

Public Law 96-594
96th Congress

An Act

To revise and improve the laws relating to the documentation of vessels, and for other purposes.

Dec. 24, 1980

[H.R. 1196]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. SHORT TITLE.

This title may be cited as the "Vessel Documentation Act".

SEC. 102. DEFINITIONS.

As used in this title—

- (1) "documented vessel" means a vessel for which a certificate of documentation has been issued under this title;
- (2) "fisheries" includes the planting, cultivation, catching, taking, or harvesting of fish, shellfish, marine animals, pearls, shells, or marine vegetation at any place within the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811); and
- (3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 103. PORTS OF DOCUMENTATION.

The Secretary shall designate ports of documentation in the United States where vessels may be documented and instruments affecting title to, or interest in, documented vessels may be recorded. The Secretary shall specify the geographic area to be served by each designated port, and he may discontinue, relocate, or designate additional ports of documentation.

SEC. 104. VESSELS ELIGIBLE FOR DOCUMENTATION.

Any vessel of at least five net tons that is not registered under the laws of a foreign country is eligible for documentation if it is owned by—

- (1) an individual who is a citizen of the United States;
- (2) a partnership or association whose members are all citizens of the United States;
- (3) a corporation created under the laws of the United States, or any State, territory, or possession thereof, or of the District of Columbia, or the Commonwealth of Puerto Rico; whose president or other chief executive officer and chairman of its board of directors are citizens of the United States and no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum;
- (4) the United States Government; or
- (5) the government of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

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46 USC 65a.

46 USC 65b.

46 USC 65c.

SEC. 105. HOME PORTS.

(a) With the approval of the Secretary and subject to such regulations as he may prescribe, the port of documentation selected by an owner for the documentation of his vessel shall be the vessel's home port.

(b) Once a vessel's home port has been fixed as provided in subsection (a), it may not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

46 USC 65d.

SEC. 106. NAME OF VESSEL.

(a) At the time of application for initial documentation of a vessel, the owner shall provide a name for the vessel. Subject to the approval of the Secretary and upon the issuance of a certificate of documentation, that name shall become the vessel's name of record.

(b) Once a vessel's name of record has been fixed as provided in subsection (a), it shall not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

Fee.

(c) The Secretary may prescribe a reasonable fee for changing a documented vessel's name of record.

46 USC 65e.

SEC. 107. CERTIFICATE OF DOCUMENTATION: APPLICATION; ISSUANCE; FORM; EXHIBITION.

(a) Upon application by the owner of any vessel eligible for documentation, the Secretary shall issue a certificate of documentation of a type specified in section 110, 111, 112, 113, or 114 of this title.

(b) The Secretary may prescribe the form of, the manner of filing, and the information to be contained in, applications for certificates of documentation.

(c) Each certificate of documentation shall—

(1) contain the name, the home port, and a description of the vessel for which it is issued;

(2) identify its owner; and

(3) be in the form and contain any additional information prescribed by the Secretary.

(d) The Secretary shall, by regulation, prescribe procedures to insure the integrity of, and the accuracy of information contained in, certificates of documentation issued under this title.

(e) The owner and the master of each documented vessel shall make the vessel's certificate of documentation available for examination as the law may require or as the Secretary may prescribe.

46 USC 65f.

SEC. 108. NUMBERS; SIGNAL LETTERS; IDENTIFICATION MARKINGS.

(a) The Secretary shall maintain a numbering system for the identification of documented vessels and shall assign a number to each documented vessel.

(b) The Secretary may maintain a system of signal letters for documented vessels.

(c) The owner of each documented vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned under subsection (a) and any other identification markings the Secretary may prescribe.

46 USC 65g.

SEC. 109. PURPOSE OF DOCUMENTATION.

A certificate of documentation issued under this title is—

(1) conclusive evidence of nationality for international purposes, but not in any proceeding conducted under the laws of the United States;

(2) except in the case of a pleasure vessel license, conclusive evidence of qualification to be employed in a specified trade; and

(3) not conclusive evidence of ownership in any proceeding in which ownership is in issue.

SEC. 110. CERTIFICATE OF DOCUMENTATION; REGISTRY.

46 USC 65h.

(a) A registry may be issued for any vessel that is eligible for documentation.

