

What will the Ocean Shipping Reform Act change?

By SIERRA DAWN McCLAIN
Capital Press

TACOMA, Wash. — President Joe Biden on June 16 signed into law the Ocean Shipping Reform Act, the largest overhaul of shipping industry regulations since 1998.

The act aims to crack down on unfair shipping practices by increasing regulatory oversight.

Those who stand to benefit most are exporters, including companies exporting American farm goods. Ocean shipping carriers stand to lose, and critics say the act may hurt others as well.

The new law aims to rein in excessive fees charged by carriers, limit discrimination against exporters and make it easier to report complaints to the Federal Maritime Commission.

The “heart of the act” — and the spark that led to its creation — is detention and demurrage abuse, said Peter Friedmann, executive director of the Agriculture Transportation Coalition. He was speaking to more than 560 attendees at the coalition’s annual conference in Tacoma.

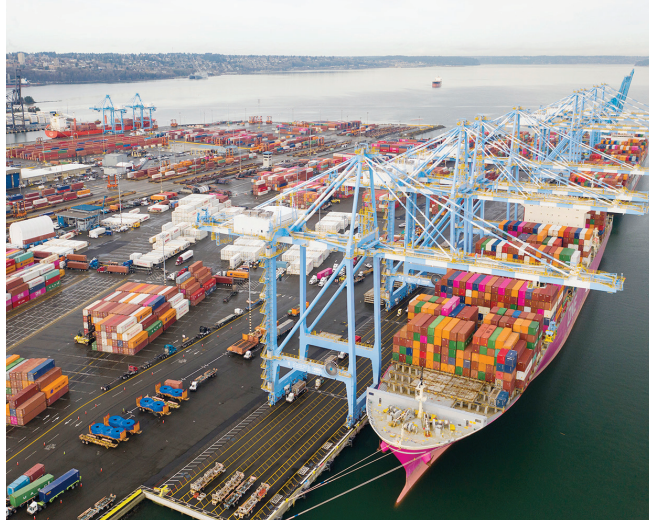
Demurrage refers to the fee an ocean carrier, or sometimes a terminal operator, charges when an importer does not pick up and remove a container from a terminal promptly after its arrival.

Detention is charged when an exporter does not pick up an empty container and return it full of cargo within an allotted time span.

Experts say so-called D&D fees are reasonable in concept but in practice are often abused. The Federal Maritime Commission has found examples of exporters and importers being charged for noncompliance when it was impossible to comply: for example, an importer being charged for not picking up a container when the container was inaccessible on a ship.

“When it comes to detention-demurrage, in my experience, there are some bad actors,” said Mario Cordero, executive director of the Port of Long Beach.

The new law shifts the burden of proof to the carrier, which must prove its fees are



Northwest Seaport Alliance

Eight cranes work two ships at the Husky Terminal in Tacoma, Wash. President Biden on June 16 signed into law the Ocean Shipping Reform Act, the largest overhaul of shipping industry regulations since 1998.

reasonable.

Under the law, a carrier must keep track of detailed information on each container, including its number, location and when it was first made available for pickup. If the carrier can’t provide the data, the importer or exporter doesn’t have to pay the fee.

If an exporter or importer believes it received an unfair fee, they can take their com-

plaint to the Federal Maritime Commission, or FMC, which has five commissioners appointed by the president.

Commissioners have long warned carriers not to abuse D&D charges, but until recently, warnings were mainly guidance. The new law was designed to give the commission teeth: the power to investigate and enforce.

Dan Maffei, FMC chairman, said although he doesn’t see the new law as the “be-all, end-all,” he does view it as a positive step forward.

“This new act restores some balance to the ocean shipping system,” he said.

Carriers are concerned about the new requirements.

“This may be so onerous that I don’t see how an ocean carrier can comply with it,” said Friedmann, of the agricultural coalition.

Ocean carriers — including Maersk, one of the world’s largest container shipping lines and vessel operators — are bracing for the new rules.

Joseph Dokus, who heads Maersk’s trans-Pacific west-bound market, said the company will likely need to track container information manually — a big task.

