

111TH CONGRESS
1ST SESSION

S. 685

To require new vessels for carrying oil fuel to have double hulls, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 24, 2009

Mr. LAUTENBERG (for himself, Mr. ROCKFELLER, Ms. CANTWELL, Mrs. BOXER, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require new vessels for carrying oil fuel to have double hulls, 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 “Oil Spill Prevention
5 Act of 2009”.

6 **SEC. 2. OIL FUEL TANK PROTECTION.**

7 Section 3306 of title 46, United States Code, is
8 amended by adding at the end the following new sub-
9 section:

1 “(k)(1) Each vessel of the United States that is con-
2 structed under a contract entered into after the date of
3 enactment of the Oil Spill Prevention Act of 2009, or that
4 is delivered after August 1, 2010, with an aggregate ca-
5 pacity of 600 cubic meters or more of oil fuel, shall comply
6 with the requirements of Regulation 12A under Annex I
7 to the Protocol of 1978 relating to the International Con-
8 vention for the Prevention of Pollution from Ships, 1973,
9 entitled ‘Oil Fuel Tank Protection.’

10 “(2) The Secretary may prescribe regulations to
11 apply the requirements described in Regulation 12A to
12 vessels described in paragraph (1) that are not otherwise
13 subject to that convention.

14 “(3) In this subsection the term ‘oil fuel’ means any
15 oil used as fuel in connection with the propulsion and aux-
16 iliary machinery of the vessel in which such oil is carried.”.

17 **SEC. 3. MARITIME EMERGENCY PREVENTION.**

18 (a) IN GENERAL.—Section 4(b) of the Ports and Wa-
19 terways Safety Act of 1972 (33 U.S.C. 1223(b)) is amend-
20 ed—

21 (1) by striking “operate or” in paragraph (1)
22 and inserting “operate, including direction to change
23 the vessel’s heading and speed, or”; and

24 (2) by inserting “emergency or” after “other”
25 in paragraph (3).

1 (b) REVISION OF VTS POLICY.—The Secretary of the
2 department in which the Coast guard is operating shall—

3 (1) provide guidance to all vessel traffic per-
4 sonnel that clearly defines the use of authority to di-
5 rect or control vessel movement when such direction
6 or control is justified in the interest of safety; and

7 (2) require vessel traffic personnel communica-
8 tions to identify the vessel, rather than the pilot,
9 when vessels are operating in vessel traffic service
10 pilotage areas.

11 (c) ADEQUACY OF VTS LOCATIONS AND INFRA-
12 STRUCTURE.—

13 (1) IN GENERAL.—The Secretary of the depart-
14 ment in which the Coast Guard is operating shall
15 continue to conduct individual port and waterway
16 safety assessments under the Ports and Waterways
17 Safety Act of 1972 (33 U.S.C. 1221 et seq.) to de-
18 termine and prioritize the United States ports, wa-
19 terways, and channels that are in need of new, ex-
20 panded, or improved vessel traffic management risk
21 mitigation measures, including vessel traffic service
22 systems, by evaluating—

23 (A) the nature, volume, and frequency of
24 vessel traffic;

1 (B) the risks of collisions, allisions, spills,
2 and other maritime mishaps associated with
3 that traffic;

4 (C) the projected impact of installation, ex-
5 pansion, or improvement of a vessel traffic serv-
6 ice system or other risk mitigation measures;
7 and

8 (D) any other relevant data.

9 (2) ANALYSES.—Based on the results of the as-
10 ssesments under paragraph (1), the Secretary shall
11 identify the requirements for necessary expansion,
12 improvement, or construction of buildings, networks,
13 communications, or other infrastructure to improve
14 the effectiveness of existing vessel traffic service sys-
15 tems, or necessary to support recommended new ves-
16 sel traffic service systems, including all necessary
17 costs for construction, reconstruction, expansion, or
18 improvement.

19 (3) PERSONNEL.—The Secretary shall—

20 (A) review and validate the recruiting, re-
21 tention, training, and expansion of the vessel
22 traffic service personnel workforce necessary to
23 maintain the effectiveness of existing vessel
24 traffic service systems and to support any ex-

1 pansion or improvement identified by the Sec-
2 retary under this section; and

3 (B) require basic navigation training for
4 vessel traffic service watchstander personnel—

5 (i) to support and complement the ex-
6 isting mission of the vessel traffic service
7 to monitor and assess vessel movements
8 within a vessel traffic service Area;

9 (ii) to exchange information regarding
10 vessel movements with vessel and shore-
11 based personnel; and

12 (iii) to provide advisories to vessel
13 masters.

