



## 26th Annual Admiralty and Maritime Law Conference

# The Jones Act, Waivers, and New Developments

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## Cabotage Laws – A Brief History

- Derived from the French word “caboter,” which means to sail coastwise
- Today, it means the right to trade between points in the United States → “Jones Act” Vessels
- Origins – 1789, with fees imposed on foreign-built vessels, and tax / duty preferences given to U.S.-built and owned vessels – expanded substantially by the Merchant Marine Act of 1920
- Designed primarily to guarantee the participation of U.S. shipyards / vessels in the domestic trade
- Coastwise laws generally involve the transportation of merchandise and passengers, towing, and dredging

## Background – The Jones Act



Senator Wesley L. Jones

- Section 27 of the Merchant Marine Act of 1920 – commonly referred to as the Jones Act – restricts the US coastwise trade in merchandise to coastwise-qualified vessels
- US Coast Guard makes Jones Act vessel eligibility determinations
- Customs and Border Protection (“CBP”) makes determinations as to whether a voyage or type of activity is covered by the Jones Act

## *“U.S.-Flag Vessel”*

- A “U.S.-flag vessel”
  - U.S. flag and U.S. crew
  - U.S. ownership
    - U.S. entity must own it (stock ownership not a factor)
    - CEO and Chairman of the Board must be U.S. citizens
    - Majority of a quorum of the board must be U.S. citizens
  - Does not need to be U.S. built
  - Owner called a “Documentation Citizen”
- Documentation Citizen cannot engage in coastwise trade
  - US-Foreign Trade
  - Anchor Handlers
  - Government Programs
  - Salvage Vessels
  - NOT a “Jones Act” vessel

## “Jones Act Vessel”

- Coastwise laws generally prohibit the transportation of passengers or merchandise between points in the United States (*i.e.*, within 3 miles of the coast) in any vessel other than a “coastwise-qualified vessel”
  - U.S. built
  - U.S.-flag
  - 75% U.S. owned
    - U.S. President/CEO
    - U.S. Chairman of the Board
    - Majority of quorum
  - Never sold foreign
  - Owner called a “Coastwise Citizen”



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## Coastwise Merchandise Statute “Jones Act”

### § 55102. Transportation of Merchandise



- 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 is wholly owned by U.S. citizens and has a certificate of documentation with a coastwise endorsement
- Trigger is the lading of merchandise at one coastwise point and the unloading of it at a different coastwise point
- In simplest terms, loading something at Point A and unloading it at Point B

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