

S. 3580 Ocean Shipping Reform Act of 2022

The bipartisan Ocean Shipping Reform Act of 2022 aims to level the playing field for American exporters and importers by providing the Federal Maritime Commission (FMC) the tools it needs to improve oversight over international ocean carriers and crack down on rising shipping fees facing consumers. During the COVID-19 pandemic, American consumers shifted to buying goods online. The resulting port and intermodal congestion left exporters, including American farmers, struggling to get their products to global markets because of unpredictable sailings, ocean carriers denying American cargo, and skyrocketing freight costs. Pre-pandemic shipping rates for a forty-foot container could be \$1,300, but by September 2021, jumped to \$11,000.

The FMC is charged with protecting the interests of U.S. businesses that rely on ocean transportation under the Shipping Act, which was last reauthorized in 1998. S.3580 provides the FMC the tools it needs to eliminate unfair charges, prevent unreasonable denial of American exports, and improve the oversight and enforcement tools needed to crack down on unfair practices facing American consumers.

Problems Facing American Consumers and Businesses:

- Agricultural exports have been particularly hard hit by increased costs and transportation challenges.
- Over the last two years, agricultural exporters have lost 22 percent of sales due to delays in ocean shipping¹.
- Meanwhile, ocean carriers have reported record profits of \$150 billion in 2021 from the increased demand for imported goods and higher prices for container shipments.²
- Reports highlight agricultural exports sitting at ports while ocean carriers return to Asia with empty containers. Between July and December of 2020, carriers rejected at least \$1.3 billion in U.S. agricultural exports³.
- Industry analysis indicates that between 2020 and 2021, at the 20 biggest ports in the world, the average demurrage and detention (fees often passed down to consumers) charge increased by 104 percent⁴.

The Ocean Shipping Reform Act would:

- Authorize the FMC to self-initiate investigations of ocean common carriers' business practices and apply enforcement measures, as appropriate.
- Prohibit ocean carriers from declining opportunities for U.S. exports unreasonably, as determined by the FMC in new required rulemaking.
- Shift burden of proof regarding the reasonableness of "demurrage and detention" charges from the invoiced party to the ocean carrier that issues the charge.
- Require ocean carriers or marine terminal operators to include invoice information that any late fees—known in maritime parlance as "demurrage and detention" charges—comply with federal regulations or face penalties.
- Improve transparency on U.S. agricultural and other exports by requiring ocean common carriers to report to the FMC how many empty containers they are transporting.
- Prohibit retaliation against shippers or threatening the denial of cargo.
- Codify the FMC Office of Consumer Affairs and Dispute Resolution Services.
- Improve chassis management by authorizing the Bureau of Transportation Statistics to collect data on dwell times for chassis and including a National Academy of Sciences study on best practices of chassis management.
- Authorize the FMC to have temporary emergency authority to collect data during times of an emergency congestion situation, among other improvements.

¹ <https://www.businessinsider.com/shipping-crisis-american-farm-exports-hit-containers-leave-california-empty-2021-11>

² <https://www.bloomberg.com/news/features/2022-01-18/supply-chain-crisis-helped-shipping-companies-reap-150-billion-in-2021>

³ <https://www.cnbc.com/2021/01/26/shipping-carriers-rejected-us-agricultural-exports-sent-empty-containers-to-china.html>

⁴ <https://www.container-xchange.com/wp-content/uploads/2021/06/demurrage-detention-benchmark-2021-compressed.pdf>

Supporters of the Bill include:

Agriculture Transportation Coalition (AgTC),
The National Retail Federation,
The National Industrial Transportation League,
The Home Furnishings Association,
The Hardwood Federation,
National Milk Producers Federation,
American Trucking Associations (ATA),
ADM,
National Milk Producers Federation,
U.S. Dairy Export Council,
Tyson Foods,
The American Home Furnishings Alliance,
Auto Care Association,
International Association of Movers,
Harbor Trucking Association,
American Apparel and Footwear Association,
Travel Goods Association,
American Pyrotechnics Association,
National Association of Chemical Distributors,
American Equipment Manufacturers,
National Marine Manufacturers Association,
ATA Agriculture and Food Transporters Conference,
ATA Intermodal Motor Carriers Conference,
California Automotive Wholesalers' Association,

DairyAmerica,
Fragrance Creators Association,
Association of Bi-State Motor Carriers,
California Dairies, Inc.,
Sartori Cheese,
Upstate Niagara Cooperative, Inc.,
International Ingredient Corporation,
Associated Milk Producers,
American Bankers Association,
International Warehouse Logistics Association,
Institute of Scrap Recycling Industries,
Agri-Mark, Inc.,
Northeast Dairy Cooperatives,
Retail industry Leaders Association,
Association of Home Appliance Manufacturers,
United Dairymen of Arizona,
Maryland and Virginia Milk Producers Cooperative,
Midwest Dairy Coalition,
International Dairy Foods Association,
High Desert Milk,
The Consumer Technology Association,
Northwest Dairy Association,
Darigold,
Schreiber Foods,
Dairy Farmers of America,
First District Association,

The Minnesota Soybean Growers Association,
Leprino Foods Company,
The North American Meat Institute,
Meat Import Council of America,
Leather and Hide Council of America,
Milk Specialties Global,
Minnesota Corn Growers Association,
South Dakota Soybean Association,
Pet Food Institute,
Western Growers,
Allports Forwarding Inc.,
California Fresh Fruit Association,
Capay Canyon Ranch,
Double River Forwarding LLC,
Fornazor International,
IMC Companies,
International Fresh Produce Association,
National Onion Association,
Pacific Northwest Asia Shippers Association,
Pandol Bros. Inc.,
SB&B Foods LLC,
ShoEi Foods USA,
Specialty Crop Trade Council,
Specialty Soya & Grains Alliance,
Total Logistics Resources Inc.,
Williams Clarke Company, Inc, and
California Farm Bureau.