117TH CONGRESS  
2D SESSION  

H. R.  

To amend title 46, United States Code, to require certain port authorities to provide preferential berthing to certain vessels, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES  

Mr. GARAMENDI introduced the following bill; which was referred to the Committee on ______________________

A BILL  

To amend title 46, United States Code, to require certain port authorities to provide preferential berthing to certain vessels, and for other purposes.

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

SECTION 1. SHORT TITLE.  

This Act may be cited as the “American Port Access Privileges Act of 2022”.

(Original Signature of Member)
SEC. 2. PORT PRIVILEGE REQUIREMENTS.

(a) IN GENERAL.—Chapter 503 of title 46, United States Code, is amended by adding at the end the following:

"§ 50309. Preferential berthing

"(a) IN GENERAL.—A covered port authority shall provide preferential berthing access for loading and unloading vessels that are—

"(1) vessels of the United States or under contract to the Federal Government, including—

"(A) vessels with a coastwise endorsement under chapter 121; and

"(B) vessels participating in the Maritime Security Program or the Emergency Preparedness Program under chapter 531, the Cable Security Fleet under chapter 532, or the Tanker Security Fleet under chapter 534;

"(2) vessels calling at more than 1 port in the United States (including any territory or possession of the United States) before calling on a foreign port; and

"(3) vessels that the ocean common carrier has certified in writing to the covered port authority or marine terminal operator in the United States (including any territory or possession of the United States) has a coastwise endorsement under chapter 121; and

"(4) vessels participating in the Maritime Security Program or the Emergency Preparedness Program under chapter 531, the Cable Security Fleet under chapter 532, or the Tanker Security Fleet under chapter 534;
(A) estimated to weigh not less than 75 percent of such vessel’s total carrying capacity by tonnage before calling on a foreign port; or

“(B) equivalent to 75 percent of such vessel’s total carrying capacity of 20-foot equivalent units before calling on a foreign port.

“(b) REQUIREMENT.—The owner, operator, or agent of a vessel to be provided preference pursuant to paragraphs (2) and (3) of subsection (a) shall inform the respective covered port authority or marine terminal operator, as applicable, in writing not less than 7 days before the date on which the vessel calls on the port expected to provide such preference.

“(c) AUTHORITY TO COLLECT DATA.—

“(1) IN GENERAL.—Each covered port authority or marine terminal operator, as applicable, shall submit to the Director of the Bureau of Transportation Statistics such data as the Director determines to be necessary for the implementation of this subsection, subject to subchapter III of chapter 35 of title 44.

“(2) PUBLICATION.—Not less frequently than once each fiscal year, the Director shall publish sta-
tistics relating to the vessels provided preference
pursuant to paragraphs (2) and (3) of subsection
(a), including—

“(A) the total number of vessels by reg-
istry, class, and type; and

“(B) the average percentage of cargo book-
ings of U.S. exports reported (by the ocean
common carrier) pursuant to paragraph (3) of
subsection (a) identified by the—

“(i) average percentage of all such
vessels’ total carrying capacity by tonnage;

and

“(ii) the average percentage of all
such vessels’ total carrying capacity of 20-
foot equivalent units.

“(d) RULES OF CONSTRUCTION.—Nothing in this
section shall be construed to—

“(1) preclude a port authority, marine terminal
operator, or vessel from following a direction by the
Coast Guard or from the Vessel Traffic Service
maintained under subchapter I of chapter 700; or

“(2) require a port authority, marine terminal
operator, or the operator of a vessel to take any ac-
tion prohibited or otherwise in conflict with a bona
(e) **Definitions.**—In this section:

(1) **Covered Port Authority.**—The term ‘covered port authority’ means a port authority that receives funding after the date of enactment of this section under—

(A) the port infrastructure development program under section 54301(a); or

(B) the maritime transportation system emergency relief program under section 50308.

(2) **Marine Terminal Operator.**—The term ‘marine terminal operator’ has the meaning given such term in section 40102.

(3) **Ocean Common Carrier.**—The term ‘ocean common carrier’ has the meaning given such term in section 40102.”.

(b) **Defining Preferential Berthing.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall issue such regulations as are necessary to carry out section 50309 of title 46, United States Code (as added by this Act), and define “preferential berthing access” for the purposes of such section.
(c) Clerical Amendment.—The analysis for chapter 503 of title 46, United States Code, is amended by adding at the end the following:

“50309. Preferential berthing.”.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Assessment of Penalties.—Section 41109(c) of title 46, United States Code, is amended by striking “section 41104(1) or (2)” and inserting “paragraph (1) or (2) of section 41104(a)”.

(b) National Shipper Advisory Committee.—Section 42502(c)(3) of title 46, United States Code, is amended by striking “REPRESENTATION” and all that follows through “Members” and inserting “REPRESENTATION.—Members”.

(c) Federal Maritime Commission.—The analysis for chapter 461 of title 46, United States Code, is amended by striking the first item relating to chapter 461.

(d) Chapter Analysis.—The analysis for chapter 503 of title 46, United States Code, is amended in the item relating to section 50308 by striking “Port development; maritime transportation system emergency relief program” and inserting “Maritime transportation system emergency relief program”.

(e) Vessel Operations Revolving Fund.—Section 50301(b) of title 46, United States Code, is amended by striking “(50 App. U.S.C. 1291(a), (e), 1293(e),
(f) MARITIME TRANSPORTATION SYSTEM EMERGENCY RELIEF PROGRAM.—Section 50308(a)(2)(B) of title 46, United States Code, is amended by striking “Federal Emergency Management Administration” and inserting “Federal Emergency Management Agency”.

(g) PORTS AND WATERWAYS SAFETY.—The analysis for chapter 700 of title 46, United States Code, is amended—

(1) by striking the item relating to section 70006 and inserting the following:

“70006. Establishment by Secretary of the department in which the Coast Guard is operating of anchorage grounds and regulations generally.”; and

(2) by striking the item relating to subchapter IV and inserting the following:

“SUBCHAPTER IV—DEFINITIONS, REGULATIONS, ENFORCEMENT, INVESTIGATORY POWERS, APPLICABILITY”.

(h) PROHIBITION ON ENTRY AND OPERATION.—Section 70022(b)(1) of title 46, United States Code, is amended by striking “Federal Register” and inserting “the Federal Register”.

(i) PORT, HARBOR, AND COASTAL FACILITY SECURITY.—Section 70116(b)(2) of title 46, United States Code, is amended by inserting a comma after “acts of terrorism”.

1294)” and inserting “(50 U.S.C. 4701(a), (e), 4703(e), 4704)”. 