14 (4) REPORT.—Within 1 year after the date of
15 enactment of this Act, the Secretary shall submit to
16 the Congress a report consolidating the results of
17 the analyses under paragraph (2), together with rec-
18 ommendations for implementing the study results.

19 **SEC. 4. MERCHANT MARINER MEDICAL ADVISORY COM-**
20 **MITTEE, MEDICAL STANDARDS, AND MED-**
21 **ICAL REQUIREMENTS.**

22 (a) IN GENERAL.—Chapter 71 of title 46, United
23 States Code, is amended by adding at the end thereof the
24 following:

1 **“§ 7115. Merchant mariner medical advisory com-**
2 **mittee, medical standards, and medical**
3 **requirements**

4 “(a) ESTABLISHMENT.—

5 “(1) IN GENERAL.—There is established a Mer-
6 chant Mariner Medical Advisory Committee.

7 “(2) FUNCTIONS.—The Committee shall—

8 “(A) advise the Secretary on matters relat-
9 ing to—

10 “(i) medical certification determina-
11 tions for issuance of merchant mariner cre-
12 dentials;

13 “(ii) medical standards and guidelines
14 for the physical qualifications of operators
15 of commercial vessels;

16 “(iii) medical examiner education; and

17 “(iv) medical research; and,

18 “(B) develop, as appropriate, specific
19 courses and materials to be used by medical ex-
20 aminers listed in the national registry estab-
21 lished under this section.

22 “(3) MEMBERSHIP.—

23 “(A) IN GENERAL.—The Committee shall
24 consist of the chief medical examiner and—

25 “(i) 10 individuals who are health-
26 care professionals with particular expertise,

1 knowledge, or experience regarding the
2 medical examinations of merchant mari-
3 ners or occupational medicine; and

4 “(ii) 4 individuals who are profes-
5 sional mariners with knowledge and experi-
6 ence in mariner occupational requirements.

7 “(B) STATUS OF MEMBERS.—Except for
8 the chief medical examiner, members of the
9 Committee shall not be considered Federal em-
10 ployees or otherwise in the service or the em-
11 ployment of the Federal Government, except
12 that members shall be considered special Gov-
13 ernment employees, as defined in section 202(a)
14 of title 18 and shall be subject to any adminis-
15 trative standards of conduct applicable to the
16 employees of the department in which the Coast
17 Guard is operating.

18 “(C) COMPENSATION; REIMBURSEMENT.—
19 Except for the chief medical examiner, members
20 of the Committee shall serve without compensa-
21 tion, except that, while engaged in the perform-
22 ance of duties away from their homes or regular
23 places of business of the member, the member
24 of the Committee may be allowed travel ex-

1 penses, including per diem in lieu of subsist-
2 ence, as authorized by section 5703 of title 5.

3 “(b) APPOINTMENTS; TERMS; VACANCIES; ORGANI-
4 ZATION.—

5 “(1) APPOINTMENT.—The Secretary shall ap-
6 point the members of the Committee, and each
7 member shall serve at the pleasure of the Secretary.

8 “(2) TERM OF OFFICE.—The members shall be
9 appointed for a term of 4 years, except that, of the
10 members first appointed, 4 members shall be ap-
11 pointed for a term of 2 years and 4 members shall
12 be appointed for a term of 1 year.

13 “(3) VACANCIES.—Any member appointed to
14 fill the vacancy prior to the expiration of the term
15 for which such member’s predecessor was appointed
16 shall be appointed for the remainder of such term.

17 “(4) CHAIRMAN; VICE CHAIRMAN.—The Sec-
18 retary shall designate 1 member other than the chief
19 medical examiner as the Chairman and 1 member
20 other than the chief medical examiner as the Vice
21 Chairman. The Vice Chairman shall act as Chair-
22 man in the absence or incapacity of, or in the event
23 of a vacancy in the office of, the Chairman.

24 “(5) STAFF; SERVICES.—The Secretary shall
25 furnish to the Committee the personnel and services

1 as are considered necessary for the conduct of its
2 business.

