



The Jones Act dilemma: Cut regulations or boost jobs?

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The recent hurricanes affecting coastal states have renewed calls to reform or repeal the Jones Act, an obscure, century-old shipping law designed to protect American maritime interests and shipbuilders.

Enacted in 1920, the federal law prohibits tankers from hauling oil between U.S. ports unless those vessels are American-made, flagged and manned by a crew that is 75 percent U.S. citizens.

The Trump administration this month extended a temporary waiver to the Jones Act in response to fuel shortages caused by Hurricanes Harvey and Irma, to allow foreign-flagged vessels to meet demand.

But some lawmakers and experts say the waivers prompted by the hurricanes showcase the need to repeal a law they view as protectionist and anti-competitive, making it harder to move goods to market, and raising prices for consumers.

Because of the high cost of using vessels that qualify under the Jones Act, critics say coastal shipping has declined, even though infrastructure experts contend it could be more efficient than delivery by trucks or rail.

"It seems like every other year there is some sort of disaster where we realize for a brief moment there is this law out there that has become obsolete, and it's imposing hidden costs on Americans," said Scott Lincicome, an adjunct scholar at the Cato Institute.

Indeed, President George W. Bush temporarily waived the Jones Act following Hurricane Katrina, which shut down Gulf Coast refineries like Harvey did. But Obama declined to take action during the Deepwater Horizon oil spill.

For President Trump, the debate over the Jones Act challenges his instinct to loosen restrictions on infrastructure and energy development with his promise to support American workers.

He did not take a position on the law during the campaign, and experts say his "America first" approach to trade makes this an awkward environment to pursue change.

"There is a good argument to be made for repealing the Jones Act, but the given 2016 election, it's very hard for Republicans to see their way to angering blue-collar labor right now," said Salim Furth, an economic expert at The Heritage Foundation who studies the Jones Act.

That isn't stopping longtime opponents of the Jones Act from trying to end it, including Sen. John McCain, R-Ariz.

"Sen. McCain will never give up his long fight to repeal the archaic Jones Act and promote free trade to the benefit of the American economy, worker, and consumer," said Julie Tarallo, McCain's communications director.

McCain in July introduced a bill to the Senate Commerce, Science, and Transportation Committee to repeal the Jones Act, and some of his colleagues support his effort.

"The Jones Act is just another example of a federal regulation that harms American consumers and gives foreign corporations an edge over American businesses," said Sen. Mike Lee, R-Utah, who belongs to the Commerce, Science and Transportation Committee. "It is far past time to repeal it," Lee told the *Washington Examiner*.

But Frederick Hill, a spokesman for the committee, said he has "no announcements to share" on the bill, meaning it's unlikely to vote on it anytime soon.

The Jones Act enjoys strong support in Congress, especially among representative of states with ports and strong shipping industries.

"The domestic shipbuilders industry is highly organized and very motivated," Lincicome said. "They are very good at what they do — protecting the Jones Act. It's a tough nut to crack because so many states have shipping interests. That's one of reasons why it's easy to be John McCain who represents a totally landlocked desert [Arizona]."

Yet, proponents of the law reject the suggestion that politics drive their position.

Rep. Duncan Hunter, R-Calif., is a leading defender of the law. He represents San Diego County, which maintains a heavy Navy and maritime presence.

Joe Kasper, Duncan's chief of staff, said it's "nonsense" to say these local interests solely motivate his support for the Jones Act.

"Any type of relationships or affections he has for the maritime industry has nothing to do with the obligation of every member of Congress to support America's best interest," Kasper said. "Without the Jones Act, it will only be a matter of time that foreign-flagged vessels replace American-made ones to respond to U.S. national disasters and other commercial needs."

Matthew Paxton, president of the Shipbuilders Council of America, says there are 40,000 vessels operating in the country's domestic maritime industry, supporting nearly 500,000 jobs. He says these U.S.-produced vessels have the capacity to serve America's needs, even during emergencies such as hurricanes.

"In this instance, it was not necessary to waive the Jones Act," Paxton told the *Washington Examiner*. "There is an armada of U.S.-crewed vessels that came in to deliver fuel and other energy supplies to Florida. Foreign vessels can always deliver from foreign ports into Florida or Texas to provide relief."

Furth notes, however, that the global shipbuilding business has shifted in the last three decades to China, South Korea, and Japan, where it's cheaper to produce a ship.

Few large commercial ships are built in the U.S. anymore, he says. Without burgeoning foreign-built ships able to serve the U.S. market between American ports, places that require maritime transport are especially vulnerable, especially Puerto Rico, which was slammed by Irma, and the latest hurricane, Maria.

"The U.S. shipbuilders know they can't compete fairly, so they rely on the federal government to keep this thing going," Furth said. "No consumer who is paying a bit more for gas or bread will ever care as much as the few people whose livelihoods depend on these jobs. It's the reality of diffuse costs and concentrated benefits."

Opponents also contend the national security interests the Jones Act were designed to protect are not as relevant to respond to today's wartime needs.

"The original idea a long, long time ago is you need a strong shipping industry because you will have lot of naval battles and need a strong merchant Marine base in case there is a big war," Lincicome said. "Military fantasies aside, the likelihood of the U.S. getting into a full-blown maritime war today, where we need dozens of battleships and merchant marine vessels like Dunkirk, is pretty slim. The conditions of battle today are quite different than before."

Interests supporting the law counter the importance of the Jones Act remains the same, and there is little organized constituency to change the status quo.