# Federal Shipping Law Exacerbates Northeasterners' Winter Woes

Residents of the northeastern United States suffering from high heating-fuel costs and icy roads can place much of the blame for their woes on a 94-year-old federal law — and the labor unions and shipping interests that profit from it.

The Merchant Marine Act of 1920, better known as the Jones Act, requires all shipments going from one U.S. port to another to be transported on ships built in the United States, owned by U.S. citizens, manned by U.S. citizens or permanent residents, and flying under the U.S. flag.

But what happens when the supply of such ships is insufficient to meet the demand for their services? Americans must then import the goods they need — assuming they are able — often at prices considerably higher than those of comparable domestic goods.

This is precisely what is happening in the Northeast. "With pipelines full and not a single eligible propane tanker to deliver fuel from Houston to states such as New York," reports Bloomberg, "consumers have had to pay more than $100 a metric ton extra for propane from across the Atlantic…. The more than 3 percent of households in the Northeast that use propane as a main source of heating are expected to spend on average $206, or 11 percent, more on the fuel this winter than last, according to the U.S. Energy Information Administration."

Ironically, this is occurring while the United States is in the midst of a shale oil and gas boom, with domestic energy production at a 17-year high. While the nation as a whole was exporting 373,000 barrels of these fuels per day during the first seven weeks of 2014, "imports of the fuels on the East Coast rose to a four-year seasonal high of 73,000 barrels a day," Bloomberg notes.

"If you didn't have the Jones Act, you could have had this thing resolved pretty easily by moving product off the Gulf Coast into the Northeast," James Teague, the chief operating officer of Enterprise Products, which runs propane export and transportation facilities, said in a January 30 conference call, according to Bloomberg. "We don't have that in our toolbox."

The Jones Act has also interfered with winter road maintenance in New Jersey. State Transportation Department Commissioner James Simpson told nj1015.com that "the state's salt supply is dangerously low," but because of the Jones Act, "New Jersey has been unable to transport 40,000 tons of available road salt in Searsport, Maine[,] in time to meet the urgent need here."

"I've got a shipload of salt, 400 miles from here," Simpson said. "The only thing that we've been able to define as an American flag vessel would take us a month to get the salt here when I can have the salt here in a day and a half."

Even then, the website points out:

> The longer, slower solution described by Simpson for getting the road salt from Maine to Port Newark would involve two barges that would not only take at least three weeks to make the trip but would also be able to carry only 10,000 tons each, leaving half the shipment still stuck in Maine. Worse yet, while New Jersey waited unsuccessfully for a federal waiver, at least one available transport ship, under a Marshall Islands flag, was docked in Searsport ready to accept all 40,000 tons. Instead, the "bulk carrier," called the *Anastasia S*, is now en route to Port Newark empty.

The Obama administration has the authority to waive the Jones Act in emergencies, though it has been somewhat loath to do so, perhaps owing to its close alliance with labor unions, which benefit from the Jones Act. Most notoriously, the administration refused to issue waivers so that foreign ships could help clean up the 2010 oil spill in the Gulf of Mexico. It did, however, grant one for the delivery of petroleum products to the populous Northeast in the wake of Hurricane Sandy — just before the 2012 presidential election.

As mentioned above, New Jersey applied for a waiver for its salt shipment, but the request was denied. No waiver has been forthcoming to help with fuel costs, either.

"We have wanted Jones Act waivers for ships from Houston to New England," National Propane Gas Association vice president Jeff Petrash told Bloomberg. "It would have greatly taken the pressure off the Northeast and supplied New England with domestic propane rather than foreign propane."

Instead of letting foreign ships transport fuel freely, the administration tried to solve the problem by command-and-control. Bloomberg writes: "U.S. authorities tried to improve the flow of propane overland by ordering Enterprise Products to prioritize propane shipments by pipeline from Texas to the Midwest and Northeast and authorizing truck drivers moving propane and other heating fuels in 34 states to work longer hours." Apparently, motorists' and truckers' safety — the alleged justification for federal regulation of truckers' hours — places a distant second to unions' political influence.

The Northeast isn't alone in suffering because of the Jones Act. As Malia Blom Hill observed in *Labor Watch*, the entire nation is harmed by the law:

> Economic evidence abounds that the Jones Act harms business and the U.S. economy. Nearly every independent study of the act's effects finds it creates expensive barriers to trade. In 1995, a report from the U.S. International Trade Commission, an independent agency, found the Jones Act costs the U.S. economy at least $2.8 billion annually and its removal would lower domestic shipping prices by 26%.

"Revoking the Jones Act would reduce gasoline prices by as much as 15 cents a gallon by increasing the supply of ships able to shuttle the fuel between U.S. ports," Fadel Gheit, an analyst at New York's Oppenheimer & Co., told Bloomberg.

If the Jones Act is so detrimental to Americans, why, then, does it remain on the books? Like most laws that benefit special interests, those who gain from the Jones Act are small in number and well-organized, while those who are harmed by it are many and unorganized and probably don't even know that the law exists, let alone that it is costing them money. The Jones Act is supported quite vocally by shipping companies and sailors' and longshoremen's unions, who go into high gear to thwart any attempts to waive or repeal the law because it enables shipping companies to charge above-market rates and, therefore, unions to obtain very high wages for their members.

As with most protectionist laws, however, the Jones Act actually harms the industry is it supposedly protecting. "By every possible measurement," wrote Hill, "the U.S. maritime industry has been in a long, ignominious decline." U.S. shipbuilding, shipping, and related employment have all fallen dramatically over the past half-century, she explained, and the "fleet is among the world's most aged."

Despite the Jones Act's seeming invulnerability, "there's going to come a point where things have to change," maritime-law specialist Charlie Papavizas told Bloomberg. "There's going to be so much oil and so much gas, it's like a tidal wave of issues. But for the foreseeable future I don't see the law changing."

In the meantime, shivering Northeasterners — and all other Americans — will continue to pay the price for this nearly century-old statute.