

AMENDMENT TO RULES COMMITTEE PRINT 119-8
OFFERED BY MR. GARBARINO OF NEW YORK

At the end of subtitle D of title XXXV, add the following new section:

1 SEC. 3534. SUPPORT FOR ATHLETIC PROGRAMS OF UNITED
2 STATES MERCHANT MARINE ACADEMY.

3 (a) CORPORATION ESTABLISHMENT.—

4 (1) AUTHORITY.—The Secretary of Transportation may establish, in accordance with the laws of
5 tation may establish, in accordance with the laws of
6 the State of New York, a corporation (in this section
7 referred to as the “corporation”) to support the ath-
8 letic programs of the United States Merchant Ma-
9 rine Academy.

10 (2) OWNERSHIP.—All stock of the corporation
11 shall be owned by the United States and held in the
12 name of, and subject to voted by, the Secretary.

13 (3) PURPOSE.—The corporation shall operate
14 exclusively for charitable, educational, and civic pur-
15 poses to support the athletic programs of the United
16 States Merchant Marine Academy.

17 (b) CORPORATE ORGANIZATION.—The corporation
18 shall be organized and operated—

- 1 (1) as a nonprofit corporation under section
2 501(c)(3) of the Internal Revenue Code of 1986;
3 (2) in accordance with this section; and
4 (3) pursuant to the laws of the State of New
5 York, its articles of incorporation, and its bylaws.

6 (c) CORPORATE BOARD OF DIRECTORS.—

7 (1) LIMITATION ON COMPENSATION.—The
8 members of the board of directors of the corporation
9 shall serve without compensation as members of the
10 board, except for reasonable travel and other related
11 expenses for attendance at meetings of the board.

12 (2) DEPARTMENT OF TRANSPORTATION EM-
13 PLOYEE MEMBERSHIP.—

14 (A) IN GENERAL.—The Secretary may au-
15 thorize employees of the Department of Trans-
16 portation to serve, in their official capacities, as
17 members of the board of directors of the cor-
18 poration—

19 (i) for the sole purpose of providing
20 oversight and advice to, and in coordina-
21 tion with, the corporation; and

22 (ii) to carry out any activities of the
23 board other than those activities that con-
24 stitute participation in the day-to-day oper-
25 ations of the corporation.

1 (B) LIMITATION.—Employees serving as a
2 member of the board of directors pursuant to
3 an authorization under subparagraph (A) may
4 not hold more than one-third of the director-
5 ships.

6 (C) APPLICABILITY OF LIMITATION ON
7 COMPENSATION.—An employee serving as a
8 member of the board of directors shall subject
9 to the limitation on compensation under para-
10 graph (1).

11 (d) CONTRACTS AND COOPERATIVE AGREEMENTS.—

12 (1) IN GENERAL.—The Secretary may enter
13 contract and cooperative agreements with the cor-
14 poration for the purpose of supporting the athletic
15 programs of the United States Merchant Marine
16 Academy.

17 (2) SOLE-SOURCE CONTRACTS.—Notwith-
18 standing section 3105 of title 41, United States
19 Code, a contracts or cooperative agreement entered
20 into under paragraph (1) may be a sole-source con-
21 tract, subject to section 3304(a) of such title.

22 (3) ACQUISITIONS.—Notwithstanding chapter
23 63 of title 31, United States Code, a cooperative
24 agreement under this section may be used to acquire

1 property, services, or travel for the direct benefit or
2 use of the United States Merchant Marine Academy.

3 (e) LEASES.—For the purpose of supporting the ath-
4 letic programs of the United States Merchant Marine
5 Academy, in consultation with the General Services Ad-
6 ministration, the Secretary may rent or lease to the cor-
7 poration any real property located at the United States
8 Merchant Marine Academy—

9 (1) under such terms and conditions as are
10 deemed advisable;

11 (2) for a period not exceeding five years;

12 (3) so long as such real property is not required
13 for immediate use by the United States Merchant
14 Marine Academy; and

15 (4) so long as all proceeds from such rental or
16 lease be retained and expended in accordance with
17 subsection (j).

18 (f) SUPPORT SERVICES.—

19 (1) AUTHORITY.—To the extent required by a
20 contract or cooperative agreement under subsection
21 (d), the Secretary may provide support services to
22 the corporation while the corporation conducts sup-
23 port activities at the United States Merchant Marine
24 Academy only if the Secretary determines that the
25 provision of such services is essential for the support

1 of the athletic programs of the United States Mer-
2 chant Marine Academy.

3 (2) NO LIABILITY OF THE UNITED STATES.—

4 The provision of support services under paragraph
5 (1) may not result in any liability for the United
6 States to the corporation.

7 (3) SUPPORT SERVICES DEFINED.—In this sub-
8 section, the term “support services” includes utili-
9 ties, office furnishings and equipment, communica-
10 tions services, records staging and archiving, audio
11 and video support, and security systems, in conjunc-
12 tion with the leasing or licensing of property.