3 “(6) MEETINGS.—No later than 6 months after
4 the date of enactment of the Oil Spill Prevention Act
5 of 2009, the Committee shall hold its first meeting
6 and shall meet at least once each fiscal year.

7 “(c) CHIEF MEDICAL EXAMINER.—The Secretary
8 shall appoint an employee of the Coast Guard who will
9 serve as a chief medical examiner and who shall hold a
10 position under section 3104 of title 5 relating to employ-
11 ment of specially qualified scientific and professional per-
12 sonnel, and shall be paid under section 5376 of title 5,
13 relating to pay for certain senior-level positions.

14 “(d) MEDICAL STANDARDS AND REQUIREMENTS.—

15 “(1) IN GENERAL.—The Secretary, with the ad-
16 vice of the Committee , shall—

17 “(A) establish, review, and revise—

18 “(i) medical standards for merchant
19 mariners that will ensure that the physical
20 condition of merchant mariners is adequate
21 to enable them to safely carry out their du-
22 ties on board vessels; and

23 “(ii) requirements for periodic phys-
24 ical examinations of such merchant mari-
25 ners performed by a medical examiner who

1 has, at a minimum, self-certified that he or
2 she has completed training in physical and
3 medical examination standards and is list-
4 ed on a registry of medical examiners
5 maintained in accordance with subsection
6 (e) of this section;

7 “(B) require each merchant mariner to
8 have a current valid physical examination;

9 “(C) conduct periodic reviews of a select
10 number of medical examiners on the national
11 registry to ensure that proper examinations of
12 merchant mariners are being conducted;

13 “(D) require each such medical examiner
14 to, at a minimum, self-certify that he or she has
15 completed specific training, including refresher
16 courses, to be listed in the registry;

17 “(E) require medical examiners to submit
18 all completed medical examination reports as
19 required under regulations established by the
20 Secretary; and

21 “(F) periodically review a representative
22 sample of the medical examiners’ reports associ-
23 ated with the name and numerical identifiers of
24 applicants transmitted under subparagraph (E)

1 for errors, omissions, or other indications of im-
2 proper certification.

3 “(2) MONITORING PERFORMANCE.—The Sec-
4 retary shall investigate patterns of errors or im-
5 proper evaluation by medical examiners. If the Sec-
6 retary finds that a medical examiner has evaluated
7 a merchant mariner as being fit for seagoing service
8 who fails otherwise to meet the applicable standards
9 at the time of the examination or that a medical ex-
10 aminer has falsely claimed to have completed train-
11 ing in physical and medical examination standards
12 as required by this section, the Secretary may re-
13 move the name of such medical examiner from the
14 registry and may void the medical examinations of
15 the applicant or holder.

16 “(e) NATIONAL REGISTRY OF MEDICAL EXAM-
17 INERS.—The Secretary, acting through the Commandant
18 of the Coast Guard—

19 “(1) shall establish and maintain a current na-
20 tional registry of medical examiners who are quali-
21 fied to perform examinations;

22 “(2) shall accept as valid only examinations by
23 persons on the national registry of medical exam-
24 iners;

1 “(3) shall remove from the registry the name of
2 any medical examiner who fails to meet or maintain
3 the qualifications established by the Secretary for
4 being listed in the registry or otherwise does not
5 meet the requirements of this section or a regulation
6 issued under this section;

7 “(4) may make participation of medical exam-
8 iners in the national registry voluntary if such a
9 change will enhance the safety of merchant mariners
10 holding United States Coast Guard credentials; and

11 “(5) may include in the registry established
12 under paragraph (1) licensed physicians who are cer-
13 tified by the Secretary of Transportation to perform
14 medical examinations of operators of commercial
15 motor vehicles under section 31149 of title 49 and
16 airmen.

17 “(f) MEDICAL EXAMINER DEFINED.—In this section,
18 the term ‘medical examiner’ means an individual reg-
19 istered in accordance with the regulations issued by the
20 Secretary as a medical examiner.

21 “(g) COORDINATION.—The Secretary, in coordina-
22 tion with the Secretary of Transportation, shall utilize the
23 systems, processes, and procedures established for the ad-
24 ministration of the Federal Motor Carrier Safety Adminis-
25 tration’s Medical Program authorized under section 31149

1 of title 49 and the Federal Aviation Administration's Of-
2 fice of Aerospace Medicine authorized under section 44702
3 of that title where synergies exist between such systems,
4 processes, and procedures.

