

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2479

To promote the construction and operation of United States flag cruise vessels in the United States, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 12), 1994

Mrs. MURRAY introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To promote the construction and operation of United States flag cruise vessels in the United States, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “United States Cruise  
5        Vessel Development Act of 1994”.

6        **SEC. 2. PURPOSE.**

7        The purpose of this Act is to promote construction  
8        and operation of United States flag cruise vessels in the  
9        United States.

1 **SEC. 3. COASTWISE TRANSPORTATION OF PASSENGERS.**

2 Section 8 of the Act entitled “An Act to abolish cer-  
3 tain fees for official services to American vessels, and to  
4 amend the laws relating to shipping commissioners, sea-  
5 men, and owners of vessels, and for other purposes”, ap-  
6 proved June 19, 1886 (24 Stat. 81, chapter 421; 46 App.  
7 U.S.C. 289), is amended to read as follows:

8 **“SEC. 8. COASTWISE TRANSPORTATION OF PASSENGERS.**

9 “(a) IN GENERAL.—Except as otherwise provided by  
10 law, a vessel may transport passengers in coastwise trade  
11 only if—

12 “(1) the vessel is owned by a person that is—

13 “(A) an individual who is a citizen of the  
14 United States; or

15 “(B) a corporation, partnership, or asso-  
16 ciation that is a citizen of the United States  
17 under section 2(a) of the Shipping Act, 1916  
18 (46 App. U.S.C. 802(a));

19 “(2) the vessel meets the requirements of sec-  
20 tion 27 of the Merchant Marine Act, 1920 (46 App.  
21 U.S.C. 883); and

22 “(3) for a vessel that is at least 5 net tons, the  
23 vessel is issued a certificate of documentation under  
24 chapter 121 of title 46, United States Code, with a  
25 coastwise endorsement.

1       “(b) EXCEPTION FOR VESSEL UNDER DEMISE  
2 CHARTER.—

3           “(1) IN GENERAL.—Subsection (a)(1) does not  
4 apply to a cruise vessel operating under a demise  
5 charter that—

6           “(A) has a term of at least 18 months; and

7           “(B) is to a person described in subsection  
8 (a)(1).

9           “(2) EXTENSION OF PERIOD FOR OPER-  
10 ATION.—A cruise vessel authorized to operate in  
11 coastwise trade under paragraph (1) based on a de-  
12 mise charter described in paragraph (1) may operate  
13 in that coastwise trade during a period following the  
14 termination of the charter of not more than 6  
15 months, if the operation—

16           “(A) is approved by the Secretary; and

17           “(B) is in accordance with such terms as  
18 may be prescribed by the Secretary for that ap-  
19 proval.

20       “(c) EXCEPTION FOR VESSEL TO BE REFLAGGED.—

21           “(1) EXCEPTION.—Subsection (a)(2) and sec-  
22 tion 12106(a)(2)(A) of title 46, United States Code,  
23 do not apply to a cruise vessel if—

24           “(A) the vessel—

1           “(i) is not documented under chapter  
2           121 of title 46, United States Code, on the  
3           date of enactment of the United States  
4           Cruise Vessel Development Act of 1994;  
5           and

6           “(ii) is not less than 5 years old and  
7           not more than 15 years old on the first  
8           date that the vessel is documented under  
9           that chapter after that date of enactment;  
10          and

11          “(B) the owner or charterer of the vessel  
12          has entered into a contract for the construction  
13          in the United States of another cruise vessel  
14          that has a total berth or stateroom capacity  
15          that is at least 80 percent of the capacity of the  
16          cruise vessel.

17          “(2) TERMINATION OF AUTHORITY TO OPER-  
18          ATE.—Paragraph (1) does not apply to a vessel after  
19          the date that is 18 months after the date on which  
20          a certificate of documentation with a coastwise en-  
21          dorsement is first issued for the vessel after the date  
22          of enactment of the United States Cruise Vessel De-  
23          velopment Act of 1994 if, before the end of that 18-  
24          month period, the keel of another vessel has not  
25          been laid, or another vessel is not at a similar stage

1 of construction, under a contract required for the  
2 vessel under paragraph (1)(B).