(b) A vessel for which a registry is issued may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) Upon application of the owner of any vessel that qualifies for a coastwise license under section 111 of this title, a Great Lakes license under section 112 of this title, or a fishery license under section 113 of this title, the Secretary may issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

(d) Except as provided in sections 111, 112, and 113 of this title, a foreign built vessel registered pursuant to this section may not engage in the coastwise trade, the Great Lakes trade, or the fisheries.

SEC. 111. CERTIFICATE OF DOCUMENTATION: COASTWISE LICENSE.

46 USC 65i.

(a) A coastwise license or, as provided in section 110(c) of this title, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and

(3) otherwise qualifies under laws of the United States to be employed in the coastwise trade.

(b) Only a vessel for which a coastwise license or an appropriately endorsed registry is issued may, subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade; and

(2) the fisheries.

SEC. 112. CERTIFICATE OF DOCUMENTATION: GREAT LAKES LICENSE.

46 USC 65j.

(a) A Great Lakes license, or, as provided in section 110(c) of this title, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and

(3) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.

(b) Only a vessel for which a Great Lakes license or an appropriately endorsed registry is issued may, on the Great Lakes and their

tributary and connecting waters and subject to the laws of the United States regulating those trades, be employed in—

- (1) the coastwise trade;
- (2) trade with Canada; and
- (3) the fisheries.

46 USC 65k.

SEC. 113. CERTIFICATE OF DOCUMENTATION; FISHERY LICENSE.

(a) A fishery license, or, as provided in section 110(c) of this title, an appropriately endorsed registry, may be issued for any vessel that—

- (1) is eligible for documentation;
- (2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and
- (3) otherwise qualifies under the laws of the United States to be employed in the fisheries.

(b) Subject to the laws of the United States regulating the fisheries, only a vessel for which a fishery license or an appropriately endorsed registry is issued may be employed in that trade.

46 USC 65l.

SEC. 114. CERTIFICATE OF DOCUMENTATION; PLEASURE VESSEL LICENSE.

(a) A pleasure vessel license may be issued for any vessel that—

- (1) is eligible for documentation, and
- (2) is to be used exclusively for pleasure.

(b) A licensed pleasure vessel may proceed from or to any port of the United States and to any foreign port without entering or clearing with the United States Customs Service.

(c) Notwithstanding any other law, the Secretary may prescribe reasonable fees for issuing, renewing, or replacing a pleasure vessel license; or for providing any other service in connection with a pleasure vessel license. The fees shall be based on the costs of the service provided.

46 USC 65m.

SEC. 115. VESSEL LIMITED TO TRADE COVERED BY CERTIFICATE OF DOCUMENTATION; EXEMPTIONS; PENALTY.

Pleasure vessel.

(a) A vessel may not be employed in any trade other than a trade covered by the certificate of documentation issued for that vessel. A documented pleasure vessel may not be used for purposes other than pleasure. However, any certificate of documentation may, under regulations prescribed by the Secretary, be exchanged for any other type of certificate of documentation, or appropriately endorsed for any trade, for which the vessel qualifies.

(b) A non-self-propelled vessel which is qualified to be employed in the coastwise trade may, without being documented, be employed in that trade within a harbor or on the rivers or inland lakes of the United States, or on the internal waters or canals of any State.

(c) Whenever a vessel is employed in a trade that is not covered by the certificate of documentation issued for that vessel or a documented pleasure vessel is used other than for pleasure, the vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

(d) A documented vessel may not be placed under the command of a person other than a citizen of the United States.

SEC. 116. FALSIFICATION IN DOCUMENTATION: FRAUDULENT USE OF DOCUMENT; PENALTY. 46 USC 65n.

(a) Whenever the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or representation in connection with the documentation of his vessel under this title, in addition to any other penalty provided by law, that vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

(b) Whenever a certificate of documentation is knowingly and fraudulently used for any vessel, that vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

SEC. 117. CERTIFICATE OF DOCUMENTATION: TERMINATION OF VALIDITY. 46 USC 65o.

(a) A certificate of documentation is invalid if the vessel for which it is issued—

(1) no longer meets the requirements of this Act and the regulations prescribed thereunder pertaining to that certificate of documentation; or

(2) is placed under the command of a person who is not a citizen of the United States.

(b) Except as provided by subsection (o) of section 30 of the Act of June 5, 1920, as amended (46 U.S.C. 961(a)), an invalid certificate of documentation shall be surrendered in accordance with regulations prescribed by the Secretary.

