

108TH CONGRESS  
2D SESSION

# H. R. 4251

To amend various laws relating to maritime transportation, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2004

Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. LOBIONDO, and Mr. FILNER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend various laws relating to maritime transportation, 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 “Maritime Transpor-  
5 tation Amendments of 2004”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

### TITLE I—COAST GUARD

- Sec. 101. Contingent expenses.

- Sec. 102. Maximum service in active status for reserve rear admirals.  
 Sec. 103. Confidential investigative expenses.  
 Sec. 104. Renewal of advisory groups.

TITLE II—MARINE SAFETY AND ENVIRONMENTAL PROTECTION

- Sec. 201. Enforcement.  
 Sec. 202. In rem liability for civil penalties.  
 Sec. 203. Delegation of port security authority.  
 Sec. 204. Notification of deficiencies.  
 Sec. 205. Drug testing reporting.  
 Sec. 206. Judicial review of National Transportation Safety Board final orders.  
 Sec. 207. Inspection of towing vessels.  
 Sec. 208. Westlake chemical barge documentation.  
 Sec. 209. Conveyances.  
 Sec. 210. Authority to settle.

1                   **TITLE I—COAST GUARD**

2   **SEC. 101. CONTINGENT EXPENSES.**

3           Section 476 of title 14, United States Code, is  
 4 amended—

5           (1) by striking “\$7,500” and inserting  
 6           “\$50,000”; and

7           (2) by striking the second sentence.

8   **SEC. 102. MAXIMUM SERVICE IN ACTIVE STATUS FOR RE-**  
 9                   **SERVE REAR ADMIRALS.**

10          Section 743 of title 14, United States Code, is  
 11 amended by striking “combined service in the grades of  
 12 rear admiral and rear admiral (lower half)” and inserting  
 13 “of service after the appointment of the officer to rear ad-  
 14 miral (lower half).”.

15   **SEC. 103. CONFIDENTIAL INVESTIGATIVE EXPENSES.**

16          Section 658 of title 14, United States Code, is  
 17 amended by striking “\$15,000 per annum” and inserting  
 18 “\$45,000 each fiscal year”.

1 **SEC. 104. RENEWAL OF ADVISORY GROUPS.**

2 (a) COMMERCIAL FISHING INDUSTRY VESSEL SAFE-  
3 TY ADVISORY COMMITTEE.—Section 4508(e)(1) of title  
4 46, United States Code, is amended by striking “of Sep-  
5 tember 30, 2005” and inserting “on September 30,  
6 2010”.

7 (b) HOUSTON-GALVESTON NAVIGATION SAFETY AD-  
8 VISORY COMMITTEE.—Section 18 of the Coast Guard Au-  
9 thorization Act of 1991 (Public Law 102–241; 105 Stat.  
10 2213) is amended—

11 (1) in subsection (b) by striking “eighteen” and  
12 inserting “19”;

13 (2) by adding at the end of subsection (b) the  
14 following:

15 “(12) One member representing recreational  
16 boating interests.”; and

17 (3) in subsection (h) by striking “September  
18 30, 2005” and inserting “September 30, 2010”.

19 (c) LOWER MISSISSIPPI RIVER WATERWAY SAFETY  
20 ADVISORY COMMITTEE.—Section 19(g) of the Coast  
21 Guard Authorization Act of 1991 (Public Law 102–241)  
22 is amended by striking “September 30, 2005” and insert-  
23 ing “September 30, 2010”.

24 (d) GREAT LAKES PILOTAGE ADVISORY COM-  
25 MITTEE.—Section 9307(f)(1) of title 46, United States

1 Code, is amended by striking “September 30, 2005” and  
2 inserting “September 30, 2010”.

3 (e) NAVIGATION SAFETY ADVISORY COUNCIL.—Sec-  
4 tion 5(d) of the Inland Navigational Rules Act of 1980  
5 (33 U.S.C. 2073(d)) is amended by striking “September  
6 30, 2005” and inserting “September 30, 2010”.

