

SENATE JOINT RESOLUTION NO. 17

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY SENATOR COGHILL

Introduced: 3/27/15

Referred: Transportation

A RESOLUTION

1 **Requesting the United States Congress to exempt Alaska from the United States built**
2 **requirement of the Jones Act for large ocean-going ships.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **WHEREAS** interstate ocean shipping provides a vital economic link between the
5 seven noncontiguous domestic jurisdictions of the United States and the contiguous 48
6 mainland states of the union; and

7 **WHEREAS** sec. 27 of the Merchant Marine Act of 1920 (46 U.S.C. 55102),
8 commonly known as the Jones Act, is a federal cabotage law that restricts the surface carriage
9 of cargo by water between coastwise points in the United States to vessels that are United
10 States built, United States flagged, United States owned, and crewed by United States
11 citizens; and

12 **WHEREAS** the coastwise laws of the United States, including the Jones Act, embrace
13 four of the seven noncontiguous domestic jurisdictions, namely the State of Alaska, the
14 Territory of Guam, the State of Hawaii, and the Commonwealth of Puerto Rico, while the
15 Territory of American Samoa, the Commonwealth of the Northern Mariana Islands, and the
16 Virgin Islands of the United States are fully exempt from the Jones Act as a result of the

1 international treaties associated with their annexation to the United States; and

2 **WHEREAS** there is an historical exemption from the United States built requirement
3 of the Jones Act for all commercial vessels engaged in the domestic Guam trade (46 U.S.C.
4 12111), commonly known as the "Guam Exemption," and the other three noncontiguous
5 jurisdictions embraced by the coastwise laws, namely Alaska, joined by Hawaii and Puerto
6 Rico, are seeking a more limited, similar exemption; and

7 **WHEREAS** the Guam Exemption is of limited utility to Guam because the natural
8 westbound trade lane from the west coast of the United States to Guam passes through
9 Hawaii, making it difficult for ocean common carriers to mount financially viable voyages
10 without carrying cargo to both Hawaii and Guam, effectively binding Guam's interstate trade
11 to the United States built requirement, despite its exemption, and prompting Guam to support
12 the limited extension of their exemption to Hawaii; and

13 **WHEREAS**, on April 15, 2014, in recognition of the inefficacy of the Guam
14 Exemption alone, the Thirty-Second Legislature of Guam, First Regular Session, adopted, by
15 a 12 to three bipartisan floor vote, Resolution 138-32 (COR), calling on their Congresswoman
16 Madeleine Z. Bordallo to introduce federal legislation to also exempt Alaska, Hawaii, and
17 Puerto Rico from the United States built requirement of the Jones Act; and

18 **WHEREAS**, on January 23, 2013, the World Economic Forum, in collaboration with
19 Bain and Company and the World Bank, issued a report entitled Enabling Trade: Valuing
20 Growth Opportunities, in which it found "The most restrictive example [of cabotage] is the
21 United States Jones Merchant Marine Act of 1920" and "such barriers actually damage local
22 economies and saddle businesses and consumers with significant costs"; and

23 **WHEREAS**, on July 25, 2013, Congressman Pedro Pierluisi, introduced the Puerto
24 Rico Interstate Commerce Improvement Act of 2013 (H.R. 2838) to exempt self-propelled
25 vessels carrying bulk cargoes in the Puerto Rico trade from the United States built
26 requirement of the Jones Act in conformity with a report of the federal Government
27 Accountability Office issued on March 14, 2013, Characteristics of the Island's Maritime
28 Trade and Potential Effects of Modifying the Jones Act (GAO-13-260), and found that he
29 could not move his measure forward and effect Jones Act reform without support from other
30 jurisdictions; and

31 **WHEREAS** the Hawaii Refinery Task Force, in their Final Report adopted April 9,

1 2014, recommended, among other things, that Hawaii seek a Jones Act exemption allowing
2 foreign flagged tankers in the Hawaii trade to mitigate the effects of a permanent closure of its
3 two small petroleum oil refineries; and

4 **WHEREAS** the average age of containerships employed in the noncontiguous
5 common carrier trades is 30 years compared to the international average of 12 years, resulting
6 in very high operating costs incurred by older ships, and international maritime insurance data
7 shows that accident rates increase with increasing ship-age, spiking after 20 years; and

8 **WHEREAS** Horizon Lines, Inc., once the largest common carrier in the
9 noncontiguous trades, operating a fleet of 15 Jones Act container ships now averaging 37
10 years old, is scheduled to become defunct in 2015 by terminating its Puerto Rico service,
11 selling its Hawaii service to Pasha Hawaii Transport Line, Inc., and selling its Alaska service
12 to Matson, Inc., after earlier withdrawing from Guam service in November 2011, because
13 Horizon Lines, Inc., could not afford to replace its aging ships in United States shipyards, and
14 their exit will cause an erosion of competition at the margins through further industry
15 consolidation and make the trades less subject to competition; and

16 **WHEREAS** the United States built requirement of the Jones Act creates an artificial
17 scarcity of major capital ships, erects substantial barriers to entry domestic trades, and
18 severely restricts the contestability of the domestic ocean transportation markets; and

19 **WHEREAS** the cost of major ship construction in the United States is typically four
20 to five times higher than the cost of building ships in Japan or South Korea, and United States
21 ship production is very limited, with an average of less than three deep-draft merchant ships
22 built in the United States annually since the mid-1980s, putting the major United States
23 shipbuilding yards at a distinct disadvantage in terms of economies of scale adversely
24 affecting their ability to apply new technology, expertise, and experience in the construction
25 of large, modern oceangoing ships, compared to their international peers; and