SEC. 118. VESSELS PROCURED OUTSIDE THE UNITED STATES. 46 USC 65p.

(a) The Secretary and the Secretary of State, acting jointly, may provide for the issuance of an appropriate document for any vessel procured outside the United States that meets the ownership requirements of section 104 of this title.

(b) Subject to any limitations the Secretary may prescribe, a vessel for which an appropriate document is issued under this section may proceed to the United States and engage en route in the foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. Upon the vessel's arrival in the United States the document shall be surrendered in accordance with regulations prescribed by the Secretary.

(c) A vessel for which a document is issued under this section is subject to the jurisdiction and laws of the United States. However, the Secretary may suspend for a period not to exceed six months the application of any vessel inspection law administered by him, or any regulation issued thereunder, if he considers the suspension to be in the public interest.

SEC. 119. RECORDING OF UNITED STATES BUILT VESSELS. 46 USC 65q.

The Secretary may provide for the recording and certifying of any information pertaining to vessels built in the United States that he considers to be in the public interest.

SEC. 120. REGISTRATION OF FUNNEL MARKS AND HOUSE FLAGS. 46 USC 65r.

The Secretary shall provide for the registration of funnel marks and house flags by owners of vessels.

SEC. 121. LIST OF DOCUMENTED VESSELS. 46 USC 65s.

The Secretary shall publish periodically a list of all documented vessels together with any information pertaining to them that he considers pertinent or useful.

46 USC 65t.

SEC. 122. REPORTS.

To insure compliance with this title and the laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners and masters of documented vessels to submit reports in any reasonable form and manner he may prescribe.

46 USC 65u.

SEC. 123. VIOLATIONS; PENALTY.

(a) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this title or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed \$500 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of the penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty under this section.

(c) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in any appropriate district court of the United States.

46 USC 65v.

SEC. 124. DELEGATIONS AND REGULATIONS.

The Secretary may—

- (1) delegate, and authorize successive redelegations of, any of the duties or powers conferred on him by this title; and
- (2) prescribe regulations to carry out this title.

Definitions.

46 USC 65w.

SEC. 125. RELATED TERMS IN OTHER LAWS.

With respect to the documentation of a vessel whenever used in any law, regulation, document ruling, or other official act—

(1) "certificate of registry", "registry", and "register" mean a registry as provided for in section 110 of this title;

(2) "license", "enrollment and license", "license for the coastwise (or coasting) trade", and "enrollment and license for the coastwise (or coasting) trade" mean a coastwise license as provided for in section 111 of this title;

(3) "enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea" means a Great Lakes license as provided for in section 112 of this title;

(4) "license for the fisheries" and "enrollment and license for the fisheries" mean a fishery license as provided for in section 113 of this title; and

(5) "yacht" means a pleasure vessel whether or not documented.

SEC. 126. AMENDMENTS TO OTHER LAWS.

(a) Section 4131 of the Revised Statutes of the United States, as amended (46 U.S.C. 221), is further amended to read as follows: "Only a citizen of the United States may serve as master, chief engineer, or officer in charge of a deck watch or engineering watch on any vessel documented under the laws of the United States. However, if a documented vessel is deprived of the services of any officer, other than the master, while on a foreign voyage and a vacancy is thereby created, until the vessel's first return to a United States port where a United States citizen replacement can be obtained, a person who is not a citizen of the United States may serve in—

Officers.

"(1) the vacancy; or

"(2) any vacancy resulting from the promotion of another to fill the original vacancy."

(b) Section 4311 of the Revised Statutes of the United States, as amended (46 U.S.C. 251), is further amended by striking the first and third sentences of subsection (a).

(c) Section 4320 of the Revised Statutes of the United States, as amended (46 U.S.C. 262), is further amended by—

(1) striking the word "licensed" in the first sentence and inserting in lieu thereof the word "documented"; and

(2) striking the last sentence.

(d) Section 4377 of the Revised Statutes of the United States, as amended (46 U.S.C. 325), is further amended by striking the second sentence.

(e) Section 7 of the Act of June 19, 1886, as amended (46 U.S.C. 319), is further amended by—

(1) striking the first sentence and inserting in lieu thereof the following:

"Whenever a vessel, entitled to be documented and not so documented, is employed in a trade for which certificates of documentation are issued under the vessel documentation laws, other than a trade covered by a registry, the vessel is liable to a civil penalty of \$500 for each port at which it arrives without the proper certificate of documentation, and if it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, the vessel, together with its equipment and cargo, is liable to seizure and forfeiture.";

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(2) striking the last sentence.

