**OCEAN SHIPPING REFORM ACT OF 2021**

**Sponsors:** Reps. John Garamendi (D-CA) and Dusty Johnson (R-SD)

**Section-by-Section Summary**

**Section 1:** Short Bill Title

**Section 2:** Purposes

* Updates and improves the purposes of the Shipping Act to better reflect current federal policy governing international ocean shipping.
* Directs the Federal Maritime Commission (FMC) to promote fleet of US-flagged vessels to meet commercial needs, not just national security.
* Establishes reciprocal trade as part of FMC’s mission in enforcing the Shipping Act, not just promoting U.S. exports.

**Section 3:** Service Contracts

* Authorizes the FMC to stipulate additional minimum requirements for service contracts by ocean common carriers, at the agency’s discretion.
* Allows shippers to challenge a contract breach before the FMC, not just federal courts.
* Expands the FMC’s unreasonable practice jurisdiction to service contracts when an ocean common carrier is engaging in unfair contracting practices on a widespread basis.

**Section 4:** Public Disclosure

* Requires the FMC to publish online all findings of false certifications for demurrage and detention charges and any resulting penalties imposed.

**Section 5:** Common Carriers

* Updates requirement on ocean common carriers to incorporate best practices in the shipping industry.
* Requires ocean carriers or terminal operators to certify that any demurrage or detention charge complies with FMC regulations, or face penalties.
* Effectively codifies the FMC’s “Interpretive Rule on Demurrage and Detention Under the Shipping Act” (Docket No. 19-05).
* Obligates ocean carriers to adhere to minimum service standards that meet the public interest, determined by the FMC in new required rulemaking.
* Requires ocean carriers or marine terminal operators to maintain all records regarding invoiced demurrage or detention charges for at least 5 years and provide such records to the FMC or invoiced party on request.
* Shifts burden of proof in any proceeding with the FMC regarding the reasonableness of demurrage or detention charges from the invoiced party to the ocean carrier or marine terminal operator.
* Prohibits ocean carriers from declining opportunities for U.S. exports unreasonably, as determined by the FMC in new required rulemaking.

**Section 6:** Annual Report to Congress

* Adds reporting on anticompetitive business practices, nonreciprocal trade practices, or other factors exacerbating the United States’ trade imbalance with foreign exporting countries in the FMC’s annual report to Congress required under current law.

**Section 7:** Assessment of Penalties; Reparations

* Authorizes FMC to pay out fines and penalties as de facto reparations to shippers, on a case-by-case basis if in the public interest.

**Section 8:** Data Collection

* Requires ocean common carriers to report to the FMC each calendar quarter on total import/export tonnage and twenty-foot equivalent units (loaded/empty) per vessel that makes port in the United States.

**Section 9:** Complaints

* Permits third-party challenges to anticompetitive agreements for complaints filed with the FMC
* Establishes new, separate process for addressing demurrage and detention complaints, allowing the FMC to take a more active role in investigating such complaints. Currently, many shippers are reluctant to file complaints due to the complexity, expense, and time involved with the adjudication of such complaints.

**Section 10:** Investigations

* Authorizes the FMC to self-initiate investigations of carrier practices and apply enforcement measures, as appropriate.

**Section 11:** Injunctive Relief

* Permits third-party intervenors in court proceedings initiated by the FMC seeking injunctive relief against agreements that reduce competition in the ocean shipping industry.

**Section 12:** National Shipper Advisory Committee

* Specifies that newly established Advisory Committee may include customs brokers and freight forwarders who participate in ocean shipping commerce.

**Section 13:** Technical Amendments

* Corrects typos, errors, and outdated citations in current law pertaining to the Federal Maritime Commission or the Shipping Act.