5 “(h) REGULATIONS.—The Secretary may issue such
6 regulations as may be necessary to carry out this sec-
7 tion.”.

8 (b) CLERICAL AMENDMENT.—The chapter analysis
9 for chapter 71 of title 46, United States Code, is amended
10 by adding at the end the following:

“7115. Merchant mariner medical advisory committee, medical standards, and
medical requirements.”.

11 **SEC. 5. STUDY OF MARINE CASUALTY CAUSATION.**

12 (a) OBJECTIVES.—The Secretary of the department
13 in which the Coast Guard is operating shall conduct a
14 comprehensive study that will identify data requirements
15 and collection procedures, reports, and other measures
16 that will improve the department's ability—

17 (1) to determine the causes of, and contributing
18 factors (including fatigue) to, marine casualties;

19 (2) to prevent marine casualties and threats to
20 the environment;

21 (3) to minimize the impacts of marine casual-
22 ties and environmental threats;

1 (4) to maximize the lives and property saved
2 and environment protected in the event of a marine
3 casualty;

4 (5) to evaluate future marine casualties;

5 (6) to monitor trends to identify causes and
6 contributing factors; and

7 (7) to develop effective safety improvement poli-
8 cies, including workload, manning and medical re-
9 view provisions, and programs.

10 (b) DESIGN.—The study shall employ standard re-
11 search methods and statistical analysis and be designed
12 to yield information that will—

13 (1) help the department assess the role that
14 workload and fatigue play in marine casualty causa-
15 tion;

16 (2) help the department assess the role that
17 manning, particularly a one man bridge operation,
18 plays in marine casualty causation;

19 (3) help the department assess the role that the
20 medical condition of merchant mariners plays in ma-
21 rine casualty causation;

22 (4) help the department to identify activities
23 and other measures likely to lead to significant re-
24 ductions in the frequency and severity of marine cas-
25 ualties; and

1 (5) to the extent practicable, rank such activi-
2 ties and measures by the reductions each would like-
3 ly achieve if implemented.

4 (c) CONSULTATION.—In designing and conducting
5 the study, the Secretary shall—

6 (1) consult with persons with expertise on ma-
7 rine casualty causation and prevention;

8 (2) consult with merchant mariners, ship man-
9 agers, professional maritime associations, human
10 factors professionals, occupational medicine special-
11 ists, and providers of medical review services to the
12 maritime industry;

13 (3) consult with academic institutions, domestic
14 and foreign, with particular experience and expertise
15 in workload and fatigue, safe manning, and the med-
16 ical condition of merchant mariners in the maritime
17 environment; and

18 (4) review the relevant literature available on
19 previous studies from domestic and foreign sources.

20 (d) COMPARISON WITH NTSB.—The Secretary shall,
21 in cooperation with the Chairman of the National Trans-
22 portation Safety Board, compare and contrast the proce-
23 dures and processes employed by the Coast Guard and the
24 National Transportation Safety Board with particular at-
25 tention to—

1 (1) preventing marine casualties and threats to
2 the environment;

3 (2) minimizing the impacts of marine casualties
4 and environmental threats; and

5 (3) maximizing the number of lives saved, the
6 amount of property saved, and the environment pro-
7 tected in the event of a marine casualty.

8 (e) PUBLIC COMMENT.—The Secretary shall make
9 available for public comment information about the objec-
10 tives, methodology, implementation, findings, and other
11 aspects of the study.

12 (f) REPORTS.—

13 (1) IN GENERAL.—The Secretary shall prompt-
14 ly transmit to Congress the results of the study, to-
15 gether with any legislative recommendations.

16 (2) REVIEW AND UPDATE.—The Secretary shall
17 review the study at least once every 5 years and up-
18 date the study and report as necessary.