7 (f) NATIONAL BOATING SAFETY ADVISORY COUN-  
8 CIL.—Section 13110(e) of title 46, United States Code,  
9 is amended by striking “September 30, 2005” and insert-  
10 ing “September 30, 2010”.

11 (g) TOWING SAFETY ADVISORY COMMITTEE.—Public  
12 Law 96–380 (33 U.S.C. 1231a) is amended in subsection  
13 (e) by striking “September 30, 2005” and inserting “Sep-  
14 tember 30, 2010”.

## 15 **TITLE II—MARINE SAFETY AND** 16 **ENVIRONMENTAL PROTECTION**

### 17 **SEC. 201. ENFORCEMENT.**

18 (a) IN GENERAL.—Chapter 701 of title 46, United  
19 States Code, is amended by adding at the end the fol-  
20 lowing:

#### 21 **“§ 70118. Firearms, arrests, and seizure of property**

22 “Subject to guidelines approved by the Secretary,  
23 members of the Coast Guard may, in the performance of  
24 official duties—

25 “(1) carry a firearm; and

1 “(2) while at a facility—

2 “(A) make an arrest without warrant for  
3 any offense against the United States com-  
4 mitted in their presence; and

5 “(B) seize property as otherwise provided  
6 by law.

7 **“§ 70119. Enforcement by State and local officers**

8 “(a) IN GENERAL.—Any State or local government  
9 law enforcement officer who has authority to enforce State  
10 criminal laws may make an arrest for violation of a secu-  
11 rity zone regulation under section 1 of title II of the Act  
12 of June 15, 1917 (chapter 30; 50 U.S.C. 191) or security  
13 or safety zone regulation under section 7(b) of the Ports  
14 and Waterways Safety Act (33 U.S.C. 1226(b)) prescribed  
15 by a Coast Guard official authorized by law to prescribe  
16 such regulations, if—

17 “(1) such violation is a felony; and

18 “(2) the officer has reasonable grounds to be-  
19 lieve that the person to be arrested has committed  
20 or is committing such violation.

21 “(b) OTHER POWERS NOT AFFECTED.—The provi-  
22 sions of this section are in addition to any power conferred  
23 by law to such officers. This section shall not be construed  
24 as a limitation of any power conferred by law to such offi-  
25 cers, or any other officer of the United States or any

1 State. This section does not grant to such officers any  
2 powers not authorized by the law of the State in which  
3 those officers are employed.”.

4 (b) CLERICAL AMENDMENT.—The chapter analysis  
5 at the beginning of chapter 701 of title 46, United States  
6 Code, is amended by adding at the end the following:

“70118. Enforcement.

“70119. Enforcement by State and local officers.”.

7 **SEC. 202. IN REM LIABILITY FOR CIVIL PENALTIES.**

8 (a) MARITIME TRANSPORTATION SECURITY ACT.—

9 (1) IN GENERAL.—Section 70117 of title 46,  
10 United States Code, is amended—

11 (A) by striking the section heading and in-  
12 serting the following:

13 **“§ 70117. Penalties”;**

14 (B) by inserting “(a) IN GENERAL.—” be-  
15 fore “Any”; and

16 (C) by adding at the end the following:

17 “(b) IN REM LIABILITY.—Any vessel that is used in  
18 violation of this chapter, or of any regulation issued under  
19 this chapter, shall be liable in rem for any civil penalty  
20 assessed pursuant to subsection (a) and may be proceeded  
21 against in the United States district court for any district  
22 in which such vessel may be found.

23 “(c) WITHHOLDING OF CLEARANCE.—

1           “(1) IN GENERAL.—If any owner, agent, mas-  
2           ter, officer, or person in charge of a vessel is liable  
3           for a penalty or fine under subsection (a), or if rea-  
4           sonable cause exists to believe that the owner, agent,  
5           master, officer, or person in charge may be subject  
6           to a penalty or fine under subsection (a), the Sec-  
7           retary may, with respect to such vessel, refuse or re-  
8           voke any clearance required by section 4197 of the  
9           Revised Statutes of the United States (46 U.S.C.  
10          App. 91).

