

Congress of the United States

House of Representatives

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Washington, DC 20515

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PROHIBIT SECRET CONTRACTS

SUPPORT THE OBERSTAR AMENDMENT TO H.R. 2149,
THE OCEAN SHIPPING REFORM ACT

Dear Colleague:

That's right -- secret, discriminatory, contracts are legalized by H.R. 2149, the Ocean Shipping Reform Act of 1995. I will offer an amendment to require the public disclosure of the essential terms of these contracts and to vest the remaining enforcement responsibilities in an independent transportation agency, the Surface Transportation Board, which already oversees water carriers transporting goods to Puerto Rico, Hawaii, Guam, and Alaska.

My amendment would preserve the requirements in existing law for disclosure of the essential terms of contracts between carriers and shippers. Without this disclosure, the large carriers are likely to enter secret agreements giving major shippers low rates which could not be offered if the arrangement had to be disclosed. These contracts will create unfair competitive advantages for large shippers and large carriers, and the larger ports they serve. Secret contracts represent a serious threat to the smaller carriers and the smaller and medium size ports. That is why H.R. 2149 is opposed by the American Association of Port Authorities.

The authority to make secret contracts is particularly inappropriate when we bear in mind that under H.R. 2149 carriers, consortia of carriers, and their conferences will operate under antitrust immunity. "Consortia" are inter-carrier agreements to allocate capacity. John Clancy, President and CEO of Sea-Land Services, has predicted that in a few years the industry will be dominated by a few super shipping consortia controlling 85-90% of the world's container-ships. In addition, groups of carriers will continue to form "conferences" and collectively set prices and limit vessel competition. Under the reported bill, both consortia and conferences will have full immunity from the U.S. antitrust laws.

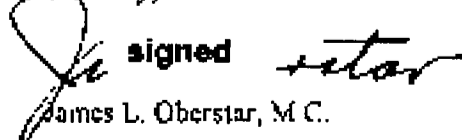
The combination of antitrust immunity and secret agreements undercuts the Shipping Act of 1984 which achieved a delicate balance between the competing interests of the ocean carrier and the shipper. Under the 1984 Act, carriers were allowed to continue having conferences, but the essential terms of the contracts they entered into with shippers had to be publicly disclosed to ensure that they were not discriminating against other shippers, ports, manufacturers, freight forwarders. This balance has been destroyed by H.R. 2149. Carriers will be allowed to enter into confidential ocean transportation contracts and no one, not even the Federal Government, will know when these carriers or cartels choose to harm our ports or industries.

If my amendment is included in H.R. 2149, significant, but fair, deregulation will still occur. The Oberstar amendment would not gut the bill and it is by no means a killer amendment! In fact, even with the adoption of my amendment, the major goals of the Ocean Shipping Reform Act remain intact; namely:

- The Federal Maritime Commission is eliminated;
- Tariff filing and regulation by the Government is eliminated;
- Restrictions on the contents of contracts between shippers and carriers are eliminated;
- Laws related to unfair trade practices of foreign carriers and foreign governments are strengthened;
- Conferences will not be able to prevent any of their members from making individual, lower cost, ocean transportation contracts with shippers;
- The amount of notice that a carrier must give a conference before it offers a lower contract rate will be decreased from 10 days to 3 days;
- Tariff rates may become effective immediately rather than having to wait 30 days after they are filed with the FMC.

Therefore, I urge you to support the amendment that I will offer to H.R. 2149 to ensure that true marketplace forces will be able to provide safeguards to protect our consumers, manufacturers, and ports from secret deals that discriminate against them.

Sincerely,

 signed *retar*
James L. Oberstar, M.C.