

The Jones Act, a century-old maritime law, proves tough to sink

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Lawmakers and leaders of the maritime industry are rallying support for the Jones Act, a law intended to protect American shipping and maritime interests, as critics try to repeal or provide exemptions to the rule.

The Jones Act was established in 1920 as part of the Merchant Marine Act and requires that only U.S. ships transport cargo between U.S. ports. Likewise, it also demands that the crew is composed of at least 75 percent American citizens and was intended to bolster the merchant marine fleet by eliminating foreign competition.

Critics say the measure is an outdated protectionist rule that complicates carrying cargo and boosts costs for consumers, a problem on display when foreign ships were needed to help ferry much-needed supplies to storm-ravaged Puerto Rico last year. Proponents argue it still is a critical aspect of U.S. national security and provides economic benefits.

“Is it a protectionist measure?” Jones Act proponent Rep. Garret Graves, R-La., told the *Washington Examiner*. “Absolutely. It protects our national security, it protects our families, it protects our economy.”

Rep. John Garamendi, D-Calif., pointed out that the Jones Act is “absolutely essential” to national security for various reasons, such as the fact the military often depends on commercial fleets to help assist the military reserve fleet moving cargo in times of conflict.

“The Jones Act provides the foundation for the transport of strategic military cargo around the world,” Garamendi told the *Washington Examiner*.

Matthew Paxton, president of the Shipbuilders Council of America, said this support from commercial fleets to move cargo is “absolutely critical in times of war” because it’s uncertain if foreign nations have interests that align with those of the U.S.

“It’s good that we’re not dependent on a foreign nation to do that, because you don’t know where their interests will be,” Paxton said.

Garamendi also noted that requiring the crew members to be primarily American citizens means that individuals from countries that don't share American interests will not have access to U.S. waterways.

"Between these ports, we're not worrying about sailors and mariners from countries with whom we have deep concerns," Garamendi said.

But lawmakers and experts continue to remain divided on the issue, especially after Hurricane Maria ravaged Puerto Rico.

"Puerto Rico shined a bright light on some of the problems with the Jones Act," said Scott Lincicome, an adjunct scholar at the Cato Institute. "It made a lot of the general public aware of the Jones Act probably for the first time."

In response to the natural disaster, President Trump issued a temporary waiver to the Jones Act, based on requests from some members of Congress who argued waiving it would assist the delivery of supplies such as food, medicine, and other resources. Temporary waivers were also issued in response to Hurricanes Harvey and Irma last year.

"Puerto Rico can't borrow funds, and they are required to use American shipping only, which is the most expensive in the world," Rep. Luis Guterrez, D-Ill., said in a statement in September after signing a letter to the Department of Homeland Security urging for a temporary waiver. "In their hour of need, Washington can help by suspending the Jones Act."

A 10-day waiver was granted for Puerto Rico, even though signers of the letter had asked for a full year. Even so, efforts to fully repeal the Jones Act or exempt Puerto Rico from it are in motion.

For example, Sen. John McCain, R-Ariz., a long-time critic of the measure, has spearheaded several efforts in opposition to the Jones Act. He introduced legislation last July to repeal the act, and then introduced legislation in September to exempt Puerto Rico from it.

According to Julie Tarallo, McCain's communications director, repealing the legislation continues to remain a priority for him.

"Senator McCain has been working for years to repeal the outdated and protectionist Jones Act, which hinders free trade, impedes disaster response efforts, makes U.S. industry less competitive, and harms American consumers," Tarallo said. "He will never stop fighting to eliminate this burdensome law."

Sen. Mike Lee, R-Utah, has also supported repealing the Jones Act and recently cosponsored both of McCain's 2017 pieces of legislation related to the Jones Act.

"The Jones Act is just another example of a federal regulation that harms American consumers, gives foreign corporations an edge over American businesses, and makes disaster response harder," Lee said in a statement last September. "It is far past time to repeal it."

But a bipartisan group of lawmakers and other prominent leaders of the maritime industry voiced their support at a late-January hearing before the House Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation.

At the hearing, Paxton explained the importance of the Jones Act, because it has required the U.S. to have the necessary shipbuilding infrastructure and workforce to accommodate the 40,000 vessels that are part of the Jones Act fleet.

Graves expressed similar sentiments to the *Washington Examiner*.

“It’s important that we actually have the capacity in the United States to build these types of vessels instead of relying on foreign shipyards to provide integral military equipment, which certainly poses security risks,” Graves said.

Salim Furth, a senior research fellow at the Mercatus Center at George Mason University, doesn’t think the century-old measure will change anytime soon, but said it is possible an exemption for Puerto Rico may occur eventually.

“I don’t think it will be repealed in the near term; there is simply too much bipartisan support,” Furth said.

“Most people aren’t hurt enough by the Jones Act to care, and a few people benefit enormously from it, and they care very, very much,” he added.

Lincicome agreed that it would be difficult to repeal.

“I think it will be a very long haul and tough slog,” Lincicome said. “The fact is, as we’ve seen, there are very entrenched interests supporting the Jones Act. It’s not an easy thing to explain, and the harm is difficult to quantify.”