13 (g) TRANSFERS FROM NONAPPROPRIATED FUND
14 OPERATION.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the Secretary may, subject to the accept-
17 ance of the corporation, transfer to the corporation
18 all title to and ownership of the assets and liabilities
19 of the Department of Transportation non-
20 appropriated fund instrumentality, the function of
21 which includes providing support for the athletic
22 programs of the United States Merchant Marine
23 Academy, including bank accounts and financial re-
24 serves in the accounts of such fund instrumentality,
25 equipment, supplies, and other personal property.

1 (2) LIMITATION.—In making a transfer under
2 paragraph (1), the Secretary may not transfer any
3 interest in real property.

4 (h) ACCEPTANCE OF SUPPORT.—

5 (1) IN GENERAL.—Notwithstanding section
6 1342 of title 31, United States Code, the Secretary
7 may accept from the corporation funds, supplies,
8 and services for the support of the athletic programs
9 of the United States Merchant Marine Academy.

10 (2) EMPLOYEES OF THE CORPORATION.—For
11 purposes of this section, employees or personnel of
12 the corporation are not employees of the United
13 States.

14 (3) FUNDS RECEIVED FROM OTHER
15 SOURCES.—To support the athletic programs of the
16 United States Merchant Marine Academy, the Sec-
17 retary may accept funds from the National Colle-
18 giate Athletic Association, funds from athletic con-
19 ferences, game guarantees from other educational
20 institutions, fees for ticketing and licensing, and any
21 other consideration provided incidental to the execu-
22 tion of the athletic programs of the United States
23 Merchant Marine Academy.

1 (4) LIMITATION.—The Secretary shall ensure
2 that contributions under this subsection and expend-
3 iture of funds pursuant to subsection (j) do not—

4 (A) reflect unfavorably on the ability of the
5 Department of Transportation, or any employee
6 of the Department of Transportation, to carry
7 out any responsibility or duty of the Depart-
8 ment in a fair and objective manner; or

9 (B) compromise the integrity or appear-
10 ance of integrity of any program of the Depart-
11 ment of Transportation, or any individual in-
12 volved in such a program.

13 (i) TRADEMARKS AND SERVICE MARKS.—

14 (1) LICENSING, MARKETING, AND SPONSORSHIP
15 AGREEMENTS.—Subject to paragraph (2), a contract
16 or cooperative agreement under subsection (d) may,
17 consistent with section 109(h)(2) of title 49, United
18 States Code, include an authorization for the cor-
19 poration to enter into licensing, marketing, and
20 sponsorship agreements (subject to the approval of
21 the Secretary) relating to trademarks and service
22 marks identifying the United States Merchant Ma-
23 rine Academy.

24 (2) LIMITATIONS.—The corporation may not
25 enter into any licensing, marketing, or sponsorship

1 agreement pursuant to authority provided under
2 paragraph (1) that—

3 (A) may reflect unfavorably on the ability
4 of the Department of Transportation, or any
5 employee of the Department of Transportation,
6 to carry out any responsibility or duty of the
7 Department in a fair and objective manner; or

8 (B) the Secretary determines involves use
9 of the trademark or service mark would com-
10 promise the integrity or appearance of integrity
11 of any program of the Department of Transpor-
12 tation or any individual involved in such a pro-
13 gram.

14 (j) RETENTION AND USE OF FUNDS.—Funds re-
15 ceived by the Secretary under this section may be retained
16 for use to support the athletic programs of the United
17 States Merchant Marine Academy and shall remain avail-
18 able until expended.

19 (k) LICENSING AUTHORITY.—Section 109(h) of title
20 49, United States Code, is amended by striking paragraph
21 (2) and inserting the following:

22 “(2) LICENSING OF INTELLECTUAL PROP-
23 ERTY.—

24 “(A) AUTHORITY.—The Secretary may li-
25 cense trademarks and service marks owned or

1 controlled by the Secretary with respect to the
2 United States Merchant Marine Academy and
3 may retain and expend fees received from such
4 licensing in accordance with this paragraph.

5 “(B) DESIGNATED MARKS.—The Secretary
6 shall designate the trademarks and service
7 marks with respect to which the Secretary will
8 exercise the authority to retain licensing fees
9 under this paragraph.

10 “(C) USE OF FEES.—The Secretary shall
11 use fees retained under this paragraph for the
12 following purposes:

13 “(i) For payment of costs incurred by
14 the Secretary of securing trademark reg-
15 istrations and of operating the licensing
16 program under this paragraph.

17 “(ii) For recruiting activities of the
18 United States Merchant Marine Academy
19 under the jurisdiction of the Secretary, to
20 the extent that the total amount of the li-
21 censing fees available under this section for
22 a fiscal year exceed the total amount need-
23 ed for such fiscal year under paragraph
24 (1).

1 “(D) AVAILABILITY.—Fees received in a
2 fiscal year and retained under this paragraph
3 shall be available until expended.

4 “(E) DEFINITIONS.—In this paragraph,
5 the terms ‘trademark’ and ‘service mark’ have
6 the meanings given such terms, respectively, in
7 section 45 of the Act of July 5, 1946 (com-
8 monly referred to as the Trademark Act of
9 1946; 15 U.S.C. 1127).”.

