The original documents are located in Box 29, folder “8/9/75 HR5405 Emergency Carriage of Passengers on Cargo Vessels” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

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MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: Enrolled Bill H.R. 5405 - Emergency Carriage of Passengers on Cargo Vessels

Attached for your consideration is H.R. 5405, sponsored by Representative Downing, which would amend the Merchant Marine Act to enable the Secretary of Transportation to permit cargo vessels engaged in the domestic trade to carry more than 16 passengers in an emergency situation.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 5405 at Tab B.
MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled bill H.R. 5405 - Emergency Carriage of Passengers on Cargo Vessels

Last Day for Action
August 14, 1975 - Thursday

Purpose
To permit cargo vessels engaged in the domestic trade to carry more than 16 passengers in emergency situations.

Agency Recommendations
Office of Management and Budget Approval
Department of Transportation Approval
Department of Commerce No Objection
Department of the Treasury No Comment

Discussion
H.R. 5405 would amend Section 26 of the Merchant Marine Act to enable DOT to permit cargo vessels engaged in domestic trade to carry more than 16 passengers in an emergency situation. The current limit of 16 passengers was intended to ensure that vessels inspected under standards for cargo carriage would not be used as passenger vessels which are subject to more rigorous safety standards.

While the bill would limit the use of the exemption from the 16 passenger rule to cases where the Secretary determines an emergency exists, it would allow a more flexible response to transportation emergencies such as
occurred in 1972 when a tugboat hit the Chesapeake Bay Bridge-Tunnel, necessitating its closure for a period of time. The bridge had previously been closed four times for periods running up to six weeks. When the Chesapeake bridge is closed, the 17 mile crossing of the bay can be accomplished only by driving several hundred miles. Accordingly cargo vessels, including Navy equipment, were used in 1972 to alleviate the transportation problem. The Navy has indicated however, that it may not be able to help in the future if the bridge is closed.

Many cargo vessels in the area could carry 24 trucks and cars at a time across the bay, but were limited to carrying only 16 of the drivers. This resulted in decreased effectiveness of the emergency ferry facilities which were available. The enrolled bill would enable such vessels to be used temporarily for such emergencies.

The bill would not apply to any vessels engaged in international voyages and thus would not conflict with any U.S. international agreements.

Assistant Director
for Legislative Reference

Enclosures
Honorable James T. Lynn  
Director, Office of Management and Budget  
Washington, D. C. 20503  
Attention: Assistant Director for Legislative Reference  

Dear Mr. Lynn:  

This is in reply to your request for the views of this Department concerning H.R. 5405, an enrolled enactment  

"To amend the Merchant Marine Act, 1920, in order to permit cargo vessels to carry more than sixteen passengers when emergency situations arise."

The purpose of H.R. 5405 is to amend section 26 of the Merchant Marine Act, 1920, so as to authorize the Coast Guard in an emergency situation to permit cargo vessels engaged in the domestic trade to carry more than the sixteen passengers currently authorized by law.

This Department would have no objection to approval by the President of H.R. 5405.

Enactment of this legislation will not involve the expenditure of any funds by this Department.

Sincerely,

[Signature]

General Counsel
Director, Office of Management and Budget  
Executive Office of the President  
Washington, D.C. 20503  

Attention: Assistant Director for Legislative  
Reference  

Sir:

Reference is made to your request for the views of this Department on H.R. 5405, "To amend the Merchant Marine Act, 1920, in order to permit cargo vessels to carry more than sixteen passengers when emergency situations arise."

The enrolled enactment would amend section 26 of the Merchant Marine Act, 1920, (46 U.S.C. 882) in order to authorize the Coast Guard in an emergency situation to permit cargo vessels documented under the laws of the United States and engaged in the domestic trade to carry more than the 16 passengers currently authorized by law. The specific purpose of the legislation is to permit the State of Virginia to hire cargo vessels to ferry trucks and drivers across the Chesapeake Bay when the Bridge-Tunnel is out of service. Many cargo vessels can carry 24 trucks, however, under the present law, they would be prohibited from carrying more than 16 of the drivers.

Since the enrolled enactment deals with matters outside the jurisdiction of the Department, the Treasury has no recommendation on its merits.

