

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

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Mr. LEE introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**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

1 States as of November 2021 is a national crisis that war-  
2 rants Congressional authorization of short-term Federal  
3 emergency actions to ameliorate that crisis.

4 **SEC. 3. ADDRESSING THE SUPPLY CHAIN CRISIS IN THE**  
5 **UNITED STATES.**

6 (a) DEFINITIONS.—In this section:

7 (1) ADMINISTRATOR.—The term “Adminis-  
8 trator” means the Administrator of the Federal  
9 Motor Carrier Safety Administration.

10 (2) COMMERCIAL MOTOR VEHICLE; DRIVER;  
11 MOTOR CARRIER.—The terms “commercial motor ve-  
12 hicle”, “driver”, and “motor carrier” have the mean-  
13 ings given those terms in section 390.5 of title 49,  
14 Code of Federal Regulations (or successor regula-  
15 tions).

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

18 (A) IN GENERAL.—The term “direct as-  
19 sistance to a United States port” means the  
20 transportation of cargo directly to or from a  
21 United States port.

22 (B) EXCLUSION.—The term “direct assist-  
23 ance to a United States port” does not in-  
24 clude—

1 (i) the transportation of a mixed load  
2 of cargo that includes—

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

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

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

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

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

22 (A) submits to the appropriate official an  
23 application for a waiver under this section; and

1 (B) in the determination of that official, is  
2 eligible, in accordance with this section, to re-  
3 ceive the waiver.

4 (5) TEMPORARY WAIVER.—The term “tem-  
5 porary waiver” means a waiver that expires on the  
6 date that is 1 year after the date of enactment of  
7 this Act.

8 (b) FMCSA TEMPORARY WAIVERS.—

9 (1) TEMPORARY WAIVER OF CERTAIN REQUIRE-  
10 MENTS.—

11 (A) IN GENERAL.—Not later than 7 days  
12 after the date of enactment of this Act, the Ad-  
13 ministrator shall issue to each qualified appli-  
14 cant a temporary waiver that, subject to para-  
15 graph (3), waives the requirements of parts 390  
16 through 399 of title 49, Code of Federal Regu-  
17 lations (or successor regulations), with respect  
18 to commercial motor vehicle operations that are  
19 providing direct assistance to a United States  
20 port.

21 (B) ELIGIBILITY.—An applicant is eligible  
22 for a temporary waiver under subparagraph (A)  
23 if the applicant is a motor carrier or driver that  
24 provides direct assistance to a United States  
25 port.

1           (2) TEMPORARY WAIVER OF MINIMUM AGE RE-  
2           QUIREMENT.—

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

11          (B) ELIGIBILITY.—An applicant is eligible  
12          for a temporary waiver under subparagraph (A)  
13          if the applicant—

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

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

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

24               (A) the hazardous materials regulations  
25               described in subchapters A through C of chap-

1           ter I of subtitle B of title 49, Code of Federal  
2           Regulations (or successor regulations);

3           (B) the controlled substances and alcohol  
4           use and testing requirements described in part  
5           382 of that title (or successor regulations);

6           (C) except as provided in paragraph (2),  
7           the commercial driver's license requirements de-  
8           scribed in part 383 of that title (or successor  
9           regulations);

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

13          (E) the requirement that every commercial  
14          motor vehicle shall be operated in accordance  
15          with the laws, ordinances, and regulations of  
16          the jurisdiction in which the commercial motor  
17          vehicle is being operated, which shall include  
18          any applicable speed limits and other traffic re-  
19          strictions, as described in the first sentence of  
20          section 392.2 of that title (or successor regula-  
21          tions);

22          (F) the prohibition against operating a  
23          commercial motor vehicle while the ability of  
24          the driver is so impaired, or so likely to become  
25          impaired, through fatigue, illness, or any other

1           cause, as to make it unsafe for the driver to  
2           begin or continue to operate the commercial  
3           motor vehicle, as described in section 392.3 of  
4           that title (or successor regulations);

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

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

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

14          (4) DRIVER FATIGUE AND SAFETY.—

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

19           (B) REQUIREMENT.—For the period dur-  
20           ing which a temporary waiver under paragraph  
21           (1) or (2) is effective, a motor carrier described  
22           in subparagraph (A) that receives from a driver  
23           notification that the driver is in need of imme-  
24           diate rest shall immediately provide the driver  
25           with not less than 10 consecutive hours of off-

1 duty time before the driver is required to return  
2 to service.

3 (c) TRANSPORTATION WORKER IDENTIFICATION  
4 CREDENTIALS.—The Administrator of the Transportation  
5 Security Administration and the Commandant of the  
6 Coast Guard shall jointly prioritize and expedite the con-  
7 sideration of applications for a Transportation Worker  
8 Identification Credential with respect to applicants, in-  
9 cluding commercial drivers who are operating under a  
10 temporary waiver issued under subsection (b)(2), who rea-  
11 sonably demonstrate that the purpose of the Transpor-  
12 tation Worker Identification Credential is for providing,  
13 within the interior of the United States, direct assistance  
14 to a United States port.

