

## Summary of Ocean Shipping Reform Act of 2021

This bill, authored by Congressmen John Garamendi (D-Northern CA.) and Dusty Johnson (R- SD) addresses ocean container carrier practices injuring US exporters, importers, truckers and others. It particularly focuses on unreasonable detention and demurrage charges, and carrier rejection of US export cargo. It provides the means to achieve the mandates of the [President's Executive Order](#) on Promoting Competition in the American Economy.

This bill covers containerized ocean transport between the US and foreign countries. The industry has consolidated, from over 20 major ocean carriers, to only 11 today, grouped into 3 Alliances, providing unprecedented market power, while massive volumes of imports from Asia are overwhelming the entire supply chain.

Ocean carriers are imposing demurrage and detention fees, cumulatively, hundreds of millions of dollars, when they deem exporters and importers are not picking up or returning containers sufficiently quickly. However, because often such delays are not the fault of the shipper, the Federal Maritime Commission determined many of these charges to be unreasonable, promulgated the '[Interpretive Rule on Demurrage and Detention Under the Shipping Act](#)', prohibiting them; but which it has been unable to enforce, carriers continue to impose them, unfairly.

Meanwhile, global demand for US exports, primarily agriculture and forest products, remains strong, even with growing competition from other source countries. Currently, ocean carriers are declining to carry US export cargo to Asia, while taking containers back to Asia empty, in order to more quickly load US-bound Asian exports, which generate higher carrier freight rates/revenue. Today, the total number of containers leaving the US is at an all-time high, but the number of those containers loaded with export cargo is lower than at any time since 2015. This is causing US ag exporters to lose approximately 22% of export sales, as they cannot ship to foreign customers, affordably/dependably.

### Provisions of OSRA21

- States a purpose of the Act is to support the growth of US exports
- Carriers may not unreasonably decline export cargo if it can be loaded safely, can arrive timely to be loaded, and is destined to a location to which the carrier is already scheduled.
- Carriers shall accompany each detention/demurrage charge with a Certification that the charge is compliant with the FMC's 'Interpretive Rule on Demurrage and Detention Under the Shipping Act'. FMC to establish an expedited informal process to review demurrage/detention charges; shipper need only submit the Certification and Bill of Lading. The Commission will investigate, may order refunds, or in case of false certification, Shipping Act penalties
- Carriers may not restrict access to containers or chassis or other equipment that creates inefficiencies.
- Mandates FMC Rulemaking to set forth reasonable carrier and terminal practices, including:
  - Prohibiting demurrage/detention charges when the container is unavailable to the shipper, such as when terminal access is not available.
  - Limiting carriers from invoicing 3<sup>rd</sup> parties (truckers, customs brokers) for demurrage/detention.
  - Require carriers to provide notice of cargo availability, container return locations, and adequate notice of dates when the export container must arrive at the terminal.
  - Require carriers to provide the shipper with specific information to support each demurrage/detention charge, provide a reasonable dispute resolution process, and certify compliance with FMC regulation.
  - Require carriers, under defined conditions, to accept export cargo bookings
- Carriers to submit quarterly reports on total import and export tonnage per vessel, to determine if they are carrying the export cargo as required.
- Authorizes shipping exchange registries – for independent enforcement of service contract terms.

### Agriculture Transportation Coalition

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