Sincerely yours,

[Signature]
General Counsel  
Richard R. Albrecht
Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D. C. 20503  

Dear Mr. Lynn:

Reference is made to your request for the views of the Department of Transportation concerning H.R. 5405, an enrolled bill:

"To amend the Merchant Marine Act, 1920, in order to permit cargo vessels to carry more than sixteen passengers when emergency situations arise."

The enrolled bill amends section 26 of the Merchant Marine Act, 1920 (46 U.S.C. 882) to authorize the Secretary of the department in which the Coast Guard is operating, in an emergency situation, to permit cargo vessels not engaged on international voyages to carry more than the sixteen passengers currently authorized by that statute. The purpose of the statute being amended is to ensure that vessels inspected under standards for cargo carriage are not subsequently used as passenger vessels, which are inspected under more rigorous safety standards.

H.R. 5405 would increase the flexibility of transportation systems in order to allow a more efficient response to be made to transportation emergencies like the 1972 collision of the tug CAROLYN with the Chesapeake Bay Bridge.

The Department of Transportation supports the increased flexibility in the use of cargo vessels for the carriage of passengers in emergency situations; and we have commented favorably on similar legislative proposals. H.R. 5405 substantially incorporates our prior recommendations. Therefore, we recommend that the President sign the enrolled bill.

Sincerely,

[Signature]

John Etl Ely  
General Counsel
THE WHITE HOUSE
ACTION MEMORANDUM
WASHINGTON

Date: August 7
Time: 500pm

FOR ACTION: Mike Duval
Paul Leach
Max Friedersdorf
Joe Lazarus

cc (for information): Jim Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: August 8
Time: noon

SUBJECT:
H.R. 5408 - Emergency Carriage of Passengers on Cargo Vessels

ACTION REQUESTED:

___ For Necessary Action

___ For Draft Comments

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President
ACTION MEMORANDUM

Date: August 7

FOR ACTION:
Mike Duval
Paul Leach
Max Friedersdorf
Ken Lazarus

TIME: 500pm

FOR INFORMATION:
Jim Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

Date: August 8

SUBJECT:
H.R. 5405 - Emergency Carriage of Passengers on Cargo Vessels

ACTION REQUESTED:

- For Necessary Action
- Prepare Agenda and Brief
- X For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

8-7-75 OK - R.C. - Call Judy

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate difficulties in submitting the required material, please inform the Staff Secretary immediately.
Date: August 7  
Time: 500pm

FOR ACTION: Mike Duval  
Paul Leach  
Max Friedersdorf  
Ken Lazarus  

FOR INFORMATION: Jim Cavanaugh  
Jack Marsh

FROM THE STAFF SECRETARY

Date: August 8  
Time: noon

SUBJECT:

H.R. 5405 - Emergency Carriage of Passengers on Cargo Vessels

ACTION REQUESTED:

- For Necessary Action  
- Prepare Agenda and Brief  
- For Your Comments

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection -- Ken Lazarus 8/8/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.
MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled bill H.R. 5405 - Emergency Carriage of Passengers on Cargo Vessels


Last Day for Action
August 14, 1975 - Thursday

Purpose
To permit cargo vessels engaged in the domestic trade to carry more than 16 passengers in emergency situations.

Agency Recommendations
Office of Management and Budget Approval
Department of Transportation Approval
Department of Commerce No Objection
Department of the Treasury No Comment

Discussion
H.R. 5405 would amend Section 26 of the Merchant Marine Act to enable DOT to permit cargo vessels engaged in domestic trade to carry more than 16 passengers in an emergency situation. The current limit of 16 passengers was intended to ensure that vessels inspected under standards for cargo carriage would not be used as passenger vessels which are subject to more rigorous safety standards.

While the bill would limit the use of the exemption from the 16 passenger rule to cases where the Secretary determines an emergency exists, it would allow a more flexible response to transportation emergencies such as
occurred in 1972 when a tugboat hit the Chesapeake Bay Bridge-Tunnel, necessitating its closure for a period of time. The bridge had previously been closed four times for periods running up to six weeks. When the Chesapeake Bridge is closed, the 17 mile crossing of the bay can be accomplished only by driving several hundred miles. Accordingly cargo vessels, including Navy equipment, were used in 1972 to alleviate the transportation problem. The Navy has indicated however, that it may not be able to help in the future if the bridge is closed.