“We’re getting teams trained up about that,” said Dokus. “We remain committed to following the requirements.”

Ed DeNike, president of Stevedore Services of America, with 56 years of experience in managing terminals

and docks, expects the law will also create challenges for terminals.

“It’s going to make it twice as hard on terminal operators because of all the paperwork they’re going to require from us when we bill someone demurrage,” said DeNike. “It’s going to take time, and it’s going to take people. ... In the end, it’s gonna cost you guys (agricultural exporters) ‘cause it’s gonna slow down things on the docks.”

DeNike said he doesn’t feel that the federal government sufficiently consulted with terminal operators before enacting the law.

Along with reforming D&D charges, the law also prohibits carries from “unreasonably” refusing cargo bookings as defined by the FMC.

According to U.S. Customs cargo shipping records, the past few years, some carriers have shipped more empty containers than full ones out of West Coast ports because focusing on imports was more profitable. As a result, imports increased while exports decreased.

Sports and shipping collide over planned waterfront ballpark in Oakland

By SIERRA DAWN McCLAIN
Capital Press

A clash between the shipping industry and Oakland Athletics, an American baseball team better known as the A’s, could have ripple effects on shippers, especially agricultural exporters.

Leveraging \$12 billion in private financing, the A’s aim to build a waterfront ballpark — a new stadium that could seat 35,000 — along with residential housing, a hotel and commercial and retail spaces on a slice of industrial land at the Port of Oakland. The site, called Howard Terminal, currently houses a 22-acre waterfront pop-up yard for agricultural exports.

Oakland is a hub for agricultural exporters, and Howard Terminal has recently served as a relief valve, storing thousands of containers to ease congestion.

Proponents of the baseball project say the team, with less than two years left on the lease at its dilapidated home

stadium, need a new and improved ballpark “for the A’s continued success.” The project, they say, would also have positive economic benefits.

“We believe in the vision we have presented for a waterfront ballpark,” Dave Kaval, president of Oakland Athletics, wrote in a letter.

“It is a project that will create jobs, housing, open parks and countless benefits for Oakland residents, and it will set the stage for more World Series titles for our fans.”

Critics are concerned that the project would remove valuable space from a port that is already overburdened with containers during the ongoing supply chain crisis.

“We’re all opposed to this braindead idea of taking terminal space offline,” said Peter Friedmann, executive director of the Agriculture Transportation Coalition. He was speaking to more than 560 attendees at the coalition’s annual conference in Tacoma last week.

Matt Schrap, CEO of Har-



Courtesy of the Port of Oakland

Howard Terminal. Oakland Athletics, a baseball team based in Oakland, Calif., aims to build a new ballpark at what is currently Howard Terminal, a pop-up yard for agricultural exports at the Port of Oakland.

bor Trucking Association, a coalition of intermodal carriers serving America’s West Coast ports, said the proposal is “high on our radar.”

Schrap said shipping and trucking industries are engaged in an “ongoing battle” to keep the space in port use.

“This would change the face of the waterfront forever,

back,” said Schrap.

The project faces ongoing litigation.

This spring, three separate lawsuits were filed in the Alameda County Superior Court by Union Pacific Railroad Co., the Capitol Corridor Joint Powers Authority and a coalition including the East Oakland Stadium Alliance, Pacific Merchant Shipping Association, Harbor Trucking Association, California Trucking Association, Schnitzer Steel Industries Inc. and the International Longshore and Warehouse Union.

Defendants are the City of Oakland, Port of Oakland and the Oakland A’s.

The ballpark proposal, nevertheless, appears to be

moving forward.

In its final recommendation released June 17, staff at the San Francisco Bay Conservation and Development Commission, or BCDC, wrote that the A’s have demonstrated that removing Howard Terminal from port use “would not detract from the region’s capability to meet the projected growth in cargo, and has demonstrated that the cargo forecast can be met with existing terminals.”

On June 30, BCDC will vote on whether to grant the A’s request to remove Howard Terminal’s port designation.

A “yes” vote would move the project forward, allowing the A’s to submit a permit application to BCDC.

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