



**Legislative Bulletin.....July 21, 2004**

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**H.R. 2443—Coast Guard and Maritime Transportation Act of 2004—Conference Report**

**H.R. 2443—Coast Guard and Maritime Transportation Act of 2004—  
 Conference Report (Young of Alaska)**

**Order of Business:** The conference report is scheduled to be considered on Wednesday, July 21<sup>st</sup>, subject to a closed rule (H.Res. 730).

**Summary:** H.R. 2443 would authorize appropriations, provide for marine safety, and make other adjustments to Coast Guard policy and management.

[Authorization of Appropriations](#)

**Coast Guard Authorizations**

*(Millions of Dollars)*

<b>Account</b>	<b>House Authorization H.R. 2443</b>	<b>Conference Report</b>
Operations & Maintenance	4,979.0	5,521.3
Acquisition & Construction	1,057.0	1,500.0
Research & Development	22.0	24.2
Retired Pay	1,020.0	1,085.5
Bridge Alteration	18.0	19.7
Environmental Compliance	17.0	17.0
<b>TOTAL</b>	<b>7,113.0</b>	<b>8,167.7</b>

H.R. 2443 would also authorize the hiring of 45,500 (same as House bill) active-duty Coast Guard personnel for FY2004 and FY2005. At the end of FY2003, approximately 37,000 active-duty personnel were serving in the Coast Guard.

### Coast Guard Management

- Allows the Coast Guard to enter into certain property leases for twenty years (rather than the current-law five years).
- Allows incentive bonuses of up to \$20,000 each to enlisted members who completes training in a skill designated as critical, subject to certain requirements and restrictions.
- Eliminates the requirement that a warning shot be fired before taking a disabling shot at a vessel that refuses to comply with a lawful order to stop for a lawful search.
- Clarifies what constitutes a Coast Guard user fee (does *not* establish any new user fee).
- Expands the authority of the Coast Guard to take out direct loans for housing acquisition or construction.
- Reduces the mandatory retirement age from 62 to 60.
- Permits travel allowances or pay to be deducted or withheld from a Coast Guard employee who is delinquent under a federal contractor-issued credit card.
- Provides statutory authority for a Coast Guard Congressional Fellowship Program, under which four mid-grade officers could be assigned for educational purposes to one-year assignments on Capitol Hill. (The current fellowship program is administered by the Department of Defense.)
- Establishes a new Coast Guard Museum at or near the Coast Guard Academy in New London, Connecticut. The Secretary of the Department in which the Coast Guard is operating could not expend any federal funds for the planning, engineering, design, construction, operation, or maintenance of the museum.
- Increases the limit on commissioned officers from 6,200 to 6,700 for fiscal years 2004 through 2006.
- Requires a report on establishing standards for mitigating the adverse effects on crew members from shock and vibration.
- Creates an education loan repayment program in the Coast Guard.
- Authorizes child care centers at Coast Guard facilities.

### Navigation

- Allows the Coast Guard to mark underwater wrecks with non-lighted buoys.
- Authorizes the prohibition of the use (on the bridge of vessels) of certain electric and electronic devices that interfere with communications or navigation equipment.
- Authorizes the Commandant to enter into cooperative agreements with non-federal entities to carry out vessel operating requirements and traffic services. Cooperative agreements could not be made for the provision of “inherently governmental functions,” defined as “activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.”
- Provides for the establishment of new inland navigation regulations and the repeal of the current ones.

## Shipping

- Provides for an optional *suspending* of a merchant mariner's credentials upon conviction of drug use or addiction if such drug use can be proven cured. Current law mandates *revocation* of credentials upon such conviction.
- Makes merchant mariner's credentials subject to public scrutiny under the Freedom of Information Act and the Privacy Act. Currently, such credentials are not open to public inspection.
- Exempts unmanned barges from having to be commanded by U.S. citizens (subject to certain restrictions).
- Increases the civil penalties for failure to comply with recreational vessel construction standards from \$2,000 per offense/maximum of \$100,000 for a related series of violations to \$5,000 per offense/maximum of \$250,000 for a related series of violations.
- Allows the Coast Guard to suspend or revoke a merchant mariner's credentials if the mariner commits an act of incompetence, regardless of whether the mariner was acting under the authority of the credentials at the time the incompetence occurs.
- Allows the Coast Guard to prevent (for safety reasons) the departure of a foreign vessel carrying a U.S. citizen from a U.S. port, regardless of where the vessel picked up the U.S. citizen.
- Renews the authorizations of seven advisory groups (such as the Commercial Fishing Industry Vessel Safety Advisory Committee and the National Boating Safety Advisory Council) for five years (through September 30, 2010).

