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Latest Developments on Maritime Legislation in the 116th Congress

As the 116th Congress begins to slowly come to an end, and Congress leaves town without passing a relief bill during the summer recess, the maritime industry can benefit from several bills that have been added to this year's National Defense Authorization Act ("NDAA"), in particular those on the House side. Following is a synopsis of a few key items to watch for.

NEW DEVELOPMENT

Numerous bills have been added to the NDAA that impact the maritime industry or provide critical COVID-19 relief to the industry. Although each of these bills was proceeding independently, they were recently added to the NDAA, which has passed reliably every year for 56 years, in an effort to move them forward. The maritime industry-related legislation added to the NDAA included:

Coast Guard Authorization Act of 2020

The Elijah E. Cummings Coast Guard Authorization Act of 2020 ("CGAA"), which has been in progress for over a year, was attached to the NDAA in full on the House side. The CGAA includes a number of significant authorizations for new cutters and icebreakers, including construction of a new Polar Security Cutter to replace aging icebreakers, acquiring a new National Security Cutter and four Fast Response Cutters, and acquiring a Great Lakes icebreaker. We are monitoring the appropriations bills for FY2021 to determine whether funding is provided for these ongoing and significant procurements.

The CGAA also emphasizes Congress's view that the Arctic is a region of strategic importance to the country's national security and economic and humanitarian interests. And the State Department finally [appointed](#) a new counselor to represent the United States at Arctic Council meetings.

A few provisions of the CGAA aim to aid the maritime industry and related personnel. A two-year waiver of the merchant mariner document requirements is included for individuals other than crew required by the vessel's certificate of inspection or steward's department that are onboard to carry out spill response activities, salvage, marine firefighting, or commercial diving operations. The waiver would also apply to personnel on offshore supply and industrial vessels that support the industrial function of the vessel, conduct tasks not traditionally performed by the vessel's crew, or perform maintenance on equipment under warranty or not owned by the vessel. It will also

require the Coast Guard to submit a report to Congress within 180 days after enactment detailing recommendations to ensure that personnel working on a vessel who perform work or operate equipment on the vessel not related to the operation of the vessel itself undergo a background check and the appropriate training necessary to ensure their safety and that of the vessel's crew.

Further related to merchant mariner documents, the CGAA requires development and implementation of a joint application for the merchant mariner document and transportation worker identification credentials within two years. This greatly simplifies the process for merchant mariners seeking necessary documentation for sailing jobs.

Finally, in an effort to increase the number of U.S. liquefied natural gas ("LNG") vessels with a coastwise endorsement, the CGAA revises the America's Cup Act of 2011 to allow three LNG vessels originally built in the United States but since flagged to other countries the opportunity to return to the U.S. flag and be eligible for a coastwise endorsement. The vessels must be owned by U.S. citizens and must have all work necessary for issuance of a certificate of inspection done in the United States.

Maritime Transportation System Emergency Relief Act ("MTSERA")

As noted in our recent Maritime Reporter [article](#), MTSERA would provide the U.S. Maritime Administration ("MARAD") with comprehensive maritime emergency relief authority, which will enable it to provide financial assistance to stabilize the U.S. maritime transportation systems in the event of a national emergency or disaster. Aid could be available for both state and private entities engaged in maritime transportation-related activities during emergencies such as the current COVID-19 pandemic. One example of an expenditure that could be reimbursable under this authority is the cost of personal protective equipment needed presently. The Senate has introduced a companion bill, also titled the Maritime Transportation System Emergency Relief Act, in an effort to move as quickly as possible toward full Congressional approval.

Elijah E. Cummings Mariner Workforce Development Act

The Elijah E. Cummings Mariner Workforce Development Act focuses on attracting, retaining, and promoting merchant mariners. It establishes a loan program for merchant mariner career training needed to obtain or upgrade their merchant mariner credentials. It also would provide for grants to maritime training institutions to support new methods of recruiting, training, and retaining individuals in the mariner workforce.

Coastal and Inland Ports and Terminals Commerce Improvements Act

The Coastal and Inland Ports and Terminals Commerce Improvements Act would create a grant program for smaller port and terminal infrastructure projects under which private terminals compete for assistance.

Federal Maritime Commission National Shipper Advisory Committee Act

The Federal Maritime Commission National Shipper Advisory Committee Act establishes a National Shipper Advisory Committee to advise the Federal Maritime Commission ("FMC") on policies relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system. The committee, which would consist of 24 members who import and export cargo to or from the United States with ocean common carriers, will advise FMC on all matters involving significant action.

MARAD Reauthorization Bill

Finally, on the Senate side, the Senate Commerce, Science, and Transportation Committee reported its MARAD reauthorization bill (S. 3930), which traditionally ends up in the NDAA as well. The bill would authorize funding for U.S. Merchant Marine programs, ensure military sealift capacity, and improve and promote the use of port and marine transportation infrastructure.

CONCLUSIONS AND RECOMMENDATIONS

It is important to note that it is still early in the process of passing the NDAA and the above-described legislation has thus far been included principally in the House of Representatives version of the NDAA. It is possible that the Senate will refuse to include some or all of these provisions. Further, President Trump has also threatened to veto the NDAA due to inclusion of controversial provisions on bases named after confederate soldiers.

Maritime industry stakeholders are encouraged to reach out to their Senators and Representatives to provide their support for these pieces of legislation if they would have a positive impact on their business.

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