19 **SEC. 6. COAST GUARD STUDY ON USE OF TRACTOR TUGS.**

20 (a) STUDY.—The Commandant of the Coast Guard
21 shall conduct a comprehensive review of existing studies
22 of the need for tractor tug escorts to be used by vessels
23 carrying petroleum products or with large supplies of fuel
24 onboard in the 5 largest United States ports, by volume
25 of petroleum product, where the use of such tugs by those

1 vessels is not otherwise required by State law or Captain-
2 of-the-Port order, identify any gaps or other unaddressed
3 issues, and conduct a study that—

4 (1) consolidates the information contained in
5 the existing studies and addresses any such gaps or
6 issues that need to be addressed; and

7 (2) to the extent such issues are not satisfac-
8 torily addressed in the existing studies, includes—

9 (A) an evaluation of the necessary power
10 requirements of such tractor tug escorts;

11 (B) an analysis of the appropriate pas-
12 sages for the use of such tractor tug escorts;

13 (C) an inventory and analysis of the exist-
14 ing use of tractor tug escorts in United States
15 ports; and

16 (D) an analysis of which vessel types in the
17 ports studied should be required to have tractor
18 tug escorts and a statement of the reason for
19 recommending such a requirement.

20 (b) REPORT.—Within 1 year after the date of enact-
21 ment of this Act, the Commandant shall submit the re-
22 port, together with any findings, conclusions, and rec-
23 ommendations the Commandant deems appropriate, to the
24 Senate Committee on Commerce, Science, and Transpor-
25 tation.

1 **SEC. 7. TRAINED POLLUTION INVESTIGATORS.**

2 To the extent practicable, the Commandant of the
3 Coast Guard shall ensure that there is at least 1 trained
4 and experienced pollution investigator on duty, or in an
5 on-call status, at all times for each Coast Guard Sector
6 Command.

7 **SEC. 8. DURATION OF CREDENTIALS.**

8 (a) **MERCHANT MARINER'S DOCUMENTS.**—Section
9 7302(f) of title 46, United States Code, is amended to
10 read as follows:

11 “(f) **PERIODS OF VALIDITY AND RENEWAL OF MER-**
12 **CHANT MARINERS' DOCUMENTS.**—

13 “(1) **IN GENERAL.**—Except as provided in sub-
14 section (g), a merchant mariner's document issued
15 under this chapter is valid for a 5-year period and
16 may be renewed for additional 5-year periods.

17 “(2) **ADVANCE RENEWALS.**—A renewed mer-
18 chant mariner's document may be issued under this
19 chapter up to 8 months in advance but is not effec-
20 tive until the date that the previously issued mer-
21 chant mariner's document expires.”.

22 (b) **DURATION OF LICENSES.**—Section 7106 of such
23 title is amended to read as follows:

24 **“§ 7106. Duration of licenses**

25 “(a) **IN GENERAL.**—A license issued under this part
26 is valid for a 5-year period and may be renewed for addi-

1 tional 5-year periods; except that the validity of a license
2 issued to a radio officer is conditioned on the continuous
3 possession by the holder of a first-class or second-class ra-
4 diotelegraph operator license issued by the Federal Com-
5 munications Commission.

6 “(b) ADVANCE RENEWALS.—A renewed license
7 issued under this part may be issued up to 8 months in
8 advance but is not effective until the date that the pre-
9 viously issued license expires.”.

10 (c) CERTIFICATES OF REGISTRY.—Section 7107 of
11 such title is amended to read as follows:

12 **“§ 7107. Duration of certificates of registry**

13 “(a) IN GENERAL.—A certificate of registry issued
14 under this part is valid for a 5-year period and may be
15 renewed for additional 5-year periods; except that the va-
16 lidity of a certificate issued to a medical doctor or profes-
17 sional nurse is conditioned on the continuous possession
18 by the holder of a license as a medical doctor or registered
19 nurse, respectively, issued by a State.

20 “(b) ADVANCE RENEWALS.—A renewed certificate of
21 registry issued under this part may be issued up to 8
22 months in advance but is not effective until the date that
23 the previously issued certificate of registry expires.”.

1 **SEC. 9. AUTHORIZATION TO EXTEND THE DURATION OF LI-**
 2 **CENSES, CERTIFICATES OF REGISTRY, AND**
 3 **MERCHANT MARINERS' DOCUMENTS.**

4 (a) MERCHANT MARINER LICENSES AND DOCU-
 5 MENTS.—Chapter 75 of title 46, United States Code, is
 6 amended by adding at the end the following:

7 **“§ 7507. Authority to extend the duration of licenses,**
 8 **certificates of registry, and merchant**
 9 **mariner documents**

10 “(a) LICENSES AND CERTIFICATES OF REGISTRY.—
 11 Notwithstanding sections 7106 and 7107, the Secretary
 12 of the department in which the Coast Guard is operating
 13 may extend for up to one year an expiring license or cer-
 14 tificate of registry issued for an individual under chapter
 15 71 if the Secretary determines that extension is re-
 16 quired—

17 “(1) to enable the Coast Guard to eliminate a
 18 backlog in processing applications for those licenses
 19 or certificates of registry;

20 “(2) because necessary records have been de-
 21 stroyed or are unavailable due to a natural disaster;
 22 or

23 “(3) to align the expiration date of a license or
 24 certificate of registry with the expiration date of a
 25 transportation worker identification credential under
 26 section 70501.

