15, 1945 and December 31, 1946, will be required to wait even longer to receive the veterans status which I strongly believe they have earned and are due.

On a more positive note, I am very pleased to report that the Chairman of the House Committee on Veterans Affairs has pledged to work for Congressional approval of legislation granting veteran status and limited veterans' benefits to those mariners who served between the dates of August 15, 1945 and December 31, 1946, before the end of the 105th Congress. I welcome this commitment from Chairman Stump and based on his pledge I look forward to the approval of this legislation before the adjournment of the 105th Congress sine die.

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

The SPEAKER pro tempore (Mr. DICKEY). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHUSTER) that the House suspend the rules and pass the Senate bill, S. 414, as amended.

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

A motion to reconsider was laid on the table.