## Federal Maritime Commission

- Authorizes appropriations for the Federal Maritime Commission as follows:

FY2005: \$19.5 million

FY2006: \$20.8 million

FY2007: \$21.5 million

FY2008: \$22.6 million

(The House bill authorized \$18.5 million for FY2004 only.)

## Miscellaneous

- Increases civil penalties for violations of certain bridge statutes (such as those requiring certain lighting on bridges, etc.). Such penalties are \$1,000 in current law but would increase under the bill to \$25,000 by 2008.
- Authorizes various vessel conveyances.
- Authorizes \$1.5 million for each of fiscal years 2005 and 2006 (down from \$5 million for each of fiscal years 2004-2008) for the establishment of a National Maritime Enhancement Institute for the Great Lakes Region to study cargo transportation on the Lakes.

- Authorizes a pilot program to demonstrate methods to improve procedures for issuing merchant mariners' documents.
- Expresses a sense of Congress that the Coast Guard should continue to place a high priority on addressing the safety risks to boaters from elevated levels of carbon monoxide.
- Initiates a study on how to increase the survival rate of passengers who are thrown into the water after the capsizing or sinking of their small boats.
- Authorizes several conveyances and miscellaneous provisions regarding specific vessels.

#### *Amendments to the Oil Pollution Act of 1990*

- Allows the President to issue regulations requiring **non**-tank vessels of 400 gross tons and greater that carry oil as fuel for main propulsion to prepare vessel response plans in the event of spillages.
- Clarifies several current-law liability provisions for oil spillages.
- Allows the Secretary of Transportation to issue regulations regarding minimum standards for, and carriage of, devices warning of overfills and tank levels of oil in cargo tanks and devices for monitoring the pressure of oil cargo tanks.
- Extends the authorization for the Oil Spill Recovery Institute to October 1, 2012.
- Creates a loan program for fishermen and aquaculture producers who are waiting for the resolution of claims made regarding oil spills.

#### *Maritime Transportation Security*

- Allows Coast Guard members to carry a firearm, make arrests without warrants, and seize property as otherwise provided by law.
- Allows state and local law enforcement to make arrests at ports.
- Establishes a new federal port security grant program for local governments and other non-federal providers of port security services.
- Requires a vulnerability assessment of U.S. waters.
- Increases the investigatory authority of the Coast Guard.
- Authorizes cooperative agreements with universities for port security research.
- Requires various reports and security implementation plans, including a report on the progress of installing radiation detectors at ports and on the effectiveness of the current methods of inspecting containers at ports.

**Additional Background:** To see the RSC Legislative Bulletin for H.R. 2443 as it first came to before the House, visit this webpage: <http://johnshadegg.house.gov/rsc/LB110503.pdf>

**Committee Action:** On July 14, 2004, the conferees agreed to file the conference report, which was filed on July 20<sup>th</sup>.

**Cost to Taxpayers:** A CBO analysis is unavailable. See the authorizations section above for overall funding. The bill authorizes about \$1 billion for Coast Guard retirement benefits in

2005. These benefits are considered an entitlement under current law and are not subject to appropriation.

The conference report would increase mandatory spending by at least \$2 million per year over the FY2004-FY2008 period (because of a provision allowing the Coast Guard to spend more of the user fees it currently collects). A CBO analysis of the mandatory spending in the conference report is unavailable.

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes, it would create several new programs and authorities.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Constitutional Authority:** The Transportation and Infrastructure Committee, in House Report 108-233, cites constitutional authority in Article I, Section 8, but fails to cite a specific clause. Clause 3 of House Rule XIII, Section d(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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