SEC. 127. REPEALS.

46 USC 65 note.

The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this title:

Revised statutes section	Revised statutes section	Revised statutes section
4132	4168	4318
4137	4169	4319
4138	4170	4321
4139	4171	4322
4141	4174	4323
4142	4176	4324
4143	4177	4325
4144	4178	4326
4146	4179	4327
4147	4180	4328
4150	4182	4329
4155	4183	4330
4156	4187	4333
4157	4189	4335
4158	4190	4337
4159	4191	4338
4160	4214	4339
4161	4215	4372
4162	4217	4384
4163	4312	4385
4164	4313	4495
4166	4314	4498
4167	4315	

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May 24 1939	265.....		52	437
May 31 Do.....	159.....		53	794
June 2 1957	160.....		53	795
Aug. 30 1961	Public Law 85-237.....	1.....	71	517
Aug. 17 1965	Public Law 85-157.....		75	392
Sept. 29	Public Law 85-219.....	10.....	79	892

SEC. 128. EFFECTIVE DATE.

46 USC 65 note.

This title shall be effective on the first day of the eighteenth month following the month in which enacted.

TITLE II

SEC. 201. SHORT TITLE.—This Act may be cited as the “Tonnage Measurement Simplification Act”.

Tonnage Measurement Simplification Act.
46 USC 71 note.

SEC. 202. MEASUREMENT.—Section 4148 of the Revised Statutes of the United States, as amended (46 U.S.C. 71) is further amended to read as follows:

“SEC. 4148. (a) Before a vessel is documented or recorded under the laws of the United States, or where the application of a law of the United States to a vessel is determined by its tonnage, the vessel shall be measured by the Secretary of the department in which the Coast Guard is operating. The Secretary may, by regulation, provide for the temporary documentation of a vessel prior to the measurement required by this section.

“(b) A vessel required to be measured under subsection (a) of this section, other than a vessel used exclusively for pleasure, shall be measured as prescribed in sections 4151 and 4153 of the Revised Statutes of the United States, as amended, and to the extent applicable, as prescribed in Public Law 89-219, September 29, 1965 (79 Stat. 891; 46 U.S.C. 83-83k) if—

46 USC 75, 77.

“(1) it engages or intends to engage in an international voyage by sea; or

“(2) it is at least twenty-four meters in length and is self-propelled.

“(c) A vessel not required to be measured under subsection (b) of this section may be so measured if requested by its owner. A vessel not measured under subsection (b) shall be assigned gross and net tonnages by the Secretary which are functions of its length, breadth, depth, and other dimensions, including appropriate coefficients. The Secretary shall prescribe the manner in which dimensions are

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measured and which coefficients are appropriate. The resulting gross tonnages, taken as a group, shall reasonably reflect the relative internal volumes of the vessels measured, and the resulting net tonnages shall be in approximately the same ratios to corresponding gross tonnages as are the net and gross tonnages of comparable vessels measured under subsection (b) of this section. In accordance with regulations issued under this subsection, the Secretary may determine the gross and net tonnages of a vessel which is representative of a designated class, model, or type and may assign those gross and net tonnages to other vessels of the same class, model, or type.

“(d) A vessel shall be remeasured if—

“(1) the vessel is altered or the use of its space is changed so that its gross or net tonnage is affected;

“(2) having been measured under subsection (c) of this section, the vessel becomes, by use or alteration, subject to subsection (b) of this section; or

“(3) having been measured under subsection (b) of this section and not required to be so measured, the owner requests that the vessel be measured under subsection (c) of this section.

Except as provided in this subsection, a vessel that has been measured is not required to be remeasured to obtain another document.

Regulations.

“(e) The Secretary shall make such regulations as may be necessary to carry out the provisions of sections 4148, 4149, 4150, 4151, and 4153 of the Revised Statutes, as amended (46 U.S.C. 71, 72, 74, 75, 77).”

46 USC 71 note.

46 USC 75, 77.

SEC. 203. APPLICATION.—A vessel measured prior to the effective date of this title under sections 4151 and 4153 of the Revised Statutes of the United States, as amended, is considered as having been measured under section 4148(b) of the Revised Statutes of the United States, as amended by this Act.