Many cargo vessels in the area could carry 24 trucks and cars at a time across the bay, but were limited to carrying only 16 of the drivers. This resulted in decreased effectiveness of the emergency ferry facilities which were available. The enrolled bill would enable such vessels to be used temporarily for such emergencies.

The bill would not apply to any vessels engaged in international voyages and thus would not conflict with any U.S. international agreements.

James M. Steg
Assistant Director
for Legislative Reference

Enclosures
MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERICH
SUBJECT: H.R. 5405 - Emergency Carriage of Passengers on Cargo Vessels

The Office of Legislative Affairs concurs with the agencies that the subject bill be signed.

Attachments
PASSENGERS ON CARGO VESSELS

APR. 30, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

MRS. STILLMAN, from the Committee on Merchant Marine and Fisheries, submitted the following REPORT

[To accompany H.R. 5405]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 5405) to amend the Merchant Marine Act, 1920, in order to permit cargo vessels to carry more than sixteen passengers when emergency situations arise, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That the first paragraph of section 26 of the Merchant Marine Act, 1920 (46 U.S.C. 882), is amended by striking out the period at the end of the last proviso thereto and inserting in lieu thereof the following: "and provided further, That in any case in which the Secretary of the Department in which the Coast Guard is operating, finds that an emergency situation so requires, and subject to such regulations as he may prescribe, any vessel documented under the laws of the United States and not engaged in an international voyage may carry in excess of sixteen persons in addition to the crew."

PURPOSE OF THE BILL

The purpose of the bill is to amend section 26 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 882) in order to authorize the Coast Guard in an emergency situation to permit cargo vessels engaged in the domestic trade to carry more than the 16 passengers currently authorized by law.

BACKGROUND OF THE LEGISLATION

The Chesapeake Bay Bridge-Tunnel ("Bridge-Tunnel") crosses that Bay from Virginia Beach to Cape Charles, Virginia. This 17-mile facility is the only highway access from the Norfolk area and south to the Delaware/Maryland/Virginia ("DELMARVA") peninsula.
When the Bridge-Tunnel is closed, a motor trip as short as 90 miles from DELMARVA to the Norfolk Virginia Beach area can be extended up to 410 miles by alternative routes.

To date, the Bridge-Tunnel has been put out of service on five occasions. This has resulted from ships and barges colliding with the facility. These closures have ranged from a period of 2 to 6 weeks.

In the past, when the Bridge-Tunnel has been put out of service, emergency transportation across the Bay has been provided by the U.S. Navy and the U.S. Coast Guard at Federal expense. Following the last closure, the Commonwealth of Virginia was informed that they could no longer be assured of the assistance of the Navy to ferry trucks across the Bay. In view of this, the Commonwealth prepared an Emergency Plan to insure the continued flow of commerce should the Bridge-Tunnel be put out of service again. This Plan contemplates the hiring of cargo vessels by the State for this service. It is anticipated that such vessels could carry in excess of 16 trucks.

Section 96 of the Merchant Marine Act, 1990, as amended (46 U.S.C. 883) generally provides that U.S.-flag cargo vessels, engaged in the domestic trade, are prohibited from carrying more than 16 passengers in addition to the crew. Therefore, to the extent such cargo vessels hired by the State could carry more than 16 trucks, they would be prohibited from carrying more than 16 of the truckdrivers. For example, some of the contemplated cargo vessels can carry up to 24 trucks. Under existing law, such vessels would be prohibited from carrying more than 16 of the 24 truckdrivers. Clearly, legislative relief is required, and H.R. 5405 was introduced on March 24, 1976.

Summary of the Hearings

Hearings on H.R. 5405 were held on April 16, 1976. The Honorable Wayne A. Whitham, Secretary of Transportation and Public Safety for the Commonwealth of Virginia, and Rear Admiral William M. Benkert, Chief of the Office of Merchant Marine Safety of the United States Coast Guard, appeared in strong support of the bill.