1 “(b) MERCHANT MARINER DOCUMENTS.—Notwith-
 2 standing section 7302(g), the Secretary may extend for
 3 one year an expiring merchant mariner’s document issued
 4 for an individual under chapter 71 if the Secretary deter-
 5 mines that extension is required—

6 “(1) to enable the Coast Guard to eliminate a
 7 backlog in processing applications for those licenses
 8 or certificates of registry;

9 “(2) because necessary records have been de-
 10 stroyed or are unavailable due to a natural disaster;
 11 or

12 “(3) to align the expiration date of a license or
 13 certificate of registry with the expiration date of a
 14 transportation worker identification credential under
 15 section 70501.

16 “(c) MANNER OF EXTENSION.—Any extensions
 17 granted under this section may be granted to individual
 18 seamen or a specifically identified group of seamen.

19 “(d) EXPIRATION OF AUTHORITY.—The authority
 20 for providing an extension under this section shall expire
 21 on December 31, 2011.”.

22 (b) CLERICAL AMENDMENT.—The chapter analysis
 23 for such chapter is amended by adding at the end the fol-
 24 lowing:

“7507. Authority to extend the duration of licenses, certificates of registry, and merchant mariner documents.”.

1 **SEC. 10. PROTECTION AND FAIR TREATMENT OF SEA-**
2 **FARERS.**

3 (a) IN GENERAL.—Chapter 111 of title 46, United
4 States Code, is amended by adding at the end the fol-
5 lowing new section:

6 **“§ 11113. Protection and fair treatment of seafarers**

7 “(a) PURPOSE.—The purpose of this section is to en-
8 sure the protection and fair treatment of seafarers.

9 “(b) FUND.—

10 “(1) ESTABLISHMENT.—There is established in
11 the Treasury a special fund known as the ‘Support
12 of Seafarers Fund’.

13 “(2) USE OF AMOUNTS IN FUND.—The
14 amounts covered into the Fund shall be available to
15 the Secretary, without further appropriation and
16 without fiscal year limitation, to—

17 “(A) pay necessary support, pursuant to
18 subsection (c)(1)(A) of this section; and

19 “(B) reimburse a shipowner for necessary
20 support, pursuant to subsection (c)(1)(B) of
21 this section.

22 “(3) AMOUNTS CREDITED TO FUND.—Notwith-
23 standing any other provision of law, the Fund may
24 receive—

25 “(A) any moneys ordered to be paid to the
26 Fund in the form of community service pursu-

1 ant to section 8B1.3 of the United States Sen-
2 tencing Guidelines or otherwise;

3 “(B) amounts reimbursed or recovered
4 pursuant to subsection (d) of this section;

5 “(C) amounts appropriated to the Fund
6 pursuant to subsection (g) of this section; and

7 “(D) appropriations available to the Sec-
8 retary for transfer.

9 “(4) PREREQUISITE FOR COMMUNITY SERVICE
10 CREDITS.—The Fund may receive credits pursuant
11 to paragraph (3)(A) of this subsection only when the
12 unobligated balance of the Fund is less than
13 \$5,000,000.

14 “(5) REPORT REQUIRED.—

15 “(A) Except as provided in subparagraph
16 (B) of this paragraph, the Secretary shall not
17 obligate any amount in the Fund in a given fis-
18 cal year unless the Secretary has submitted to
19 Congress, concurrent with the President’s budg-
20 et submission for that fiscal year, a report that
21 describes—

22 “(i) the amounts credited to the
23 Fund, pursuant to paragraph (3) of this
24 subsection, for the preceding fiscal year;

1 “(ii) a detailed description of the ac-
2 tivities for which amounts were charged;
3 and

4 “(iii) the projected level of expendi-
5 tures from the Fund for the coming fiscal
6 year, based on—

7 “(I) on-going activities; and

8 “(II) new cases, derived from his-
9 toric data.