Ante, p. 3461.

46 USC 71 note.

SEC. 204. EFFECTIVE DATE.—The provisions of this title shall take effect on the first day of the twelfth month following the month in which enacted.

TITLE III

46 USC 369.

SEC. 301. The penultimate sentence of section 5(b) of the Act of May 27, 1936 (49 U.S.C. 369(b)), as amended, is amended by striking “November 1, 1983,” and substituting “November 1, 1988.”

Appropriation authorization.

SEC. 302. There is authorized to be appropriated to the Secretary of Transportation \$500,000 for fiscal year 1981 to conduct a study of the feasibility of constructing a new two track railroad drawbridge across Coos Bay, Oregon, which would replace the existing Southern Pacific Railroad drawbridge located at mile 9.0 and would have a clear navigational opening of 400 feet or such lesser clearance as the Secretary may determine to be reasonable. Such study shall include an analysis of any modifications to the Coos Bay City Airport that would be required to permit construction of a new railroad drawbridge.

Transfer of vessel to museum.
46 USC 1151, 50 USC app. 1744.

SEC. 303. Notwithstanding the provisions of title V, Merchant Marine Act of 1936 and section 11, Merchant Ship Sales Act of 1946, the Secretary of Commerce is hereby authorized to transfer, without reimbursement, the title and ownership of V4-M-A1 ocean tug Scotch Cap to the Superior-Douglas County Museum in Superior, Wisconsin, for use as a maritime museum. The vessel shall be delivered to the museum at the place where the vessel is located on the effective date of this Act, in its present condition, without cost to the United States. While the vessel is owned by the Superior-Douglas County Museum it shall be used solely as a maritime museum, and such vessel shall not be used for operation or transportation purposes

of any nature whatsoever. In the event that the United States should have need for the vessel, the Superior-Douglas County Museum, on request of the Secretary of Commerce shall make the vessel available to the United States without cost. In the event the Superior-Douglas County Museum no longer requires the vessel for the purposes of this Act, such vessel shall be conveyed back to the United States in as good condition as when received, except for ordinary wear and tear, to be delivered by the Superior-Douglas County Museum to the point of original delivery without any cost to the United States.

Approved December 24, 1980.

SECTION 1. NET OPERATING LOSS CARRYOVER.—(a) IN GENERAL.—Subparagraph (2) of section 1720(d) of the Internal Revenue Code of 1954 (relating to net operating loss deduction) is amended to read as follows: "(2) A net operating loss for a REIT year— "(A) shall not be a net operating loss carryover for any taxable year preceding the taxable year of such loss, and "(B) shall be a net operating loss carryover to each of the 8 taxable years following the taxable year of such loss. "(i) In the case of any net operating loss for a taxable year which is a REIT year— "(A) such loss shall not be carried back to any taxable year which is a REIT year, and "(B) the number of taxable years to which such loss may be a net operating loss carryover under subparagraph (B) shall be increased to a number not greater than 8 by the number of taxable years to which such loss may not be a net operating loss carryback by reason of subsection (i). "(iii) For purposes of this subparagraph, the term 'REIT year' means any taxable year for which the provisions of part II of subchapter M relating to real estate investment trusts apply to the taxpayer. "(iv) Transition rule.—The amendment made by subsection (a) shall apply to the determination of the net operating loss deduction for taxable years ending after October 1, 1976. For purposes of applying the preceding sentence to any net operating loss for a taxable year which is not a REIT year and which ends on or before October 1, 1976, subsection (i) of section 1720(d) of the Internal Revenue Code of 1954 shall be applied by substituting 'the number of REIT years to which such loss was a net operating loss carryback' for 'the number of taxable years to which such loss may not be a net operating loss carryback by reason of subsection (i)'. In the case of a net operating loss for a taxable year described in the preceding sentence, subsection (i) of section 1720(d) of such Code shall not apply to any taxpayer which is so described as to cause it to qualify as a real estate investment trust, which the meaning of section 856 of such Code is the principal purpose for enactment was to secure the benefit of the provisions of a net operating loss deduction for such Code (1720(d)) of such Code.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-428 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 17, considered and passed House.
Vol. 126 (1980): Dec. 9, considered and passed Senate, amended.
Dec. 10, House concurred in Senate amendment.