117TH CONGRESS
1ST SESSION

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To address the supply chain backlog in the freight network at United States ports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Lee introduced the following bill; which was read twice and referred to the Committee on ------------------

A BILL

To address the supply chain backlog in the freight network at United States ports, 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 “Surpassing Temporary
5 Obstructions at Ports and Guaranteeing Resources to In-
6 crease the Nation’s Commercial Health Act” or the
7 “STOP the GRINCH Act”.
8 SEC. 2. SENSE OF CONGRESS.
9 It is the sense of Congress that the unprecedented
10 supply chain backlog in the freight network of the United
States as of November 2021 is a national crisis that warrants Congressional authorization of short-term Federal emergency actions to ameliorate that crisis.

SEC. 3. ADDRESSING THE SUPPLY CHAIN CRISIS IN THE UNITED STATES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Motor Carrier Safety Administration.

(2) COMMERCIAL MOTOR VEHICLE; DRIVER; MOTOR CARRIER.—The terms “commercial motor vehicle”, “driver”, and “motor carrier” have the meanings given those terms in section 390.5 of title 49, Code of Federal Regulations (or successor regulations).

(3) DIRECT ASSISTANCE TO A UNITED STATES PORT.—

(A) IN GENERAL.—The term “direct assistance to a United States port” means the transportation of cargo directly to or from a United States port.

(B) EXCLUSION.—The term “direct assistance to a United States port” does not include—
(i) the transportation of a mixed load
of cargo that includes—

(I) cargo that does not originate
from a United States port; or

(II) a container or cargo that is
not bound for a United States port;

(ii) any period during which the appli-
cable motor carrier or driver is operating
in interstate commerce to transport cargo
or provide services not in support of trans-
portation to or from a United States port;
or

(iii) the period after the applicable
motor carrier dispatches the applicable
driver or commercial motor vehicle of the
motor carrier to another location to begin
operation in interstate commerce in a man-
ner that is not in support of transportation
to or from a United States port.

(4) QUALIFIED APPLICANT.—The term “quali-
fied applicant” means a person that—

(A) submits to the appropriate official an
application for a waiver under this section; and
(B) in the determination of that official, is eligible, in accordance with this section, to receive the waiver.

(5) **Temporary waiver.**—The term “temporary waiver” means a waiver that expires on the date that is 1 year after the date of enactment of this Act.

(b) **FMCSA Temporary Waivers.**—

(1) **Temporary waiver of certain requirements.**—

(A) **In general.**—Not later than 7 days after the date of enactment of this Act, the Administrator shall issue to each qualified applicant a temporary waiver that, subject to paragraph (3), waives the requirements of parts 390 through 399 of title 49, Code of Federal Regulations (or successor regulations), with respect to commercial motor vehicle operations that are providing direct assistance to a United States port.

(B) **Eligibility.**—An applicant is eligible for a temporary waiver under subparagraph (A) if the applicant is a motor carrier or driver that provides direct assistance to a United States port.
(2) Temporaty waiver of minimum age re-
quirement.—

(A) In general.—Not later than 2 days
after the date of enactment of this Act, the Ad-
ministrator shall issue to each qualified appli-
cant a temporary waiver from the requirement
of section 391.11(b)(1) of title 49, Code of Fed-
eral Regulations (or successor regulations), for
drivers that are at least 18 years old, subject to
paragraph (3).

(B) Eligibility.—An applicant is eligible
for a temporary waiver under subparagraph (A)
if the applicant—

(i) is providing direct assistance to a
United States port; or

(ii) is directly assuming the commer-
cial motor vehicle operations of a driver
who has been re-routed to a United States
port to provide direct assistance to a
United States port.