11           “(2) CLEARANCE UPON FILING OF BOND OR  
12          OTHER SURETY.—The Secretary may require the fil-  
13          ing of a bond or other surety as a condition of  
14          granting clearance refused or revoked under this  
15          subsection.”.

16           (2) CONFORMING AMENDMENT.—The chapter  
17          analysis for chapter 701 of title 46, United States  
18          Code, is amended by revising the item relating to  
19          section 70117 to read as follows:

“70117. Penalties.”.

20           (b) MAGNUSON ACT.—Section 2 of title II of the Act  
21          of June 15, 1917 (chapter 30; 50 U.S.C. 192), is amend-  
22          ed—

23           (1) in subsection (c) by striking “Act” each  
24          time it appears and inserting “title”; and

25           (2) by inserting at the end the following:

1       “(d) IN REM LIABILITY.—Any vessel that is used in  
2 violation of this title, or of any regulation issued under  
3 this title, shall be liable in rem for any civil penalty as-  
4 sessed pursuant to subsection (c) and may be proceeded  
5 against in the United States district court for any district  
6 in which such vessel may be found.

7       “(e) WITHHOLDING OF CLEARANCE.—

8           “(1) IN GENERAL.—If any owner, agent, mas-  
9 ter, officer, or person in charge of a vessel is liable  
10 for a penalty or fine under subsection (c), or if rea-  
11 sonable cause exists to believe that the owner, agent,  
12 master, officer, or person in charge may be subject  
13 to a penalty or fine under this section, the Secretary  
14 may, with respect to such vessel, refuse or revoke  
15 any clearance required by section 4197 of the Re-  
16 vised Statutes of the United States (46 U.S.C. App.  
17 91).

18           “(2) CLEARANCE UPON FILING OF BOND OR  
19 OTHER SURETY.—The Secretary may require the fil-  
20 ing of a bond or other surety as a condition of  
21 granting clearance refused or revoked under this  
22 subsection.”.

23 **SEC. 203. DELEGATION OF PORT SECURITY AUTHORITY.**

24       The undesignated text following paragraph (b) of the  
25 second unnumbered paragraph of section 1 of title II of

1 the Act of June 15, 1917 (chapter 30; 40 Stat. 220; 50  
2 U.S.C. 191) is amended by adding at the beginning the  
3 following: “The President may delegate the authority to  
4 issue such rules and regulations to the Secretary of the  
5 department in which the Coast Guard is operating.”.

6 **SEC. 204. NOTIFICATION OF DEFICIENCIES.**

7 (a) CORRECTION OF DEFICIENCIES.—Section  
8 3313(b)(1) of title 46, United States Code, is amended  
9 by striking “be ordered in writing to correct the noted de-  
10 ficiencies promptly” and inserting “promptly correct any  
11 deficiencies”.

12 (b) NOTIFICATION TO VESSEL.—

13 (1) IN GENERAL.—Section 3712 of title 46,  
14 United States Code, is amended to read as follows:

15 **“§ 3712. Notification of deficiencies**

16 “The Secretary shall notify the owner, charterer,  
17 managing operator, agent, master, or individual in charge  
18 of a vessel of deficiencies found during any inspection or  
19 examination under this chapter.”.

20 (2) CLERICAL AMENDMENT.—The chapter anal-  
21 ysis for chapter 37 of title 46, United States Code,  
22 is amended by striking the item related to section  
23 3712 and inserting the following:

“3712. Notification of deficiencies.”.

