



What is Cabotage and Why Does it Matter?

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Cabotage laws are laws that restrict foreign transportation services within a particular country in favor of domestic services. It is protectionism in its most primary sense and has been part of United States law since the Merchant Marine Act of 1920. In recent years cabotage laws have been under attack in the United States as it is generally viewed as increasing the cost of transportation – a cost that compounds current delays and costs in the domestic supply chain.

Section 27 of the Merchant Marine Act of 1920 (Public Law 66-261), otherwise known as the Jones Act, requires that cargo and persons transported from one point in the United States to another must be carried by vessels owned and crewed by American citizens. Further, as these vessels are “American-flag” vessels they must comply with all applicable laws and regulations with regard to vessel construction, operation and personnel. Included among those laws are the Jones Act provisions for rights and obligations to injured or deceased crewmembers which frequently exceed the rights and obligations to foreign crewmembers aboard foreign flag vessels.

These cabotage requirements frequently limit the manner in which cargo and persons can be transported within the United States. For instance, passengers loaded in Philadelphia and discharged in Boston must be carried by a United States flagged vessel if the vessel does not make a stop at a foreign port. Heating oil transported from Houston to New York City must also be carried aboard United States flagged vessels. Why is this so important? The Jones Act is intended to promote the employment of American shipyards to construct and repair domestic vessels. The Act also promotes the employment of American trained and licensed officers and crew on these vessels. In the event of world conflict it is important that the United States possess a cadre of

well-trained personnel to crew supply vessels – vessels that will be constructed in domestic shipyards. In other words, the Jones Act ensures the continued viability of institutions such as the U.S. Merchant Marine Academy and the various state operated maritime schools as graduates from these programs provide trained crews for domestic vessels.

It is undeniable that compliance with the myriad of American maritime safety and operational laws and regulations is costly and time-consuming. The complex array of laws and regulations not only impact the cost of operating and crewing domestic vessels, but they also impact the cost of building and repairing them in domestic shipyards. Opponents argue it is cheaper to transport foreign products from overseas than it is to transport those products from Philadelphia to New York City. These additional costs ultimately impact the cost of consumer goods as the supply chain expense burden increases. Opponents also argue that as a domestic subsidy the Jones Act is protecting inefficiencies in the marketplace because competition among domestic transportation lines is inadequate to identify and remove those inefficiencies. In summary, American cabotage laws increase the cost of doing business for suppliers that wish to transport American products to American consumers by sea as the cost of transportation is significant.

Cabotage critics have the most traction when emergencies occur that accent the restrictions on maritime transportation. For instance, when a critical oil pipeline is taken offline by damage or criminal activity, the oil industry must rely upon domestic maritime assets to transport the oil previously carried by the pipeline. Often these assets are unavailable or available in limited quantity causing the reduction in petroleum supplies to regions most in need. Pressure is placed on the

President to waive the cabotage requirements to provide transportation when it is needed the most. However, as Congressional action is necessary to remove the Jones Act requirements, and legislators often wish to protect those businesses within their district that benefit most from cabotage, it is unlikely that a majority of legislators will rally to amend or withdraw the cabotage provisions.

Cabotage laws serve an important purpose in the maritime industry by not only providing trained crews for domestic vessels, but also maintaining necessary shipbuilding and repairing skills for domestic shipyards. Removing Jones Act restrictions will certainly reduce some costs and complications within the domestic supply chain, but this is by no means a panacea for all that ails the international supply chain. Streamlining domestic laws and regulations will certainly serve to reduce unnecessary costs in domestic maritime transportation, but it must be remembered that these statutes and regulations serve to make maritime transportation safer for the crew as well as passengers and cargo. Revisions to the Jones Act must be well-considered and limited to preserve its intended purpose.

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