

# The Jones Act and Offshore Oil & Gas Operations

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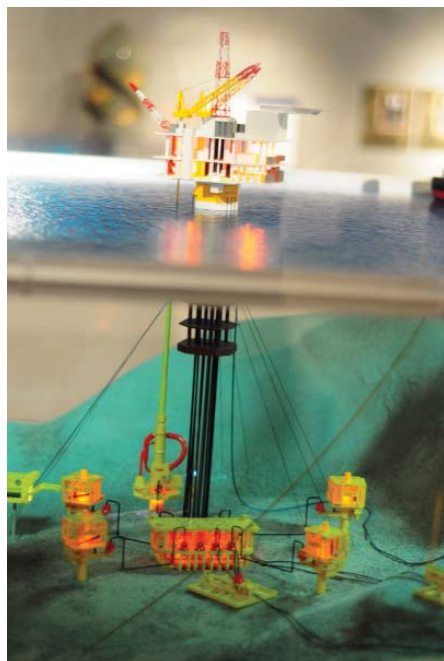
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## The Merchant Marine Act of 1920 – “Jones Act”

- 46 USC §55101, *et seq.*



- Not only for “blue water” shipping.
- Applies to offshore operations too.
- Gulf of Mexico Deepwater OCS is a subsea oilfield that requires subsea service vessels.



# Jones Act – Why Should We Care?

## Penalties - 46 USC. § 55102

- Merchandise transported in violation is liable to **seizure** and **forfeiture**.
- Alternatively, an amount equal to the value of the merchandise (as determined by DHS) or the actual cost of transportation, **whichever is greater**, may be recovered from **any person** transporting the merchandise or causing it to be transported.

## Security

- Military support, familiarity with U.S. citizens, training U.S. crew, and domestic shipbuilding capacity.

## Economy

- 40,000 vessels, nearly 500,000 US jobs, \$100B annual economic impact.

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# Transportation of Merchandise: 46 USC §55102

Generally, a vessel may not provide any part of the **transportation of merchandise** by water, or by land and water, between **points** in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel –

1. is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; **and**
2. has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of Title 46 or is exempt from documentation but would otherwise be eligible for such certificate of endorsement.\*

\* The vessel must generally be built in the USA, at least 5 net tons, and not documented under the laws of a foreign country. (46 U.S.C. §§ 55102, 12103, 12112).

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## What is “Transportation”?

**Transportation** - “A coastwise transportation of merchandise takes place, within the meaning of the coastwise laws, when merchandise laden at a point embraced within the coastwise laws (‘coastwise point’) is unladen at another coastwise point, regardless of the ultimate destination of the merchandise.” - 19 CFR 4.80b(a).

- *E.g.*, objects laden in Houston, Texas and unladen in New Orleans, LA.

**Not Transportation** - Merchandise is **not** transported coastwise if, at an intermediate port or place other than a coastwise point (*e.g.*, a foreign port or place), it is manufactured or processed into a “**new and different product**”, and the new and different product thereafter is transported to a coastwise point.” - 19 CFR 4.80b(a).

- *E.g.*, processing fuel oil in Canada into conventional gasoline. (HQ 116650).

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## What is “Merchandise”?

**Merchandise** includes:

- Goods, wares, and chattels of every description, including merchandise the importation of which is prohibited;
- Merchandise owned by the United States Government, a State, or a subdivision of a State; and
- Valueless materials.

- 19 USC §1401(c); 46 USC §55102(a)

**Merchandise** does not include:

- *Equipment* of the transporting vessel and baggage or personal effects of crew and passengers; and
- Sea stores, *i.e.*, supplies for the consumption, sustenance, and medical needs of the crew and passengers during the voyage.

- Treasury Decision 49815(4); Treasury Decision 40934.

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