10 “(B) The limitation in subparagraph (A)
11 of this paragraph shall not apply to obligations
12 during the first fiscal year during which
13 amounts are credited to the Fund.

14 “(6) FUND MANAGER.—The Secretary shall
15 designate a Fund manager, who shall—

16 “(A) ensure the visibility and account-
17 ability of transactions utilizing the Fund;

18 “(B) prepare the report required by para-
19 graph (5); and

20 “(C) monitor the unobligated balance of
21 the Fund and provide notice to the Secretary
22 and the Attorney General whenever the unobli-
23 gated balance of the Fund is less than
24 \$5,000,000.

25 “(c) IN GENERAL.—

1 “(1) AUTHORITY.—The Secretary is author-
2 ized—

3 “(A) to pay, in whole or in part, without
4 further appropriation and without fiscal year
5 limitation, from amounts in the Fund, nec-
6 essary support of—

7 “(i) any seafarer who enters, remains,
8 or has been paroled into the United States
9 and is involved in an investigation, report-
10 ing, documentation, or adjudication of any
11 matter that is related to the administration
12 or enforcement of any treaty, law, or regu-
13 lation by the Coast Guard; and

14 “(ii) any seafarer whom the Secretary
15 finds to have been abandoned in the
16 United States; and

17 “(B) to reimburse, in whole or in part,
18 without further appropriation and without fiscal
19 year limitation, from amounts in the Fund, a
20 shipowner, who has filed a bond or surety satis-
21 factory pursuant to subparagraph (A) and pro-
22 vided necessary support of a seafarer who has
23 been paroled into the United States to facilitate
24 an investigation, reporting, documentation, or
25 adjudication of any matter that is related to the

1 administration or enforcement of any treaty,
2 law, or regulation by the Coast Guard, for costs
3 of necessary support, when the Secretary deems
4 reimbursement necessary to avoid serious injus-
5 tice.

6 “(2) LIMITATION.—Nothing in this section
7 shall be construed—

8 “(A) to create a right, benefit, or entitle-
9 ment to necessary support; or

10 “(B) to compel the Secretary to pay, or re-
11 imburse the cost of, necessary support.

12 “(d) REIMBURSEMENTS; RECOVERY.—

13 “(1) IN GENERAL.—Any shipowner shall reim-
14 burse the Fund an amount equal to the total
15 amount paid from the Fund for necessary support of
16 the seafarer, plus a surcharge of 25 percent of such
17 total amount if—

18 “(A)(i) the shipowner, during the course of
19 an investigation, reporting, documentation, or
20 adjudication of any matter that the Coast
21 Guard referred to a United States Attorney or
22 the Attorney General, fails to provide necessary
23 support of a seafarer who has been paroled into
24 the United States to facilitate the investigation,
25 reporting, documentation, or adjudication; and

1 “(ii) a criminal penalty is subsequently im-
2 posed against the shipowner; or

3 “(B) the shipowner, under any cir-
4 cumstance, abandons a seafarer in the United
5 States, as decided by the Secretary.

6 “(2) ENFORCEMENT.—If a shipowner fails to
7 reimburse the Fund as required under paragraph
8 (1) of this subsection, the Secretary may—

9 “(A) proceed in rem against any vessel of
10 the shipowner in the Federal district court for
11 the district in which such vessel is found; and

12 “(B) withhold or revoke the clearance, re-
13 quired by section 60105 of this title, of any ves-
14 sel of the shipowner wherever such vessel is
15 found.

16 “(3) Whenever clearance is withheld or revoked
17 pursuant to paragraph (2)(B) of this subsection,
18 clearance may be granted if the shipowner reim-
19 burses the Fund the amount required under para-
20 graph (1) of this subsection.

21 “(e) SURETY; ENFORCEMENT OF TREATIES, LAWS,
22 AND REGULATIONS.—

23 “(1) BOND AND SURETY AUTHORITY.—The
24 Secretary is authorized to require a bond or surety
25 satisfactory as an alternative to withholding or re-

1 voking clearance required under section 60105 of
2 this title if, in the opinion of the Secretary, such
3 bond or surety satisfactory is necessary to facilitate
4 an investigation, reporting, documentation, or adju-
5 dication of any matter that is related to the adminis-
6 tration or enforcement of any treaty, law, or regula-
7 tion by the Coast Guard if the surety corporation
8 providing the bond is authorized by the Secretary of
9 the Treasury under section 9305 of title 31 to pro-
10 vide surety bonds under section 9304 of that title.

