

Transportation Industry Coalesces Against the Ocean Shipping Reform Act of 2021

Stakeholders Warn of Legislation's Unintended Consequences, and Demand Informed Operational Changes to Address Terminal Congestion

For Immediate Release – More than two dozen leading transportation organizations are urging legislative decision makers to reject the proposed Ocean Shipping Reform Act of 2021, key components of which would have detrimental consequences to the entire supply chain. The stakeholders who oppose and voice their concerns about the legislation are listed at the end of this write-up.

On Aug. 10, 2021, Rep. John Garamendi (D-CA) and Dusty Johnson, R-S.D. introduced the Ocean Shipping Reform Act 2021 in the House of Representatives. This bill aims to address concerns about terminal congestion by reducing beneficial cargo owners (BCOs') responsibility to collect cargo from marine terminals. Before one container can come into a space, another has to be removed. When containers are unloaded from ships, they are allowed a period of "free time" on the terminal. However, when containers are not picked up within the agreed-upon time, the BCOs' are charged. These charges—demurrage and detention—are critical incentives for BCOs to pick up cargo.

The legislation would eliminate the demurrage and detention charges BCOs and importers would be required to pay, which as a result, would encourage these organizations to store containers on the terminal, further clogging ports and impacting the ability to keep freight moving. Without these charges incentivizing retailers and importers to pick up cargo, the supply chain would suffer additional setbacks from delays in inbound shipments and exports. When discussing the potential of increasing storage of containers across terminals, it is essential to note that at ports on the West and East Coasts of the United States, terminals are considered full when filled to 80% capacity. Many terminals on the West Coast have been at 95% capacity in 2021.

Increased consumer demands, shortages of labor and equipment, and complex global trade and travel constraints resulting from the pandemic have caused record-breaking container volumes and "dwell times" at ports – the time a container sits on the terminal. For example, the local delivery dwell time for containers on the West Coast has doubled in the past year; the on-dock rail dwell times have quadrupled, now averaging eleven days, and the on-terminal container count has increased by 43% resulting in congestion and slower velocity. Further, warehouse vacancy rates are at an all-time low of 1.2%, with many at capacity, prolonging container and truck chassis dwell time outside the terminal. The culmination of these events has led to [a cumulative slowdown](#) of the entire logistics supply chain.

Extending working hours to increase capacity at terminals has been discussed but is ill-advised. For a 24/7 operation model to be effective, other transport groups, including truckers and warehouse operators, would also need to commit to working those hours. Numerous sources cite the lack of available truck drivers needed to handle the current volumes of freight. For example, Bloomberg [reported](#) that the trucking crisis is creating a demand for drivers from other countries.

John Martin, a leading maritime economist and president of Martin Associates, [commented on](#) the activities in the early days of pandemic-related port congestion across terminals, stating, "Labor responded dramatically well during this time period. What we really started to see was the constraints were building up outside the terminals. The constraints built up at the warehouses, and the constraints built up at the rail, with respect to intermodal rail."

This data indicates that container volume is still rising, warehouse space is at capacity, and BCOs are not removing their cargo from terminals. Disincentivizing import cargo from being picked up from terminals, as the legislation would do, would increase container dwell time and congestion without enhancing proper resources, such as space, or labor to handle shipments.

“The legislation announced by Congress is concerning and does not address the multifaceted nature of congestion as a complete supply chain issue,” said Ed DeNike, president of SSA Containers. “If enacted, the legislation would provide a temporary financial relief to importers and BCOs, but impose tariffs for ocean carriers, worsen operating conditions for other transportation stakeholders, and hinder the capacity to solve the true supply-demand problem at hand.” The World Shipping Council shares this concern, and in a company statement, said, “What is crystal clear is that regulating only ocean carriers – or any other single class of supply chain provider – is doomed to fail.”

“This is not the right time to formulate and impose new regulations,” said Walter Kemmsies, chief economist with [The Kemmsies Group](#). “Given the current economic and trade trends, government agency intervention in the port and terminal industry outside of helping improve communication is ill-advised. The existing global trade logistics system was not built to handle simultaneous surges in demand and shortages of labor. Intervention could result in negative unintentional consequences that could worsen the situation for all shippers as well as transportation service providers.”

Leaders at NAWA also share concerns about the amendment. “This signal from Congress – that the U.S. is seeking unrestricted regulation of its ocean commerce without regard to regulatory costs or international shipping practices – would be extremely concerning for the MTO community,” said Lauren Brand, president of NAWA. The group has offered to have discussions with Reps. Garamendi and Johnson to develop solutions that aid supply chain healing and address critical needs facing U.S. ports.

The following organizations have joined together to oppose the proposed The Ocean Shipping Reform Act of 2021 as introduced and encourage other supply chain stakeholders to critically evaluate the implications this regulation would have on the global supply chain and the U.S. economy.

Ambassador Services International
APM Terminals
Charleston Stevedoring Company
Cooper/Ports America, LLC
Enstructures Refrigerated Terminals
Gateway Terminal
Global Container Terminals (GCT) USA
International Transportation Service LLC
Long Beach Container Terminal
Luis A. Ayala Colon Sucrs., Inc.
Maritime Association of the Port of NY/NJ
Maritime Exchange for the Delaware River and Bay
Nautilus International Holding Corporation / Metroports
New York Shipping Association
Pacific Maritime Association
Pacific Merchant Shipping Association
Port Houston
Ports America

Ports of the Delaware River Marine Trade Association (PMTA)
South Carolina Stevedores Association
SSA Marine
The National Association of Waterfront Employers (NAWE)
TranSystems
The United States Maritime Alliance, Ltd. (USMX)
West Gulf Maritime Association
World Shipping Council
West Coast MTO Agreement

Supporting Resources

- Read about [Pandemic Port Congestion: The Big Picture](#)
- Read about [H.R. 4996 – Ocean Shipping Reform Act of 2021](#)
- Read [Pacific Maritime Association's Martin Study Press Release: Cargo Congestion at West Coast Ports Driven by Cumulative Collapse of Entire Logistics Supply Chain, New Research Finds](#)
- Read [World Shipping Council Statement on the Ocean Shipping Reform Act of 2021](#)
- Read [Martin Associates and Pacific Maritime Association Report, "The Anatomy of the Container Terminal Logistics Supply Chain Congestions Issues at the San Pedro Bay Ports During the COVID-19 Pandemic"](#)
- Read and follow the [FuturePorts Blog](#) and Twitter [@FuturePorts](#)
- Read "[Cargo Ships Are Again Idling Off Jammed Southern California Ports](#)" in The Wall Street Journal
- Read the Association of Supply Chain Management Executive Vice President Douglas Kent's [comment on addressing supply chain problems](#)
- Read about the status of [industrial vacancy rates](#) in an interview with Ryan Endres, principal with Lee & Associates Commercial Real Estate Services and the Long Beach Business Journal

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