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Seafarers Fret Over New Assault on Jones Act in Wake of Storms

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On the darkened bridge of the Chesapeake Trader, with radio chatter filling the air, three officers were easing the giant freighter into San Francisco Bay when an unexpected vessel suddenly appeared on the starboard side. They scrambled to avoid catastrophe.

The computerized simulation -- conducted in a landlocked office park outside Baltimore -- is part of a two-week course offered by the International Order of Masters, Mates & Pilots. The union facility was once packed with students working their way up the ranks, but attendance has plunged as the number of U.S.-flagged, oceangoing freighters has fallen from nearly 3,000 in 1960 to fewer than 170 today.

The decline has occurred despite the Jones Act, a law that requires goods moving between U.S. ports and territories to be carried on American-built vessels crewed by American officers and deckhands. That's energized opponents of the nearly 100-year-old law, who say the protectionist measure hasn't saved the fleet and should be curtailed or eliminated once and for all.

"The Jones Act is pretty much the only reason I have a job," said Brett Cowan, a mariner from California attending training at the facility who has been working on boats since he was 13. Changing the act, he said, "would put a lot of us out of work."

The latest attack on the Jones Act follows President Donald Trump's decision to temporarily waive it after Hurricane Harvey disrupted refinery operations in Houston, and again to help aid reach Puerto Rico in the wake of Hurricane Maria.

Senator John McCain, a long-time opponent of the law, took the opportunity to introduce fast-track legislation to permanently exempt Puerto Rico from the law -- something that would eliminate a major shipping route from the act's protection.

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"For years, I have fought to fully repeal the Jones Act, which has long outlived its purpose to the benefit of special interests," McCain, an Arizona Republican and former Navy officer. He said in a statement that it's "an antiquated, protectionist law that has driven up costs and crippled Puerto Rico's economy."

The legislation could be included in a vote on an aid package for the island to be voted on this week, according to C. James Patti, president of the Maritime Institute for Research and Industrial Development, a trade association that represents companies with U.S. flagged ships in their negotiations with the pilots' union.

"We didn't like to see the waiver," Patti said. "But on the other hand, the industry accepted it. If it enabled some people to focus on other things, then it did some good."

But opponents of the law are mustering their cases.

"Protectionism, over and over, has proven not to be in the long-term interests of the protected industry," said Scott Lincicome, an adjunct scholar at the free-market focused Cato Institute. "One hundred years of the Jones Act is clearly not working when it comes to maintaining the fleet."

Bipartisan support

Lincicome and Thomas Grennes have separately undertaken in-depth analyses of the law, and they contend that the act has made goods and services more expensive in Alaska, Hawaii and Puerto Rico.

More properly known as the Merchant Marine Act of 1920, the law takes its name from its sponsor, Wesley Jones, a senator from Washington state. It unites an array of Democrats and Republicans, many of them with ports and shipyards in their districts.

Proponents say it provides a jobs base for American workers who can come to the country's aid in time of war.

"There are those forces who want to do away with the Jones Act for whatever reason," Representative Elijah Cummings, a Maryland Democrat, said at a hearing last week to assess the law. "Basically what it would do is put our shipbuilders out of business and our workers out of work. Why in the world would anybody want to do that?"

Representatives from the maritime industry have fought to preserve the law several times in recent years. The American Maritime Partnership, which represents ship owners, builders and officers who benefit from the Jones Act, spent \$1.1 million on lobbying last year, Senate records show.

Puerto Rico

In 1998, a McCain-sponsored measure created the waiver process. Previously, Congress had to pass legislation to suspend the law. In 2010 he introduced legislation to fully repeal the law, reintroducing it in 2015 and again in July of this year.

A Government Accountability Office report from 2013 found that only a third of the ships calling at Puerto Rico flew the U.S. flag and said the evidence was inconclusive that repealing the act or exempting Puerto Rico from its restrictions would benefit the island's residents.

Still "freight rates are often — although not always — lower for foreign carriers going to and from Puerto Rico and foreign locations than the rates shippers pay to ship similar cargo to and from the United States, despite longer distances," GAO concluded.

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Because of those cost advantages, exempting the island from the act could mean the disappearance of most U.S.-flag vessels from this trade, a summary of the report said.

Other reports, including one conducted by the University of Puerto Rico, have found that goods cost more on the island due to shipping costs. The study, conducted in 2010, found that the island lost about \$537 million annually thanks to the law.

Executives from two shipping companies doing business on Puerto Rico -- TOTE Maritime and Crowley Maritime Corp. -- said that their companies have invested \$500 million and \$600 million in projects on the island, respectively, and employ a combined 500 people.

"The reality is that without the Jones Act there would not be an American maritime industry," Michael Roberts, senior vice president of Crowley, said in an interview. "The international trade is dominated by foreign-flags of convenience, where you'll register the vessel where you can get the lowest cost labor, the lowest cost regulatory system, the lowest taxes across the board."

That view dominated the lunchtime conversation in the Masters, Mates & Pilot's training center cafeteria last week, where the diners showed an impressive command of the Jones Act's details - and the arguments for its necessity.

"We all keep pretty well versed on that," said Steven Partridge, a U.S. Navy reservist who has worked a variety of jobs in domestic shipping and is trying to become a chief mate. "It's pretty important to us."