1 **SEC. 205. DRUG TESTING REPORTING.**

2 (a) IN GENERAL.—Chapter 77 of title 46, United  
3 States Code, is amended by adding at the end:

4 **“§ 7706. Drug testing reporting**

5 “(a) RELEASE OF DRUG TEST RESULTS TO COAST  
6 GUARD.—Not later than 2 weeks after receiving from a  
7 Medical Review Officer a report of a verified positive drug  
8 test or verified test violation by a civilian employee of a  
9 Federal agency, an officer in the Public Health Services,  
10 or an officer in the National Oceanic and Atmospheric Ad-  
11 ministration Commissioned Officer Corps, who is em-  
12 ployed in any capacity on board a vessel operated by the  
13 agency, the head of the agency shall release to the Com-  
14 mandant of the Coast Guard the report.

15 “(b) STANDARDS, PROCEDURES, AND REGULA-  
16 TIONS.—The head of a Federal agency shall carry out a  
17 release under subsection (a) in accordance with the stand-  
18 ards, procedures, and regulations applicable to the disclo-  
19 sure and reporting to the Coast Guard of drug tests re-  
20 sults and drug test records of individuals employed on ves-  
21 sels documented under the laws of the United States.

22 “(c) WAIVER.—Notwithstanding section 503(e) of  
23 the Supplemental Appropriations Act, 1987 (5 U.S.C.  
24 7301 note), the report of a drug test of an employee may  
25 be released under this section without the prior written  
26 consent of the employee.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-  
2 ysis for chapter 77 of title 46, United States Code, is  
3 amended by adding at the end the following:

“7706. Drug testing reporting.”.

4 **SEC. 206. JUDICIAL REVIEW OF NATIONAL TRANSPOR-**  
5 **TATION SAFETY BOARD FINAL ORDERS.**

6 Section 1153 of title 49, United States Code, is  
7 amended by adding at the end the following:

8 “(d) COMMANDANT SEEKING JUDICIAL REVIEW OF  
9 MARITIME MATTERS.—If the Commandant of the Coast  
10 Guard decides that an order of the Board issued pursuant  
11 to a review of a Coast Guard action under section 1133  
12 of this title will have an adverse impact on maritime safety  
13 or security, the Commandant may obtain judicial review  
14 of the order under subsection (a). The Commandant, in  
15 the official capacity of the Commandant, shall be a party  
16 to the judicial review proceedings.”.

17 **SEC. 207. INSPECTION OF TOWING VESSELS.**

18 (a) VESSELS SUBJECT TO INSPECTION.—Section  
19 3301 of title 46, United States Code, is amended by add-  
20 ing at the end the following:

21 “(15) towing vessels.”.

22 (b) SAFETY MANAGEMENT SYSTEM.—Section 3306  
23 of chapter 33 of title 46, United States Code, is amended  
24 by adding at the end the following:

1       “(j) The Secretary may establish by regulation a safe-  
2 ty management system appropriate for the characteristics,  
3 methods of operation, and nature of service of towing ves-  
4 sels.”.

5 **SEC. 208. WESTLAKE CHEMICAL BARGE DOCUMENTATION.**

6       Notwithstanding section 27 of the Merchant Marine  
7 Act, 1920 (46 App. U.S.C. 883) and section 12106 of title  
8 46, United States Code, the Secretary of the department  
9 in which the Coast Guard is operating may issue a certifi-  
10 cate of documentation with appropriate endorsement for  
11 employment in the coastwise trade for each of the fol-  
12 lowing vessels:

13           (1) Barge WCAO–101 (United States official  
14 number 506677).

15           (2) Barge WCAO–102 (United States official  
16 number 506851).

17           (3) Barge WCAO–103 (United States official  
18 number 506852).

19           (4) Barge WCAO–104 (United States official  
20 number 507172).

21           (5) Barge WCAO–105 (United States official  
22 number 507173).

23           (6) Barge WCAO–106 (United States official  
24 number 620514).

1           (7) Barge WCAO–107 (United States official  
2           number 620515).