Secretary Whitham informed your Committee with respect to the past history of the Bridge-Tunnel and the Emergency Plan that had been prepared by the Commonwealth of Virginia. In addition to the inconvenience of the people who used the Bridge-Tunnel, the economic consequences of having this facility out of service are severe. Mr. Whitham estimated that the economic loss of a closure in July and August would be about $4 million a week. As a first step in implementing their Emergency Plan, the Secretary stressed that it was necessary for the existing law to be amended so that available cargo vessels could be hired should the Bridge-Tunnel be put out of service again.

Admiral Benkert testified that the Department of Transportation supports enactment of H.R. 5405, because it would facilitate the more efficient utilization of marine transportation reserves within our domestic trade when emergencies like the 1975 closure of the Bridge-Tunnel occur. The Admiral was of the opinion that during that incident, transportation difficulties could have been eased if cargo vessels had been permitted to be used as ferries. The U.S. Coast Guard supported the bill, and foresees no difficulties administering it.
Chesapeake Bay in the event the Bridge-Tunnel is put out of service again. It would also permit similar action elsewhere in the United States in the event of a transportation emergency. The bill has the strong support of both the Commonwealth of Virginia and the U.S. Coast Guard.

Your committee has concluded that the bill provides a long-overdue exception to section 26 of the Merchant Marine Act of 1920, is a sound piece of legislation, and will assist the U.S. Coast Guard to efficiently and appropriately carry out their safety responsibilities.

H.R. 5405 was reported unanimously, and your committee is unaware of any opposition to it.

Cost of the Legislation

Enactment of the proposed legislation will not result in the expenditure of any additional Federal funds.

Compliance With House Rule XI

(1) With respect to the requirements of clause 2(1)(8)(A) of rule XI of the Rules of the House of Representatives, no oversight hearings have been held on the subject matter of this legislation, beyond the 1-day hearing on the particular matter by the Subcommittee on Merchant Marine.

(3) With respect to the requirements of clause (B) (1) (3) (D), of rule XI of the Rules, the committee has received no report from the Committee on Government Operations on this subject.

(3) The enactment of H.R. 5405 will have no inflationary impact upon the national economy.

Departmental Reports

The Department of Transportation, Department of Commerce, and the Department of the Treasury were requested to report on the proposed legislation. No reports had been received at the time the committee report was filed.

Changes in Existing Law

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 26 of the MERCHANT MARINE ACT, 1920 (46 U.S.C. 828)

Sec. 26. That cargo vessels documented under the laws of the United States may carry not to exceed sixteen persons in addition to the crew between any ports, or places in the United States or its Districts, Territories, or possessions, or between any such port or place and any foreign port, or from any foreign port to another foreign port, and such vessels shall not be held to be "passenger vessels" or "vessels carrying passe-

H.R. 182

4 5
EMERGENCY MARINE TRANSPORTATION

July 30 (legislative day, July 29), 1972—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce,
submitted the following

REPORT
[To accompany H.R. 5405]

The Committee on Commerce, to which was referred the bill (H.R. 5405) to amend the Merchant Marine Act, 1920, in order to permit cargo vessels to carry more than sixteen passengers when emergency situations arise, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 5405 is to permit cargo vessels, documented under the laws of the United States and operating in the domestic trade of the United States, to carry in excess of sixteen passengers in any case which the Secretary of the Department in which the Coast Guard is operating, finds that a transportation emergency so requires.

BACKGROUND

Section 26 of the Merchant Marine Act, 1920 (46 U.S.C. 882) limits the number of passengers which cargo ships documented under the laws of the United States may carry to sixteen. Ships designated as cargo vessels, although not exempt from the laws, rules, and regulations respecting life-saving equipment, are not subject to the more stringent inspection and certification statutes applicable to passenger ships.

This statutory limitation presents a serious obstacle to the Commonwealth of Virginia in its efforts to plan for emergency transportation in the event of any future closings of the bridge-tunnel complex which crosses the mouth of the Chesapeake Bay. The Chesapeake Bay Bridge-Tunnel is a vital link in highway transportation between the Delmarva (Delaware, Maryland, Virginia) peninsula and Norfolk, Virginia and...
Tunneling. The sel. However, this emergency vessel which carries more than such as the closing Convention for Safety systems to permit an efficient response to all similar facilities in the United States. On the bill. No comments were received. On July 10, 1975, the Committee in executive session ordered H.R. 5405 favorably reported, without amendment.