3 “(3) EXTENSION OF PERIOD BEFORE TERMI-  
4 NATION.—The Secretary of Transportation may ex-  
5 tend the 18-month period under paragraph (2) for  
6 an additional period of not to exceed 6 months for  
7 good cause shown.

8 “(d) LIMITATION ON OPERATIONS.—A person (in-  
9 cluding a related person with respect to that person) who  
10 owns or charters a cruise vessel operating in coastwise  
11 trade under subsection (b) or (c) under a coastwise en-  
12 dorsement may not operate any vessel between—

13 “(1) any 2 ports served by another cruise vessel  
14 that transports passengers in coastwise trade under  
15 subsection (a) on the date the Secretary issues the  
16 coastwise endorsement; or

17 “(2) any of the islands of Hawaii.

18 “(e) PENALTIES.—

19 “(1) CIVIL PENALTY.—A person operating a  
20 vessel in violation of this section is liable to the  
21 United States Government for a civil penalty of  
22 \$1,000 for each passenger transported in violation of  
23 this section.

24 “(2) FORFEITURE.—A vessel operated in know-  
25 ing violation of this section, and its equipment, are

1        liable to seizure by and forfeiture to the United  
2        States Government.

3            “(3) DISQUALIFICATION FROM COASTWISE  
4        TRADE.—A person that is required to enter into a  
5        construction contract under subsection (c)(1)(B)  
6        with respect to a cruise vessel (including any related  
7        person with respect to that person) may not own or  
8        operate any vessel in coastwise trade after the period  
9        applicable under subsection (c)(2) with respect to  
10       the cruise vessel, if before the end of that period a  
11       keel is not laid and a similar stage of construction  
12       is not reached under such a contract.

13        “(f) DEFINITIONS.—In this section—

14            “(1) the term ‘coastwise trade’ includes trans-  
15        portation of a passenger between points in the  
16        United States, either directly or by way of a foreign  
17        port;

18            “(2) the term ‘cruise vessel’ means a vessel  
19        that—

20            “(A) is at least 10,000 gross tons (as  
21        measured under chapter 143 of title 46, United  
22        States Code);

23            “(B) has berth or stateroom accommoda-  
24        tions for at least 200 passengers; and

25            “(C) is not a ferry; and

1           “(3) the term ‘related person’ means, with re-  
2           spect to a person—

3                   “(A) a holding company, subsidiary, affili-  
4                   ate, or association of the person; and

5                   “(B) an officer, director, or agent of the  
6                   person or of an entity referred to in subpara-  
7                   graph (A).”.

8   **SEC. 4. CONSTRUCTION STANDARDS.**

9           Section 3309 of title 46, United States Code, is  
10          amended by adding at the end the following new sub-  
11          section:

12          “(d)(1) A vessel described in paragraph (3) is deemed  
13          to comply with parts B and C of this subtitle.

14          “(2) The Secretary shall issue a certificate of inspec-  
15          tion under subsection (a) to a vessel described in para-  
16          graph (3).

17          “(3) A vessel is described in this paragraph if—

18                   “(A) the vessel meets the standards and condi-  
19                   tions for the issuance of a control verification certifi-  
20                   cate to a foreign vessel embarking passengers in the  
21                   United States;

22                   “(B) a coastwise endorsement is issued for the  
23                   vessel under section 12106 of this title after the date  
24                   of enactment of the United States Cruise Vessel De-  
25                   velopment Act of 1994; and

1           “(C) the vessel is authorized to engage in coast-  
2           wise trade by reason of subsection (c) of section 8  
3           of the Act entitled ‘An Act to abolish certain fees for  
4           official services to American vessels, and to amend  
5           the laws relating to shipping commissioners, seamen,  
6           and owners of vessels, and for other purposes’, ap-  
7           proved June 19, 1886 (24 Stat. 81, chapter 421; 46  
8           App. U.S.C. 289).”.