(3) Requirements.—A temporary waiver
under paragraph (1) or (2) shall not exempt a motor
carrier or driver from—

(A) the hazardous materials regulations
described in subchapters A through C of chap-
ter I of subtitle B of title 49, Code of Federal Regulations (or successor regulations);  

(B) the controlled substances and alcohol use and testing requirements described in part 382 of that title (or successor regulations);  

(C) except as provided in paragraph (2), the commercial driver’s license requirements described in part 383 of that title (or successor regulations);  

(D) the financial responsibility (including insurance) requirements described in part 387 of that title (or successor regulations);  

(E) the requirement that every commercial motor vehicle shall be operated in accordance with the laws, ordinances, and regulations of the jurisdiction in which the commercial motor vehicle is being operated, which shall include any applicable speed limits and other traffic restrictions, as described in the first sentence of section 392.2 of that title (or successor regulations);  

(F) the prohibition against operating a commercial motor vehicle while the ability of the driver is so impaired, or so likely to become impaired, through fatigue, illness, or any other
cause, as to make it unsafe for the driver to
begin or continue to operate the commercial
motor vehicle, as described in section 392.3 of
that title (or successor regulations);

(G) the prohibition against texting while
driving described in section 392.80 of that title
(or successor regulations);

(H) the prohibition against using a hand-
held mobile telephone while driving described in
section 392.82 of that title (or successor regula-
tions); or

(I) any applicable size and weight require-
ments.

(4) DRIVER FATIGUE AND SAFETY.—

(A) IN GENERAL.—A motor carrier receiv-
ing a temporary waiver under paragraph (1) or
(2) shall not allow or require a fatigued driver
to operate a commercial motor vehicle.

(B) REQUIREMENT.—For the period dur-
ing which a temporary waiver under paragraph
(1) or (2) is effective, a motor carrier described
in subparagraph (A) that receives from a driver
notification that the driver is in need of imme-
diate rest shall immediately provide the driver
with not less than 10 consecutive hours of off-
duty time before the driver is required to return to service.

c) TRANSPORTATION WORKER IDENTIFICATION CREDENTIALS.—The Administrator of the Transportation Security Administration and the Commandant of the Coast Guard shall jointly prioritize and expedite the consideration of applications for a Transportation Worker Identification Credential with respect to applicants, including commercial drivers who are operating under a temporary waiver issued under subsection (b)(2), who reasonably demonstrate that the purpose of the Transportation Worker Identification Credential is for providing, within the interior of the United States, direct assistance to a United States port.

d) TEMPORARY WAIVER OF JONES ACT REQUIREMENTS FOR CERTAIN VESSELS TRANSPORTING CARGO.—

(1) Authority.—

(A) CERTIFICATE OF COASTWISE ENDORSEMENT.—Notwithstanding the requirements under section 12112 of title 46, United States Code, and any other requirement under chapter 121 of such title, the Secretary of the department in which the Coast Guard is operating (referred to in this subsection as the “Secretary”) may issue a certificate of docu-
mentation with a coastwise endorsement under such chapter 121 in accordance with this subsection for a vessel, without regard to whether the vessel meets the requirements of such section 12112, in a case that the person requesting such certificate reasonably demonstrates the endorsement (or the resulting exemption under subparagraph (B))) is for the purpose of—

(i) transporting cargo from a United States port to another United States port in order to relieve any congestion, backlog, or delay at such a port; or

(ii) engaging in lightering operations, which entail a ship-to-ship transfer of cargo from a vessel anchored or located off the coast of the United States to another vessel that transports such cargo to a United States port.

(B) EXEMPTION OF ADDITIONAL REQUIREMENTS.—Until the expiration under paragraph (3) of the authority under this subsection, notwithstanding section 55102 of title 46, United States Code, such section 55102 shall not apply to any vessel that has been issued a certificate
of documentation with a coastwise endorsement
under subparagraph (A).

(2) TIMING.—

(A) IN GENERAL.—Not later than 48
hours after receiving a request for a certificate
of documentation with a coastwise endorsement
under paragraph (1)(A), the Secretary shall—

(i) issue the certificate with such en-
dorsement; or

(ii)(I) submit detailed reasons for de-
nying the certificate to the person request-
ing the certificate; and

(II) post such denial and reasons to
the public on the website of the Depart-
ment in which the Coast Guard is oper-
ating.

(B) AUTOMATIC ISSUANCE.—In the case
that the Secretary does not comply with sub-
paragraph (A), a certificate of documentation
with a coastwise endorsement for such vessel
shall be deemed issued under paragraph (1)(A).

(3) EXPIRATION.—The authority under this
subsection, including any coastwise endorsement au-
thorized under this section, shall expire on the date
that is 1 year after the date of enactment of this Act.