11 “(2) APPLICATION.—The authority to require a
12 bond or a surety satisfactory or to request the with-
13 holding or revocation of the clearance required under
14 section 60105 of this title applies to any investiga-
15 tion, reporting, documentation, or adjudication of
16 any matter that is related to the administration or
17 enforcement of any treaty, law, or regulation by the
18 Coast Guard.

19 “(f) DEFINITIONS.—In this section:

20 “(1) ABANDONS; ABANDONED.—The term
21 ‘abandons’ or ‘abandoned’ means a shipowner’s uni-
22 lateral severance of ties with a seafarer or the ship-
23 owner’s failure to provide necessary support of a
24 seafarer.

1 “(2) BOND OR SURETY SATISFACTORY.—The
2 term ‘bond or surety satisfactory’ means a nego-
3 tiated instrument, the terms of which may, at the
4 discretion of the Secretary, include provisions that
5 require the shipowner to—

6 “(A) provide necessary support of a sea-
7 farer who has or may have information perti-
8 nent to an investigation, reporting, documenta-
9 tion, or adjudication of any matter that is re-
10 lated to the administration or enforcement of
11 any treaty, law, or regulation by the Secretary;

12 “(B) facilitate an investigation, reporting,
13 documentation, or adjudication of any matter
14 that is related to the administration or enforce-
15 ment of any treaty, law, or regulation by the
16 Secretary;

17 “(C) stipulate to certain incontrovertible
18 facts, including, but not limited to, the owner-
19 ship or operation of the vessel, or the authen-
20 ticity of documents and things from the vessel;

21 “(D) facilitate service of correspondence
22 and legal papers;

23 “(E) enter an appearance in United States
24 district court;

1 “(F) comply with directions regarding pay-
2 ment of funds;

3 “(G) name an agent in the United States
4 for service of process;

5 “(H) make stipulations as to the authen-
6 ticity of certain documents in United States dis-
7 trict court;

8 “(I) provide assurances that no discrimina-
9 tory or retaliatory measures will be taken
10 against a seafarer involved in an investigation,
11 reporting, documentation, or adjudication of
12 any matter that is related to the administration
13 or enforcement of any treaty, law, or regulation
14 by the Secretary;

15 “(J) provide financial security in the form
16 of cash, bond, or other means acceptable to the
17 Secretary; and

18 “(K) provide for any other appropriate
19 measures as the Secretary considers necessary
20 to ensure the Government is not prejudiced by
21 granting the clearance required by section
22 60105 of title 46.

23 “(3) FUND.—The term ‘Fund’ means the Sup-
24 port of Seafarers Fund, established pursuant to this
25 section.

1 “(4) NECESSARY SUPPORT.—The term ‘nec-
2 essary support’ means normal wages, lodging, sub-
3 sistence, clothing, medical care (including hos-
4 pitalization), repatriation, and any other expense the
5 Secretary deems appropriate.

6 “(5) SEAFARER.—The term ‘seafarer’ means an
7 alien crewman who is employed or engaged in any
8 capacity on board a vessel subject to the jurisdiction
9 of the United States.

10 “(6) SHIPOWNER.—The term ‘shipowner’
11 means the individual or entity that owns, has an
12 ownership interest in, or operates a vessel subject to
13 the jurisdiction of the United States.

14 “(7) VESSEL SUBJECT TO THE JURISDICTION
15 OF THE UNITED STATES.—The term ‘vessel subject
16 to the jurisdiction of the United States’ has the
17 same meaning it has in section 70502(c) of this
18 title, except that it excludes a vessel owned or
19 bareboat chartered and operated by the United
20 States, by a State or political subdivision thereof, or
21 by a foreign nation, except when that vessel is en-
22 gaged in commerce.

23 “(g) REGULATIONS.—The Secretary may prescribe
24 regulations to implement this section.

1 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Fund \$1,500,000
3 for each of fiscal years 2010, 2011, and 2012.”.

4 (b) CLERICAL AMENDMENT.—The chapter analysis
5 for chapter 111 of title 46, United States Code, is amend-
6 ed by adding at the end the following new item:

“11113. Protection and fair treatment of seafarers.”.