9   **SEC. 5. CITIZENSHIP FOR PURPOSES OF DOCUMENTATION.**

10          Section 2 of the Shipping Act, 1916 (46 App. U.S.C.  
11   802), is amended—

12                 (1) in subsection (a) by inserting “other than  
13                 primarily in the transport of passengers,” after “the  
14                 coastwise trade”; and

15                 (2) by adding at the end the following new sub-  
16                 section:

17                 “(e) For purposes of determining citizenship under  
18                 subsection (a) with respect to operation of a vessel pri-  
19                 marily in the transport of passengers in coastwise trade,  
20                 the controlling interest in a partnership or association that  
21                 owns the vessel shall not be deemed to be owned by citi-  
22                 zens of the United States unless a majority interest in the  
23                 partnership or association is owned by citizens of the Unit-  
24                 ed States free from any trust or fiduciary obligation in

1 favor of any person that is not a citizen of the United  
2 States.”.

3 **SEC. 6. AMENDMENT TO TITLE XI OF THE MERCHANT MA-**  
4 **RINE ACT, 1936.**

5 Section 1101(b) of the Merchant Marine Act, 1936  
6 (46 App. U.S.C. 1271(b)) is amended by striking “pas-  
7 senger cargo” and inserting “passenger, cargo,”.

8 **SEC. 7. PERMITS FOR VESSELS ENTERING UNITS OF NA-**  
9 **TIONAL PARK SYSTEM.**

10 (a) PRIORITY.—Notwithstanding any other provision  
11 of law, the Secretary of the Interior may not permit a per-  
12 son to operate a vessel in any unit of the National Park  
13 System except in accordance with the following priority:

14 (1) First, any person that—

15 (A) will operate a vessel that is docu-  
16 mented under the laws of, and the home port  
17 of which is located in, the United States; or

18 (B) holds rights to provide visitor services  
19 under section 1307(a) of the Alaska National  
20 Interest Lands Conservation Act (16 U.S.C.  
21 3197(a)).

22 (2) Second, any person that will operate a ves-  
23 sel that—

24 (A) is documented under the laws of a for-  
25 eign country, and

1 (B) on the date of the enactment of this  
2 Act is permitted to be operated by the person  
3 in the unit.

4 (3) Third, any person that will operate a vessel  
5 other than a vessel described in paragraph (1) or  
6 (2).

7 (b) REVOCATION OF PERMITS FOR FOREIGN-DOCU-  
8 MENTED VESSELS.—The Secretary of the Interior shall  
9 revoke or refuse to renew permission granted by the Sec-  
10 retary for the operation of a vessel documented under the  
11 laws of a foreign country in a unit of the National Park  
12 System, if—

13 (1) a person requests permission to operate a  
14 vessel documented under the laws of the United  
15 States in that unit; and

16 (2) the permission may not be granted because  
17 of a limit on the number of permits that may be is-  
18 sued for that operation.

19 (c) RESTRICTIONS ON REVOCATION OF PERMITS.—  
20 The Secretary of the Interior may not revoke or refuse  
21 to renew permission under subsection (b) for any person  
22 holding rights to provide visitor services under section  
23 1307(a) of the Alaska National Interest Lands Conserva-  
24 tion Act (16 U.S.C. 3197(a)).

1       (d) RETURN OF PERMITS.—Any person whose per-  
2 mission to provide visitors services in a unit of the Na-  
3 tional Park System has been revoked or not renewed  
4 under subsection (b) shall have the right of first refusal  
5 to a permit to provide visitors services in that unit of the  
6 National Park System that becomes available when the  
7 conditions described in subsection (b) no longer apply.  
8 Such right shall be limited to the number of permits which  
9 are revoked or not renewed.

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