

114TH CONGRESS  
1ST SESSION

# H. R. 3433

To amend the Labor Management Relations Act, 1947, to address slow-downs, strikes, and lock-outs occurring at ports in the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2015

Mr. REICHERT (for himself, Mr. NEWHOUSE, Mr. COFFMAN, and Mrs. RADEWAGEN) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Labor Management Relations Act, 1947, to address slow-downs, strikes, and lock-outs occurring at ports in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Orderly and  
5 Responsible Transit of Shipments Act of 2015” or the  
6 “PORTS Act”.

1 **SEC. 2. ADDRESSING PORT SLOW-DOWNS, STRIKES, AND**  
2 **LOCK-OUTS.**

3 (a) NATIONAL EMERGENCIES.—Section 206 of the  
4 Labor Management Relations Act, 1947 (29 U.S.C. 176)  
5 is amended—

6 (1) in the first sentence—

7 (A) by striking “Whenever in the opinion”  
8 and inserting “(a) Whenever in the opinion”;

9 (B) by striking “a threatened or actual  
10 strike or lock-out” and inserting “a slow-down,  
11 or a threatened or an actual strike or lock-  
12 out,”;

13 (C) by striking “he may appoint” and in-  
14 serting “the President may appoint”; and

15 (D) by striking “to him within such time  
16 as he shall prescribe” and inserting “to the  
17 President within such time as the President  
18 shall prescribe and in accordance with the third  
19 sentence of this paragraph”;

20 (2) in the third sentence, by striking “The  
21 President” and inserting “Not later than 30 days  
22 after appointing the board of inquiry, the Presi-  
23 dent”; and

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

25 “(b)(1) Whenever in the opinion of any Governor of  
26 a State or territory of the United States, a slow-down,

1 or a threatened or an actual strike or lock-out, occurring  
2 at one or more ports in the United States, is affecting  
3 an entire industry or a substantial part thereof engaged  
4 in trade, commerce, transportation, transmission, or com-  
5 munication among the several States or with foreign na-  
6 tions, or engaged in the production of goods for commerce,  
7 will, if permitted to occur or to continue, imperil national  
8 or State health or safety, the Governor may request the  
9 President to appoint a board of inquiry under subsection  
10 (a).

11 “(2)(A) If the President does not appoint a board of  
12 inquiry within 10 days of receiving a request under para-  
13 graph (1), the Governor who made the request under such  
14 paragraph may appoint a board of inquiry to inquire into  
15 the issues involved in the dispute and prepare and submit,  
16 to the Governor and the President, a written report as  
17 described in subparagraph (B) within such time as the  
18 Governor shall prescribe and in accordance with the dead-  
19 line under subparagraph (C).

20 “(B) The report described in this subparagraph shall  
21 include a statement of the facts with respect to the dis-  
22 pute, including a statement from each party to the dispute  
23 describing the position of such party, but shall not contain  
24 any recommendations.

1 “(C) Not later than 30 days after appointing a board  
2 of inquiry under subparagraph (A), the Governor shall—

3 “(i) file a copy of the report described in sub-  
4 paragraph (B) with the Service; and

5 “(ii) make the contents of such report available  
6 to the President and the public.

7 “(c) Any Governor of a State or territory of the  
8 United States (referred to in this subsection as the  
9 ‘supplementing Governor’) may submit to the President  
10 or Governor who appointed a board of inquiry under sub-  
11 section (a) or (b) a supplement to the report under such  
12 subsection that includes data pertaining to the impact on  
13 the State or territory of the supplementing Governor of  
14 a slow-down, or threatened or actual strike or lock-out,  
15 at 1 or more ports. Upon receiving such supplement, the  
16 President or Governor shall file such supplement with the  
17 Service and make the contents of such supplement avail-  
18 able to the public.

19 “(d) For each dispute, only one board of inquiry may  
20 be appointed under subsection (a) or (b)(2) during any  
21 90-day period.”.

22 (b) BOARDS OF INQUIRY.—Section 207(a) of the  
23 Labor Management Relations Act, 1947 (29 U.S.C. 177)  
24 is amended by striking “as the President shall determine,”  
25 and inserting “as the President shall determine for a

1 board of inquiry appointed under section 206(a), or as the  
2 Governor shall determine for a board of inquiry appointed  
3 by such Governor under section 206(b)(2),”.

