

THE JONES ACT IN PUERTO RICO: MYTHS AND FACTS

Changes to the Jones Act for Puerto Rico would undermine hundreds of millions of dollars of recent investments in modern, state-of-the-art American vessels.

Opponents of the Jones Act say changing the Jones Act in Puerto Rico is a narrow fix that does not impact the rest of the country. However, altering the fundamental regulatory structure in Puerto Rico — literally changing the rules in the middle of the game after massive investments were made in new vessels for that trade — would undermine future investment in every segment of the Jones Act industry nationwide. Even the Government Accountability Office (GAO) discussed the potential ripple effects of a Jones Act change in Puerto Rico throughout other American regions. Changing the Jones Act for Puerto Rico would not affect only Puerto Rico; instead, the implications would quickly affect the entire domestic maritime industry.

Cargo from anywhere in the world can be imported into or exported from Puerto Rico.

Opponents of the Jones Act claim all cargo shipped in or out of Puerto Rico must be transported on Jones Act vessels. This is a common misconception. In fact, nearly two-thirds of the vessels calling on Puerto Rico are foreign.

The Jones Act is paramount to national security.

The Department of Defense (“DOD”), the Navy, and the Coast Guard are among the strongest supporters of the Jones Act because the military relies on the commercial maritime industry for its sealift capacity. Within the last year, senior military leaders including the Commandant of the Coast Guard have emphasized the harm to national security if the Jones Act was changed. Also, in its landmark study of the Jones Act in Puerto Rico, the GAO recently talked about the harm to national security if the Jones Act was changed there. Finally, the DOD itself has estimated that it would incur annual costs of tens of billions a year if it was forced to replicate the benefits of the commercial maritime industry.

Changes to the Jones Act in Puerto Rico could harm the island and outsource American jobs.

Opponents claim changing the Jones Act in Puerto Rico will help the island, especially considering its current economic crisis. Yet, as suggested in the GAO report, changing the Jones Act could actually harm, not help, the Puerto Rican economy. What Puerto Rico most needs is more private sector jobs. Changing the Jones Act would have the opposite effect, jeopardizing the jobs of hundreds of Puerto Rican American citizens on the island and on vessels serving the market. Many of these jobs relate directly to the nearly \$1 billion in private sector investment currently underway to renew the vessels, equipment, and infrastructure serving the Puerto Rico trade.

Claims that Puerto Rico would benefit from Jones Act changes are pure speculation, not supported by any real analysis. The most credible study on this subject found that, “the effects of modifying the application of the Jones Act for Puerto Rico are highly uncertain.” The GAO expressed concerns that service “reliability and other beneficial aspects of the current service

could be affected” by a Jones Act exemption. Similarly, although the GAO was unable to assess freight rate differentials between Puerto Rico and other Caribbean islands, the best available information on this subject (from the carriers that serve these markets) shows that freight rates in the Puerto Rico trade are among the lowest in the Caribbean. This is in part because of the unique efficiencies built into the maritime logistics network under the Jones Act.

Costs related to the Jones Act are not as high nor as simple to estimate as advertised.

Opponents claim the Jones Act adds significantly to the cost of goods in Puerto Rico. Over the last decade, a parade of politicians and “experts” have attempted to estimate the so-called “cost” of the Jones Act in Puerto Rico. Because the estimates have been wildly contradictory, in 2012, Puerto Rico Delegate Pierluisi asked the GAO to determine the true “cost.” The GAO studied the issue for more than a year and debunked the previous estimates. First, the GAO found there are far too many factors that impact the price of a consumer good to determine the supposed cost related to shipping, much less the Jones Act. Second, the GAO said one could not truly estimate the cost unless one knew which American laws would be applied to foreign ships if they were allowed to enter the domestic trades, which would certainly increase the cost of foreign shipping.

The Jones Act does not automatically equate to elevated import costs.

The Krueger report says “import costs [are] at least twice as high [in Puerto Rico] as in neighboring islands on account of the Jones Act.” However, there is no study that supports this statement in any way, and the Krueger report cited none. In fact, anecdotal evidence about rates indicates that the opposite is true. For example, one analysis shows it is 40% more expensive to ship goods from the U.S. mainland on foreign vessels to the U.S. Virgin Islands (not subject to the Jones Act) than on Jones Act vessels to Puerto Rico.

American carriers pioneered the use of liquefied natural gas (LNG) in Puerto Rican markets, helping manufacturing and other industrial facilities on the island reduce the cost and improve the reliability of their energy supply.

Opponents claim the Jones Act has undermined Puerto Rico’s efforts to import LNG – which is flatly false. Puerto Rico’s real impediment is that there is no market for shipping bulk LNG between the U.S. mainland and Puerto Rico for the foreseeable future due to limited export facilities, infrastructure, and demand for bulk LNG.

Qualified American vessels are fully prepared to provide LNG transportation services to the island. New LNG vessels also could be designed and built in full compliance with American safety and regulatory standards, including the Jones Act. Blaming the lack of LNG on the Jones Act is a red herring.

The Jones Act is not to blame for Puerto Rico’s energy woes.

Opponents claim that the Jones Act imposes millions of dollars in additional costs on Puerto Rico’s energy operations. No data or source for these statistics has ever been cited, and there is none. Moreover, this claim is based on two assumptions regarding the successful completion of

energy infrastructure projects, such as Aguirre Offshore GasPort's floating storage project, and the ability of Puerto Rico's Electric Power Authority to more cheaply source energy from the United States than from foreign sources such as Trinidad.

Claiming that there are cost savings of up to \$20-30 million associated with the purchase of U.S.-source LNG or that cheaper gasoline can be sourced from the United States without the Jones Act is unlikely given that the energy prices are set by the global market and that U.S.-sourced energy would have to be transported over much greater distances than foreign-sourced energy (e.g., more than three times that of energy sources shipped from Trinidad to Puerto Rico).

The Jones Act is about protecting America's economic, national, and homeland security interests.

Opponents claim that Jones Act shipping is all about protecting the "union bosses." A significant aspect of the Jones Act is ensuring that a pool of highly trained seafarers — some of whom belong to unions, but the vast majority of which do not — are available in times of war and emergency. For decades, military leaders have consistently highlighted the important role that commercial seamen play in America's military sealift capacity. Just last year, for example, General Paul J. Selva, then Commander of U.S. Transportation Command, and currently the Vice Chairman of the Joint Chiefs of Staff, said that he depends on access to American seafarers to meet the military's operational requirements and those seafarers are provided by Jones Act shipping. Our nation is highly dependent on these highly trained, highly valued seamen.

Puerto Rico and the U.S. Virgin Islands are apples and oranges.

The U.S. Virgin Islands are not subject to the Jones Act, so opponents of the Jones Act argue that the law should not apply to Puerto Rico. The two areas are treated very differently under U.S. law. Since 1917, Puerto Rico has operated under a legal structure that generally makes U.S. federal law automatically applicable in Puerto Rico, just as it would be in any American state. That is not true in the U.S. Virgin Islands. Also, importantly, the U.S. Virgin Islands are outside the U.S. customs territory while Puerto Rico and the United States are inside the U.S. customs territory. The Jones Act has applied to U.S. territories inside the U.S. customs territory and not applied to those outside of it.

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