

Calendar No. 106107TH CONGRESS
1ST SESSION**S. 127****[Report No. 107-47]**

To give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2001

Mr. MCCAIN (for himself, Mr. CLELAND, Mrs. HUTCHISON, Mr. MURKOWSKI, Mr. MILLER, Mrs. BOXER, Ms. MIKULSKI, Mr. SARBANES, Mr. THURMOND, Mrs. FEINSTEIN, Mr. INOUE, Mr. BREAUX, Mr. BURNS, Mr. SMITH of Oregon, Mr. HOLLINGS, Mr. KERRY, Mr. SCHUMER, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JULY 27, 2001

Reported by Mr. HOLLINGS, without amendment

A BILL

To give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

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

1 **SECTION 1. SHORT TITLE; TABLE OF SECTIONS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “United States Cruise Vessel Act”.

4 (b) TABLE OF SECTIONS.—The table of sections for
5 this Act is as follows:

Sec. 1. Short title; table of sections.

Sec. 2. Definitions.

TITLE I—OPERATIONS UNDER CERTIFICATE OF
DOCUMENTATION

Sec. 101. Domestic cruise vessel.

Sec. 102. Repairs requirement.

Sec. 103. Construction requirement.

Sec. 104. Certain operations prohibited.

Sec. 105. Priorities within domestic markets.

Sec. 106. Report.

Sec. 107. Enforcement

TITLE II—OTHER PROVISIONS

Sec. 201. Application with Jones Act and other Acts.

Sec. 202. Glacier Bay and other National Park Service area permits.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ELIGIBLE CRUISE VESSEL.—The term “eli-
9 gible cruise vessel” means a cruise vessel that—

10 (A) was delivered after January 1, 1980;

11 (B) is at least 20,000 gross registered
12 tons;

13 (C) has no fewer than 800 passenger
14 berths;

15 (D) is owned by a person that is a citizen
16 of the United States for the purpose of oper-
17 ating a vessel in the coastwise trade within the

1 meaning of section 2 of the Shipping Act, 1916
2 (46 U.S.C. 802) or section 12106(e) of title 46,
3 United States Code;

4 (E) provides a full range of overnight ac-
5 commodations, entertainment, dining, and other
6 services for its passengers;

7 (F) has a fixed smoke detection and sprin-
8 kler system installed throughout the accommo-
9 dation and service spaces, or will have such a
10 system installed within the time period required
11 by the 1992 Amendments to the Safety of Life
12 at Sea Convention of 1974; and

13 (G) meets the eligibility requirements for a
14 certificate of inspection under section 1137(a)
15 of the Coast Guard Authorization Act of 1996
16 (46 U.S.C. App. 1187 nt.), and complies with
17 the applicable international agreements and as-
18 sociated guidelines referred to in section
19 1137(a)(2) of that Act (46 U.S.C. 1187 nt.).

20 (2) ITINERARY.—The term “itinerary” means
21 the route travelled by a cruise vessel on a single voy-
22 age that begins at the first port at which passengers
23 on that voyage embark, includes each port at which
24 the vessel calls before the last port at which pas-
25 sengers on that voyage disembark, and ends at that

1 last port of disembarkation. For purposes of this
 2 paragraph, the term “embark” and “disembark”
 3 have the meaning given those terms in section
 4 4.80a(a)(4) of title 19, Code of Federal Regulations
 5 (as such section is in effect on the date of enactment
 6 of this Act).

7 (3) OPERATOR.—The term “operator” means
 8 the owner, operator, or charterer.

9 (4) SECRETARY.—The term “Secretary” means
 10 the Secretary of Transportation.

11 (5) UNITED STATES SHIPYARD.—The term
 12 “United States shipyard” means a shipyard located
 13 in the United States.

14 (6) UNITED STATES.—The term “United
 15 States” has the meaning given that term in section
 16 2101(44) of title 46, United States Code.

17 **TITLE I—OPERATIONS UNDER**
 18 **CERTIFICATE OF DOCU-**
 19 **MENTATION**

20 **SEC. 101. DOMESTIC CRUISE VESSEL.**

21 (a) IN GENERAL.—Notwithstanding the provisions of
 22 section 8 of the Act of June 19, 1886 (46 U.S.C. App.
 23 289), section 27 of the Act of June 5, 1920, commonly
 24 known as the Jones Act, (46 U.S.C. App. 883), section
 25 27A of that Act, (46 U.S.C. App. 883–1), and section

1 12106 of title 46, United States Code, the Secretary shall
2 issue a certificate of documentation with a temporary
3 coastwise endorsement for an eligible cruise vessel not
4 built in the United States to operate in domestic
5 itineraries in the transportation of passengers in the coast-
6 wise trade between ports in the United States if the vessel
7 meets the requirements of this title.

8 (b) TERMINATION OF AUTHORITY.—The authority of
9 the Secretary to issue a certificate of documentation under
10 subsection (a) begins on the day after the date of enact-
11 ment of this Act and terminates on the day that is 24
12 months after that date.