26 **WHEREAS** the high cost and low production of the United States ship building
27 industry has resulted in an aging and inefficient deep-sea Jones Act fleet that
28 disproportionately and adversely affects Alaska and the other noncontiguous jurisdictions;
29 and

30 **WHEREAS** foreign and United States built ships alike are designed and built to the
31 universal standards established by the nearly 50 international conventions and agreements and

1 numerous protocols and amendments administered by the United Nation's International
2 Maritime Organization, which have been ratified by the United States and made part of
3 United States law; and

4 **WHEREAS** the United States Coast Guard inspects all foreign built ships seeking to
5 become registered vessels of the United States to ensure that they comply with all United
6 States ship construction and safety laws and regulations; and

7 **WHEREAS** the United States built requirement of the Jones Act for large oceangoing
8 ships in noncontiguous domestic trades is not essential for the national defense of the United
9 States because the remaining seven domestic shipbuilding yards capable of constructing large
10 oceangoing ships mainly build naval ships and produce so few merchant ships each year that
11 this activity does not represent sufficient shipbuilding capacity to address the mobilization
12 needs of a major wartime contingency and sustains only a limited industrial base unable to
13 support ongoing naval construction programs because of excessively high costs; and

14 **WHEREAS** granting an exemption to the United States built requirement allows
15 aging ships to be more quickly and economically replaced by less expensive, safer, and more
16 fuel-efficient ships in accordance with efforts to conserve resources and protect the
17 environment; and

18 **WHEREAS** more than half of the large oceangoing Jones Act fleet is employed in the
19 coastwise noncontiguous domestic trades, thus imposing more than 50 percent of the
20 additional cost burden of operating Jones Act ships on less than two percent of the population
21 of the United States; and

22 **WHEREAS** all other modes of domestic transportation in the United States are
23 permitted to use foreign-manufactured equipment for commercial operation without
24 restriction, including aircraft, railroad cars and locomotives, trucks, automobiles, and mass
25 transit vehicles; and

26 **WHEREAS**, in December 1994, the United States signed the Organization for
27 Economic Cooperation and Development's Agreement Respecting Normal Competitive
28 Conditions in the Commercial Shipbuilding and Repair Industry, commonly known as the
29 OECD Shipbuilding Agreement, that would allow certain foreign built ships in the domestic
30 Jones Act trades, but it has not been ratified by the United States Congress; and

31 **WHEREAS** the United States built provisions of the Jones Act do not comply with

1 ongoing multilateral trade negotiations that began under the General Agreement on Tariffs
2 and Trade and continues with the World Trade Organization; and

3 **WHEREAS** the United States built requirement of the Jones Act is an absolute
4 merchandise import restriction contrary to international trade agreements; and

5 **WHEREAS** the residents of Alaska and the other coastwise noncontiguous
6 jurisdictions subsidize an inefficient and commercially uncompetitive United States major
7 ship building industry; and

8 **WHEREAS** the exemption to the United States built requirement is a limited and
9 narrowly targeted reform of the Jones Act that would not change the existing United States
10 flag, United States ownership, and United States crew provisions of the Jones Act as they
11 currently apply to the coastwise noncontiguous domestic trades, would not allow foreign
12 seamen or foreign ship owners in any domestic trade where they are not currently allowed,
13 would not apply to the domestic tug and barge industry anywhere in the United States,
14 including in the Jones Act noncontiguous jurisdictions, would not affect any domestic
15 shipping along the coasts of the contiguous United States mainland in the intercoastal trades
16 on the inland waterways or on the Great Lakes, and would not negatively affect any maritime
17 industry jobs in the noncontiguous jurisdictions; and

18 **WHEREAS** the passage of federal legislation exempting the noncontiguous domestic
19 trades from the United States built requirement for large self-propelled ships would revitalize
20 United States flag shipping by allowing foreign-built ships into the United States by removing
21 barriers to entry and encouraging more effective competition in those trades and generally
22 making more United States flagged merchant ships available to support military sealift
23 operations;

24 **BE IT RESOLVED** that the Alaska State Legislature requests the United States
25 Congress to pass legislation granting an exemption from the United States built requirement
26 of the Jones Act in the noncontiguous domestic trade of Alaska for large self-propelled
27 oceangoing ships, an exemption sought and supported by the State of Hawaii and the
28 Commonwealth of Puerto Rico; and be it

29 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests
30 President Barack Obama and his administration to support the legislation exempting the
31 United States built requirement of the Jones Act in the noncontiguous domestic trade of

1 Alaska for large self-propelled oceangoing ships; and be it

2 **FURTHER RESOLVED** that the Alaska State Legislature urges the Alaska
3 Congressional delegation to work with colleagues from Guam, Hawaii, and Puerto Rico to
4 introduce in the United States Congress federal legislation that would exempt the Alaska and
5 other noncontiguous trades from the United States built requirement of the Jones Act for large
6 oceangoing ships; and be it

7 **FURTHER RESOLVED** that the Alaska State Legislature urges the Alaska
8 Congressional delegation to request the United States Congress to exempt Alaska, along with
9 Hawaii and Puerto Rico, from the United States built requirement of the Jones Act for large
10 self-propelled oceangoing ships.

11 **COPIES** of this resolution shall be sent to the Honorable Barack Obama, President of
12 the United States; the Honorable Joseph R. Biden, Jr., Vice-President of the United States and
13 President of the U.S. Senate; the Honorable John Boehner, Speaker of the U.S. House of
14 Representatives; the Honorable Mitch McConnell, Majority Leader of the U.S. Senate; the
15 Honorable Anthony Foxx, United States Secretary of Transportation; and the Honorable Lisa
16 Murkowski and the Honorable Dan Sullivan, U.S. Senators, and the Honorable Don Young,
17 U.S. Representative, members of the Alaska delegation in Congress.