15 (d) TEMPORARY WAIVER OF JONES ACT REQUIRE-  
16 MENTS FOR CERTAIN VESSELS TRANSPORTING CARGO.—

17 (1) AUTHORITY.—

18 (A) CERTIFICATE OF COASTWISE EN-  
19 DORSEMENT.—Notwithstanding the require-  
20 ments under section 12112 of title 46, United  
21 States Code, and any other requirement under  
22 chapter 121 of such title, the Secretary of the  
23 department in which the Coast Guard is oper-  
24 ating (referred to in this subsection as the  
25 “Secretary”) may issue a certificate of docu-



1           mentation with a coastwise endorsement under  
2           such chapter 121 in accordance with this sub-  
3           section for a vessel, without regard to whether  
4           the vessel meets the requirements of such sec-  
5           tion 12112, in a case that the person requesting  
6           such certificate reasonably demonstrates the en-  
7           dorsement (or the resulting exemption under  
8           subparagraph (B))) is for the purpose of—

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

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

19           (B) EXEMPTION OF ADDITIONAL REQUIRE-  
20           MENTS.—Until the expiration under paragraph  
21           (3) of the authority under this subsection, not-  
22           withstanding section 55102 of title 46, United  
23           States Code, such section 55102 shall not apply  
24           to any vessel that has been issued a certificate

1 of documentation with a coastwise endorsement  
2 under subparagraph (A).

3 (2) TIMING.—

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

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

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

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

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

22 (3) EXPIRATION.—The authority under this  
23 subsection, including any coastwise endorsement au-  
24 thorized under this section, shall expire on the date

1 that is 1 year after the date of enactment of this  
2 Act.

3 (e) CONTAINER OVERFLOW STORAGE.—

4 (1) IN GENERAL.—Not later than 14 days after  
5 the date of enactment of this Act, the Secretary of  
6 Agriculture, the Secretary of the Interior, and the  
7 Secretary of Transportation shall jointly consult  
8 with representatives of ocean carriers, ports, rail-  
9 roads, and truckers—

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

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

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

21 (B) to designate not fewer than 2 plots of  
22 Federal land identified under subparagraph (A)  
23 for the use described in clause (ii) of that sub-  
24 paragraph, subject to the conditions that—

1 (i) each specific plot so designated  
2 shall be not more than 500 acres;

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

9 (iii) containers shall not be stacked  
10 more than 6 high at any plot so des-  
11 ignated.

12 (2) PUBLICATION IN THE FEDERAL REG-  
13 ISTER.—The designation of a plot of Federal land  
14 under paragraph (1)(B) shall be published in the  
15 Federal Register.

16 (3) CATEGORICAL EXCLUSION.—The designa-  
17 tion of a plot of Federal land under paragraph  
18 (1)(B) shall be categorically excluded from the re-  
19 quirements of the National Environmental Policy  
20 Act of 1969 (42 U.S.C. 4321 et seq.), subject to the  
21 condition that, prior to the designation of the plot  
22 of Federal land under that paragraph, the applicable  
23 Secretary described in paragraph (1)(A) having ju-  
24 risdiction over the plot carefully considers the cir-  
25 cumstances of the designation and determines that

1       there are no extraordinary circumstances that war-  
2       rant the preparation of an environmental assessment  
3       or an environmental impact statement.

4       (f) LOAN OF DOD INTERMODAL EQUIPMENT.—

5             (1) DEFINITIONS.—In this subsection:

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

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

12             (2) INVENTORY OF INTERMODAL EQUIP-  
13             MENT.—Not later than 14 days after the date of en-  
14             actment of this Act, the Secretary shall conduct an  
15             inventory of intermodal equipment that—

16                 (A) is owned by the Department of De-  
17                 fense;

18                 (B) is located within the United States;  
19                 and

20                 (C) could be made available for loan to  
21                 truck companies for the purposes of easing con-  
22                 gestion at United States ports.

23             (3) LOAN OF INTERMODAL EQUIPMENT.—

24                 (A) PROCESS.—Not later than 7 days after  
25                 the date on which the inventory under para-

1 graph (2) is complete, the Secretary shall create  
2 a process for a truck company to submit an ap-  
3 plication requesting the use of intermodal  
4 equipment identified in that inventory.

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

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

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

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

19 (C) FEES.—

20 (i) IN GENERAL.—Subject to clauses  
21 (ii) and (iii), the Secretary may charge a  
22 reasonable fee for the loan of intermodal  
23 equipment under this subsection.

1 (ii) CONSULTATION.—The Secretary  
2 may charge a fee under clause (i) if the  
3 Secretary—

4 (I) consults with the Secretary of  
5 Agriculture, the Secretary of the Inte-  
6 rior, and the Secretary of Transpor-  
7 tation; and

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

10 (iii) AMOUNT.—The amount of a fee  
11 under clause (i) shall be based on the mar-  
12 ket rate for similar loans or rentals of  
13 intermodal equipment or similar equipment  
14 as of January 1, 2020.

15 (iv) DEPOSIT AND USE.—Any fee col-  
16 lected by the Secretary under clause (i)  
17 shall be deposited in the general fund of  
18 the Treasury and made available to the  
19 Secretary of Agriculture, the Secretary of  
20 the Interior, and the Secretary of Trans-  
21 portation for remediation of any Federal  
22 land designated under subsection (e).

23 (v) RESTRICTIONS.—A fee collected  
24 under clause (i) may not be used—

1 (I) until the designation of the  
2 applicable plot of Federal land under  
3 subsection (e) has expired; or

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

7 (4) RECALL OF INTERMODAL EQUIPMENT.—To  
8 protect the national security of the United States,  
9 the Secretary may recall any intermodal equipment  
10 on loan to a truck company under this subsection by  
11 issuing a notice to the truck company 72 hours be-  
12 fore the time at which the intermodal equipment is  
13 required to be returned to the Secretary.