(e) Container Overflow Storage.—

(1) In general.—Not later than 14 days after the date of enactment of this Act, the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Transportation shall jointly consult with representatives of ocean carriers, ports, railroads, and truckers—

(A) to identify plots of Federal land under the jurisdiction of the Secretary of Agriculture, the Secretary of the Interior, or the Secretary of Transportation that—

(i) are located within a 150 air-mile radius of a United States port; and

(ii) could temporarily be used as an overflow area for the storage and transfer of empty cargo containers in order to ease the congestion and backlog at United States ports; and

(B) to designate not fewer than 2 plots of Federal land identified under subparagraph (A) for the use described in clause (ii) of that sub-paragraph, subject to the conditions that—
(i) each specific plot so designated shall be not more than 500 acres;

(ii) the stacking of containers shall be permitted at each specific plot so designated for a period of not more than 6 months beginning on the date on which the designation of the plot is published in the Federal Register under paragraph (2); and

(iii) containers shall not be stacked more than 6 high at any plot so designated.

(2) Publication in the Federal Register.—The designation of a plot of Federal land under paragraph (1)(B) shall be published in the Federal Register.

(3) Categorical Exclusion.—The designation of a plot of Federal land under paragraph (1)(B) shall be categorically excluded from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), subject to the condition that, prior to the designation of the plot of Federal land under that paragraph, the applicable Secretary described in paragraph (1)(A) having jurisdiction over the plot carefully considers the circumstances of the designation and determines that
there are no extraordinary circumstances that warrant the preparation of an environmental assessment or an environmental impact statement.

(f) LOAN OF DOD INTERMODAL EQUIPMENT.—

(1) DEFINITIONS.—In this subsection:

(A) INTERMODAL EQUIPMENT.—The term “intermodal equipment” has the meaning given the term in section 390.5 of title 49, Code of Federal Regulations (or successor regulations).

(B) SECRETARY.—The term “Secretary” means the Secretary of Defense.

(2) INVENTORY OF INTERMODAL EQUIPMENT.—Not later than 14 days after the date of enactment of this Act, the Secretary shall conduct an inventory of intermodal equipment that—

(A) is owned by the Department of Defense;

(B) is located within the United States; and

(C) could be made available for loan to truck companies for the purposes of easing congestion at United States ports.

(3) LOAN OF INTERMODAL EQUIPMENT.—

(A) PROCESS.—Not later than 7 days after the date on which the inventory under para-
graph (2) is complete, the Secretary shall create
a process for a truck company to submit an ap-
application requesting the use of intermodal
equipment identified in that inventory.

(B) CONDITIONS.—The loan of intermodal
equipment under this subsection shall be sub-
ject to the conditions that—

(i) the truck company agrees to reim-
burse the Secretary for any damage caused
to the intermodal equipment while the
intermodal equipment is loaned to the
truck company;

(ii) the use of the intermodal equip-
ment by the truck company is for a period
not longer than 6 months; and

(iii) the use of the intermodal equip-
ment by the truck company will not affect
the national security of the United States.

(C) FEES.—

(i) IN GENERAL.—Subject to clauses
(ii) and (iii), the Secretary may charge a
reasonable fee for the loan of intermodal
equipment under this subsection.
(ii) **Consultation.**—The Secretary may charge a fee under clause (i) if the Secretary—

(I) consults with the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Transportation; and

(II) determines that charging a fee would be appropriate.

(iii) **Amount.**—The amount of a fee under clause (i) shall be based on the market rate for similar loans or rentals of intermodal equipment or similar equipment as of January 1, 2020.

(iv) **Deposit and Use.**—Any fee collected by the Secretary under clause (i) shall be deposited in the general fund of the Treasury and made available to the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Transportation for remediation of any Federal land designated under subsection (e).

(v) **Restrictions.**—A fee collected under clause (i) may not be used—
(I) until the designation of the applicable plot of Federal land under subsection (e) has expired; or

(II) for any purpose other than the remediation of land designated under subsection (e).

(4) Recall of intermodal equipment.—To protect the national security of the United States, the Secretary may recall any intermodal equipment on loan to a truck company under this subsection by issuing a notice to the truck company 72 hours before the time at which the intermodal equipment is required to be returned to the Secretary.