4 (c) INJUNCTIONS DURING NATIONAL EMER-  
5 GENCIES.—Section 208 of the Labor Management Rela-  
6 tions Act, 1947 (29 U.S.C. 178) is amended—

7 (1) in subsection (a)—

8 (A) in the matter preceding clause (i)—

9 (i) by inserting “appointed under sub-  
10 section (a) or (b)(2) of section 206” after  
11 “board of inquiry”;

12 (ii) by striking “strike or lock-out or  
13 the continuing thereof” and inserting  
14 “slow-down, or threatened or actual strike  
15 or lock-out, or the continuing thereof”; and

16 (iii) by striking “such threatened or  
17 actual strike or lock-out” and inserting  
18 “such slow-down, or threatened or actual  
19 strike or lock-out, or the continuing there-  
20 of”; and

21 (B) in clause (ii), by striking “strike or  
22 lock-out or the continuing thereof” and insert-  
23 ing “slow-down, strike, or lock-out, or the con-  
24 tinuing thereof”;

1           (2) by redesignating subsections (b) and (c) as  
2           subsections (c) and (d), respectively; and

3           (3) by inserting after subsection (a) the fol-  
4           lowing:

5           “(b)(1) If a slow-down, or a threatened or an actual  
6           strike or lock-out, is occurring at one or more ports and  
7           the President does not direct the Attorney General to  
8           make a petition under subsection (a) within 10 days of  
9           receiving a report from a board of inquiry appointed under  
10          subsection (a) or (b)(2) of section 206, any Governor of  
11          a State or territory of the United States in which such  
12          port or ports are located may direct the attorney general  
13          of such State or territory to petition the district court of  
14          the United States having jurisdiction in such State or ter-  
15          ritory to enjoin such slow-down, or threatened or actual  
16          strike or lock-out, or the continuing thereof, at the port  
17          or ports within such State or territory.

18          “(2) The district court described in paragraph (1)  
19          shall have jurisdiction to enjoin any slow-down, threatened  
20          or actual strike or lock-out, or continuing thereof, and to  
21          make such other orders as may be appropriate, if such  
22          court determines that such slow-down or threatened or ac-  
23          tual strike or lock-out—

24          “(A) affects an entire industry or a substantial part  
25          thereof engaged in trade, commerce, transportation, trans-

1 mission, or communication within the applicable State or  
 2 territory, or engaged in the production of goods for com-  
 3 merce; and

4 “(B) if permitted to occur or to continue, will imperil  
 5 national or State health and safety.”.

6 (d) RECONVENING OF BOARDS OF INQUIRY; NLRB  
 7 SECRET BALLOTS.—Section 209(b) of the Labor Manage-  
 8 ment Relations Act, 1947 (29 U.S.C. 179(b)) is amend-  
 9 ed—

10 (1) in the first sentence, by striking “Upon the  
 11 issuance of such order, the President” and inserting  
 12 “(1) Upon the issuance of any such order, the Presi-  
 13 dent or the Governor, as the case may be,”;

14 (2) in the second sentence, by striking “report  
 15 to the President” and inserting “report to the Presi-  
 16 dent and any Governor who initiated an action  
 17 under section 206(b) or 208(b)”;

18 (3) in the third sentence, by striking “The  
 19 President” and inserting “The President or the Gov-  
 20 ernor, as the case may be,”;

21 (4) in the fourth sentence—

22 (A) by striking “The National Labor Rela-  
 23 tions Board, within the succeeding fifteen days,  
 24 shall take a secret ballot” and inserting the fol-  
 25 lowing:

1           “(2) Not later than 15 days after the board of  
2           inquiry submits a report under paragraph (1), the  
3           National Labor Relations Board, subject to para-  
4           graph (3), shall take a secret ballot”;

5                       (B) by striking “as stated by him” and in-  
6                       serting “as stated by the employer”; and

7                       (C) by striking “Attorney General” and in-  
8                       serting “Attorney General or State attorney  
9                       general, whichever sought the injunction,”; and  
10                      (5) by adding at the end the following:

11                     “(3) For each dispute, the National Labor Re-  
12                     lations Board shall take not more than 1 secret bal-  
13                     lot in any 30-day period for the same employees.”.

14           (e) DISCHARGE OF INJUNCTIONS.—Section 210 of  
15           the Labor Management Relations Act, 1947 (29 U.S.C.  
16           180) is amended—

17                     (1) in the first sentence, by striking “the Attor-  
18                     ney General” and inserting “the Attorney General,  
19                     or the State attorney general, whichever sought the  
20                     injunction,”; and

21                     (2) in the second sentence, by striking “the  
22                     President” and inserting “the President, or any  
23                     Governor who initiated an action under section  
24                     208(b),”.

1 **SEC. 3. GAO STUDY.**

2 (a) STUDY.—The Comptroller General of the United  
3 States shall carry out a study of the West Coast ports  
4 slowdown to—

5 (1) study the economic impact of the slowdowns  
6 and congestion caused by the negotiations on the  
7 Nation as a whole as well as each port;

8 (2) review steps taken by the Federal Mediation  
9 and Conciliation Service (FMCS) to resolve the dis-  
10 pute;

11 (3) identify steps FMCS and the Administra-  
12 tion could have taken sooner to facilitate an agree-  
13 ment; and

14 (4) determine what legislative changes could  
15 strengthen these tools and result in more timely  
16 intervention.

17 (b) REPORT.—Not later than the end of the 12-  
18 month period beginning on the date of the enactment of  
19 this Act, the Comptroller General shall issue a report to  
20 Congress containing all findings and determinations made  
21 in carrying out the study required under subsection (a).

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