**GENERAL STATEMENT**

H.R. 5405 is intended to increase the flexibility of transportation systems to permit an efficient response to transportation emergencies, such as the closing of the Chesapeake Bay Bridge-Tunnel or other similar facilities in the United States. The provisions of the bill apply on all navigable waters of the United States.

The bill is also limited to U.S.-flag vessels engaged in domestic trade in order to avoid a conflict with the provisions of the International Convention for Safety of Life at Sea, 1960, (SOLAS) which defines a vessel which carries more than twelve passengers as a passenger vessel. However, this SOLAS definition is applicable only to vessels engaged on international voyages.

The authority under the bill to declare such a transportation emergency and the promulgation of any related regulations is placed with the Secretary of the Department in which the Coast Guard is operating. The waiver to be granted would extend only for the duration of the circumstances justifying the declaration of a transportation emergency.

**Cost of the Legislation**

Enactment of this legislation will not result in any cost to the Government.

S.R. 344

**CHANGES IN EXISTING LAW**

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):


Sec. 90. That cargo vessels documented under the laws of the United States may carry not to exceed sixteen persons in addition to the crew between any ports, or places in the United States or its Districts, Territories, or possessions, or between any such port or place and any foreign port, or from any foreign port to another foreign port, and such vessels shall not be held to be "passenger vessels" or "vessels carrying passengers" within the meaning of the inspection laws and the rules and regulations thereunder: Provided, That nothing herein shall be taken to exempt such vessels from the laws, rules, and regulations respecting life-saving equipment: Provided further, That when any such vessel carries persons other than the crew as herein provided for, the owner, agent, or master of the vessel shall first notify such persons of the presence on board of any dangerous articles, as defined by law, or of any other condition or circumstances which would constitute a risk of safety for passengers or crew: And provided further, That in any case in which the Secretary of the Department in which the Coast Guard is operating, finds that an emergency situation so requires, and subject to such regulations as he may prescribe, any vessel documented under the laws of the United States and not engaged in an international voyage may carry in excess of sixteen persons in addition to the crew.

The privilege bestowed by this section on vessels of the United States shall be extended insofar as the foreign trade is concerned to the cargo vessels of any nation which allows the like privilege to cargo vessels of the United States in trade not restricted to vessels under its own flag.

Failure on the part of the owner, agent, or master of the vessel to give such notice shall subject the vessel to a penalty of $500, which may be mitigated or remitted by the Secretary of Commerce upon a proper representation of the facts.

**TEXT OF H.R. 5405 AS REPORTED**

To amend the Merchant Marine Act, 1920, in order to permit cargo vessels to carry more than sixteen passengers when an emergency situation arises.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 30 of the Merchant Marine Act, 1920 (46 U.S.C. 382), as amended by striking out the period at the end of the last proviso thereto and inserting in lieu thereof the following: " And provided further, That in any case in which the Secretary of the Department in which the Coast Guard is operating, finds that an emergency situation so requires, and subject to such regulations as he may prescribe, any vessel documented under the laws of the United States and not engaged in an international voyage may carry in excess of sixteen persons in addition to the crew."
An Act

To amend the Merchant Marine Act, 1920, in order to permit cargo vessels to carry more than sixteen passengers when emergency situations arise.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 26 of the Merchant Marine Act, 1920 (46 U.S.C. 881), is amended by striking out the period at the end of the last proviso thereto and inserting in lieu thereof the following: "And provided further, That in any case in which the Secretary of the Department in which the Coast Guard is operating, finds that an emergency situation so requires, and subject to such regulations as he may prescribe, any vessel documented under the laws of the United States and not engaged in an international voyage may carry in excess of sixteen persons in addition to the crew."

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.
August 2, 1975

Dear Mr. Director:

The following bills were received at the White House on August 2nd:

- H.R. 83
- H.R. 1553
- H.R. 1681
- H.R. 1723
- H.R. 2405
- H.R. 7720
- S. 329
- S. 1531
- S. 1716
- S. 2073

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.