

105TH CONGRESS
1ST SESSION

S. 803

To permit the transportation of passengers between United States ports by certain foreign-flag vessels and to encourage United States-flag vessels to participate in such transportation.

IN THE SENATE OF THE UNITED STATES

MAY 23, 1997

Mr. THURMOND (for himself and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To permit the transportation of passengers between United States ports by certain foreign-flag vessels and to encourage United States-flag vessels to participate in such transportation.

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 Tourism Act of 1997”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) It is in the interest of the United States to
2 maximize economic return from the growing indus-
3 try of pleasure cruises—

4 (A) by encouraging the growth of new
5 cruise itineraries between coastal cities in the
6 United States, and

7 (B) by encouraging the use of United
8 States goods, labor, and support services.

9 (2) In maximizing the economic benefits to the
10 United States from increased cruise vessel tourism,
11 there is a need to ensure that existing employment
12 and economic activity associated with United States-
13 flag vessels (including tour boats, river boats, intra-
14 coastal waterway cruise vessels, and ferries) are pro-
15 tected and to provide for the reemergence of a Unit-
16 ed States-flag cruise vessel industry.

17 (3) The pleasure cruise industry is one of the
18 fastest growing segments of the tourism industry
19 and is expected to grow at a rate of 5 percent a year
20 over the next few years.

21 (4) The United States-flag ocean cruise vessel
22 fleet consists of only a single vessel that tours the
23 Hawaiian Islands. As a result, all the cruise vessels
24 carrying passengers to and from United States ports
25 are foreign-flag vessels and the United States ports

1 served are mostly ports that are close enough to for-
2 eign ports to allow intermediate calls.

3 (5) Prohibiting cruises between United States
4 ports by foreign-flag vessels results in the loss of
5 tourist dollars and revenue for United States ports
6 and greatly disadvantages United States ports and
7 coastal communities.

8 **SEC. 3. FOREIGN-FLAG CRUISE VESSELS.**

9 (a) DEFINITIONS.—In this Act:

10 (1) COASTWISE TRADE.—The term “coastwise
11 trade” means the coastwise trade provided for in
12 section 12106 of title 46, United States Code and
13 includes trade in the Great Lakes.

14 (2) CRUISE VESSEL.—The term “cruise vessel”
15 means a vessel of greater than 4,000 gross reg-
16 istered tons which provides a full range of luxury ac-
17 commodations, entertainment, dining, and other
18 services for its passengers.

19 (3) FOREIGN-FLAG CRUISE VESSEL.—The term
20 “foreign-flag cruise vessel” does not apply to a ves-
21 sel which—

22 (A) provides ferry services or intracoastal
23 waterway cruises;

24 (B) regularly carries for hire both pas-
25 sengers and vehicles or other cargo; or

1 (C) serves residents of the vessel's ports of
2 call in the United States as a common or fre-
3 quently used means of transportation between
4 United States ports.

5 (4) REPAIR AND MAINTENANCE SERVICE.—The
6 term “repair and maintenance service” includes al-
7 terations and upgrades.

8 (b) WAIVER.—Notwithstanding the provisions of sec-
9 tion 8 of the Act of June 19, 1886 (24 Stat. 81, Chapter
10 421; 46 U.S.C. App. 289), or any other provision of law,
11 and except as otherwise provided by this section, the Sec-
12 retary of Transportation (in this Act referred to as the
13 “Secretary”) may approve the transportation of pas-
14 sengers on foreign-flag cruise vessels not otherwise quali-
15 fied to engage in the coastwise trade between ports in the
16 United States, directly or by way of a foreign port.

17 (c) EXCEPTIONS.—

18 (1) IN GENERAL.—The Secretary may not ap-
19 prove the transportation of passengers on a foreign-
20 flag cruise vessel pursuant to this section with re-
21 spect to any coastwise trade that is being served by
22 a United States-flag cruise vessel.

23 (2) UNITED STATES-FLAG SERVICE INITIATED
24 AFTER APPROVAL OF FOREIGN-FLAG VESSEL.—
25 Upon a showing to the Secretary, by a United

1 States-flag cruise vessel owner or charterer, that
2 service aboard a cruise vessel qualified to engage in
3 the coastwise trade is being offered or advertised
4 pursuant to a Certificate of Financial Responsibility
5 for Indemnification of Passengers for Nonperform-
6 ance of Transportation from the Federal Maritime
7 Commission (issued pursuant to section 3 of Public
8 Law 89-777; 46 U.S.C. App. 817e) for service in
9 the coastwise trade on an itinerary substantially
10 similar to that of a foreign-flag cruise vessel trans-
11 porting passengers under authority of this section,
12 the Secretary shall, in accordance with subsection
13 (d)(2), notify the owner or charterer of the foreign-
14 flag cruise vessel that the Secretary will, within 3
15 years after the date of notification, terminate such
16 service.

