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**Mark Szakonyi, Executive Editor** | Dec 09, 2021 10:29AM EST



The House voted 364–60 in favor of the Ocean Shipping Reform Act (OSRA). Photo credit: Shutterstock.com.

*(This story has been updated to include analysis of the changed political environment in Washington for carriers).*

The US House of Representatives on Wednesday overwhelmingly passed legislation that would upend how the United States regulates the container shipping industry. The bill now goes to the Senate, which will consider whether to force container lines to prioritize exports over empty containers and certify that container storage fees meet shipping law.

The House voted 364–60 in favor of the Ocean Shipping Reform Act (OSRA), which if passed by the Senate and signed into law by President Joe Biden would herald the first rewriting of US shipping law since 1998. Amid the largest disruption since the advent of containerization in the late 1950s, exporters have complained of container lines prioritizing high-paying imports over exports, pushing shipper frustration with how carriers and marine terminals levy storage fees to a boiling point. The vote came months ahead of when sources just a few weeks ago were saying it would likely move forward, reflecting a high sense of urgency among legislators to address larger supply chain issues.

“We’ve all been impacted by the backlog in the supply chain and shipping delays,” said Rep. Dusty Johnson, a South Dakota Republican and co-sponsor of the bill, in a statement Wednesday. “China and the foreign-flagged ocean carriers aren’t playing fair, and accountability is long overdue. If you want to do business with American ports, you need to play by our basic rules.”

Rep. John Garamendi, the California Democrat who co-wrote the bill with Johnson, also framed the passage of the bill as helping to address the trade imbalance with China, and “bringing us one step closer to protecting American consumers and businesses from price gouging by foreign-flagged ocean carriers.”

But the World Shipping Council, which represents major carriers, has warned that the legislation will not fix congestion throughout the supply chain, and argues government overreach would make congestion and service disruptions worse.

Shipper groups such as the National Retail Federation (NRF) and the Agriculture Transportation Coalition (AgTC) celebrated the passage of the bill, which would shift the burden of proof of the reasonableness of detention and demurrage to the carriers.

“The Shipping Act has remained unchanged for nearly 20 years, as the global supply chain has continued to grow and evolve to meet increased consumer demand,” the NRF said in a statement. “This bipartisan legislation provides much-needed updates and reform to an archaic system that retailers and thousands of other businesses depend on each day to transport goods.”

The Senate has not yet introduced its version of the OSRA. During a Senate subcommittee hearing on Tuesday, John Butler, president and CEO of the World Shipping Council, said it was his understanding that the chamber’s bill resembled the House version in that it required carriers and marine terminals certify that detention and demurrage storage fees meet new rulemaking guidance.

## Changed political landscape

The swift introduction and House passage of the OSRA bill reflect a radically altered political environment surrounding shipping in Washington that has left carriers with few friends able to defend them in the corridors of power. In 1998, carriers were represented by powerful US-based carriers, including Sea-Land and APL, and the deal that emerged was a hard-fought compromise between carriers and shippers. That agreement allowed confidential contracts, ushering in the demise of carrier conferences and the advent of sweetheart deals offered to the largest, so-called “champion” shippers, in particular the emerging so-called big-box retailers.

By 2021, the US-based carriers were mostly gone, except for niche carriers such as Crowley Maritime, and shippers’ power had grown, so much so that arguments that carriers were prioritizing exports over higher paying imports and were cheating shippers over unfair detention and demurrage fees were eagerly embraced by members of Congress.

This time, carriers were repeatedly demonized in Congressional hearings as filching US shippers, despite the fact that prior US shipping laws passed in 1984 and 1998 deregulated the industry to the point that it was not at all clear — in fact it was highly doubtful — that carrier actions prioritizing exports over imports were illegal. They were merely objectionable to exporters who for years had benefitted from chronic container shipping overcapacity and benefits that sprung from that, such as free repositioning of containers to remote farm-state locations. When the market tightened up beginning in the fall of 2020 as US consumers spending on home improvement goods surged during the pandemic, the carriers’ obligations to serve importers conflicted with exporters’ needs for equipment, and the political game was on.

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