3           (8) Barge WCAO–108 (United States official  
4           number 620516).

5           (9) Barge WCAO–3002 (United States official  
6           number 295147).

7           (10) Barge WCAO–3004 (United States official  
8           number 517396).

9   **SEC. 209. CONVEYANCES.**

10       (a) IN GENERAL.—The Commandant of the Coast  
11       Guard shall convey all right, title, and interest of the  
12       United States in and to each of the vessels described in  
13       subsection (b) to the recipient listed in subsection (b) with  
14       respect to that vessel, without consideration, if the recipi-  
15       ent complies with the conditions under subsection (c).

16       (b) VESSEL DESCRIBED.—The vessels and recipients  
17       referred to in subsection (a) are the following:

18           (1) The Coast Guard 44-foot Motor Life Boat  
19           Vessel #44345 formally assigned to the Group  
20           Grand Haven Command, to the city of Ludington,  
21           Michigan.

22           (2) One decommissioned “Balsam Class” 180-  
23           foot Coast Guard vessel (whether decommissioned  
24           before or after the date of enactment of this Act) to

1 CAS Foundation, Inc. (a nonprofit corporation  
2 under the laws of the State of Indiana).

3 (c) CONDITIONS.—As a condition of any conveyance  
4 of a vessel under subsection (a), the Commandant shall  
5 require the recipient to—

6 (1) agree—

7 (A) to use the vessel for purposes of edu-  
8 cation and historical display;

9 (B) not to use the vessel for commercial  
10 transportation purposes;

11 (C) to make the vessel available to the  
12 United States Government if needed for use by  
13 the Commandant in time of war or a national  
14 emergency; and

15 (D) to hold the Government harmless for  
16 any claims arising from exposure to hazardous  
17 materials, including asbestos and poly-  
18 chlorinated biphenyls (PCBs), after conveyance  
19 of the vessel, except for claims arising from use  
20 of the vessel by the Government under subpara-  
21 graph (C);

22 (2) have funds available that will be committed  
23 to operate and maintain the vessel conveyed in good  
24 working condition, in the form of cash, liquid assets,  
25 or a written loan commitment; and

1           (3) agree to any other conditions the Com-  
2           mandant considers appropriate.

3           (d) MAINTENANCE AND DELIVERY OF VESSEL.—  
4           Prior to conveyance of a vessel under this section, the  
5           Commandant shall, to the extent practical, and subject to  
6           other Coast Guard mission requirements, make every ef-  
7           fort to maintain the integrity of the vessel and its equip-  
8           ment until the time of delivery. The Commandant shall  
9           deliver a vessel conveyed under this section at the place  
10          where the vessel is located, in its present condition, and  
11          without cost to the Government. The conveyance of a ves-  
12          sel under this section shall not be considered a distribution  
13          in commerce for purposes of section 6(e) of Public Law  
14          94–469 (15 U.S.C. 2605(e)).

15          (e) OTHER EXCESS EQUIPMENT.—The Commandant  
16          may convey to the recipient of a vessel under this section  
17          any excess equipment or parts from other decommissioned  
18          Coast Guard vessels for use to enhance the vessel’s oper-  
19          ability and function as an historical display.

20          **SEC. 210. AUTHORITY TO SETTLE.**

21          Section 1015 of the Oil Pollution Act of 1990 (33  
22          U.S.C. 2715) is amended by adding at the end the fol-  
23          lowing:

24          “(d) AUTHORITY TO SETTLE.—The head of any de-  
25          partment or agency responsible for recovering amounts for

1 which a person is liable under this title may consider, com-  
2 promise, and settle a claim for such amounts, including  
3 such costs paid from the Fund, if the claim has not been  
4 referred to the Attorney General. In any case in which  
5 the total amount to be recovered may exceed \$500,000  
6 (excluding interest), a claim may be compromised and set-  
7 tled under the preceding sentence only with the prior writ-  
8 ten approval of the Attorney General.”.

○