17 (d) TERMINATION.—

18 (1) IN GENERAL.—Coastwise trade privileges
19 granted to such owner or charterer of a foreign-flag
20 cruise vessel under this section shall expire on the
21 date that is 3 years after the date of the Secretary's
22 notification described in subsection (c)(2).

23 (2) ORDER OF TERMINATION.—Any notification
24 issued by the Secretary under this subsection shall

1 be issued to the owner or charterer of a foreign-flag
2 cruise vessel—

3 (A) in the reverse order in which the for-
4 eign-flag cruise vessel entered service in the
5 coastwise trade under this section, determined
6 by the date of the vessel's first coastwise sail-
7 ing; and

8 (B) in the minimum number necessary to
9 ensure that the passenger-carrying capacity
10 thereby removed from the coastwise trade serv-
11 ice exceeds the passenger-carrying capacity of
12 the United States-flag cruise vessel entering the
13 service.

14 (3) EXCEPTION.—If, at the expiration of the 3-
15 year period specified in paragraph (1), the United
16 States-flag cruise vessel that has been offering or
17 advertising service pursuant to a certificate de-
18 scribed in subsection (c)(2) has not entered the
19 coastwise trade described in subsection (c)(2), then
20 the termination of service required by paragraph (1)
21 shall not take effect until 180 days after the date of
22 the entry into that coastwise trade service by the
23 United States-flag cruise vessel.

24 (e) REQUIREMENT FOR REPAIRS IN UNITED STATES
25 SHIPYARDS.—

1 (1) IN GENERAL.—The owner or charterer of a
2 foreign-flag cruise vessel that is qualified to provide
3 coastwise trade service under this section is required
4 to have repair and maintenance service for the vessel
5 performed in the United States during the period
6 that such vessel is qualified for such coastwise trade
7 service, except in a case in which the vessel requires
8 repair and maintenance service while at a distant
9 foreign port (as defined in section 4.80a(a) of title
10 19, Code of Federal Regulations (or any correspond-
11 ing similar regulation or ruling)).

12 (2) ACTION IF REQUIREMENT NOT MET.—

13 (A) GENERAL RULE.—If the Secretary de-
14 termines that the owner or charterer has not
15 met the repair and maintenance service require-
16 ment described in paragraph (1), the Secretary
17 shall terminate the coastwise trade privileges
18 granted to the owner or charterer under this
19 section.

20 (B) WAIVER.—The Secretary may waive
21 the repair and maintenance service requirement
22 if the Secretary finds that—

23 (i) the repair and maintenance service
24 is not available in the United States, or

1 (ii) an emergency prevented the owner
2 or charterer from obtaining the service in
3 the United States.

4 (f) ALIEN CREWMEN.—Section 252 of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1282) is amended—

6 (1) in subsection (a), by redesignating para-
7 graphs (1) and (2) as subparagraphs (A) and (B);

8 (2) by inserting “(1)” immediately after “(a)”;

9 (3) in subsection (a)(1) (as redesignated), in
10 the second sentence, by inserting “, except as pro-
11 vided in paragraph (2), and” after “subsection (b),”;

12 (4) by adding at the end of subsection (a)(1)
13 (as redesignated), the following:

14 “(2) An immigration officer may extend for a period
15 or periods of up to 6 months each a conditional permit
16 to land that is granted under paragraph (1) to an alien
17 crewman employed on a vessel if the owner or charterer
18 of the vessel requests the extension and the immigration
19 officer determines that the extension is necessary to main-
20 tain the vessel in the coastwise trade between ports in the
21 United States, directly or by way of a foreign port.”; and

22 (5) in subsection (b), by striking “subsection
23 (a)(1)” and inserting “subsection (a)(1)(A)”.

24 (g) DISCLAIMER.—

1 (1) IN GENERAL.—Nothing in this Act shall be
2 construed as affecting or otherwise modifying the
3 authority contained in—

4 (A) Public Law 87–77 (46 U.S.C. App.
5 289b) authorizing the transportation of pas-
6 sengers and merchandise in Canadian vessels
7 between ports in Alaska and the United States;
8 or

9 (B) Public Law 98–563 (46 U.S.C. App.
10 289c) permitting the transportation of pas-
11 sengers between Puerto Rico and other United
12 States ports.

13 (2) JONES ACT.—Except as otherwise expressly
14 provided in this Act, nothing in this Act shall be
15 construed as affecting or modifying the provisions of
16 the Merchant Marine Act, 1920.

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