13 (c) APPLICATION ONLY REQUIRED.—Notwith-
14 standing subsection (b), the Secretary may issue a certifi-
15 cate of documentation under subsection (a) more than 24
16 months after the date of enactment of this Act if—

17 (1) the Secretary received the application for
18 the certificate of documentation before the end of
19 that 24-month period; and

20 (2) the vessel otherwise meets the requirements
21 of this title.

22 (d) RIGHTS UNDER APPLICATION NOT
23 TRANSFERRABLE.—The right to receive a certification of
24 documentation pursuant to an application described in
25 subsection (c) may not be transferred by the applicant to

1 any other person. For purposes of this subsection, the
2 transfer of that right to a successor in interest to the ap-
3 plicant in connection with the reorganization, restruc-
4 turing, acquisition, or sale of the applicant's business shall
5 not be considered another person.

6 **SEC. 102. REPAIRS REQUIREMENT.**

7 (a) IN GENERAL.—The Secretary may not issue a
8 certificate of documentation under section 101(a) for an
9 eligible cruise vessel unless the operator establishes to the
10 satisfaction of the Secretary that—

11 (1) any repair, maintenance, alteration, or other
12 preparation of the vessel for operation under a cer-
13 tificate of documentation issued under section
14 101(a) have been, or will be, performed in a United
15 States shipyard; and

16 (2) any repair, maintenance, or alteration of the
17 vessel after a certificate of documentation is issued
18 under that section will be performed in a United
19 States shipyard.

20 (b) WAIVER.—The Secretary may waive the require-
21 ments of subsection (a) if the Secretary finds that the re-
22 pair, maintenance, alterations, or other preparation serv-
23 ices are not available in the United States or if an emer-
24 gency dictates that the vessel proceed to a foreign port.

1 **SEC. 103. CONSTRUCTION REQUIREMENT.**

2 (a) CONSTRUCTION CONTRACT REQUIRED.—

3 (1) IN GENERAL.—Except as provided in para-
4 graph (2), a vessel for which a certificate of docu-
5 mentation has been issued under section 101(a) may
6 not commence operations in the coastwise trade until
7 the operator of that vessel executes a contract with
8 one or more United States shipyards for the con-
9 struction of a total of 2 or more cruise vessels with
10 a total combined berth or stateroom capacity equal
11 to at least the total combined berth or stateroom ca-
12 pacity of that vessel. If certificates of documentation
13 are issued under section 101(a) for more than 1 ves-
14 sel for an operator, the construction contract re-
15 quired by the preceding sentence shall provide for
16 the construction of 1 more vessel than the number
17 of vessels for which certificates of documentation are
18 issued with a total combined berth or stateroom ca-
19 pacity equal to at least the total combined berth or
20 stateroom capacity of the vessels for which the cer-
21 tificates of documentation are issued.

22 (2) DEMONSTRATION OF CAPABILITY RE-
23 QUIRED.—For purposes of this subsection, a con-
24 struction contract for which financing is not pro-
25 vided under title XI of the Merchant Marine Act,
26 1936 (46 U.S.C. App. 1101 et seq.) shall not be rec-

1 ognized as meeting the requirements of paragraph
2 (1) unless both the operator and the shipyard are
3 capable of completing the contract. For purposes of
4 this paragraph—

5 (A) an operator shall be considered to be
6 capable of completing such a contract if the op-
7 erator meets the standards set forth in sections
8 298.12, 298.13, and 298.14 of title 46, Code of
9 Federal Regulations; and

10 (B) a shipyard shall be considered to be
11 capable of completing such a contract if the
12 shipyard meets the standards set forth in sec-
13 tion 298.32(a) of that title.

14 (b) **MINIMUM SIZE REQUIREMENT.**—For purposes of
15 this section, a contract for the construction of a vessel
16 shall be disregarded if that vessel—

17 (1) will be less than 20,000 gross registered
18 tons; or

19 (2) will have fewer than 800 passenger berths.

20 (c) **CONTRACT TERMS.**—

21 (1) **IN GENERAL.**—The contract required by
22 subsection (a) shall provide for delivery of the first
23 such vessel not later than 60 months after the date
24 on which operations of the vessel for which the cer-
25 tificate of documentation was issued commence, and

1 shall contain any other provisions required by the
2 Secretary for purposes of this subsection. If the con-
3 tract provides for the construction of more than 1
4 vessel, it shall provide for delivery of each vessel sub-
5 sequent to the first not later than 24 months after
6 delivery of the immediately preceding vessel.

7 (2) EXTENSION OF TIME PERIODS FOR IMPOS-
8 SIBILITY OF PERFORMANCE.—If the commencement
9 of construction or the completion of construction is
10 prevented or delayed by circumstances that would be
11 recognized as providing a defense of impossibility-of-
12 performance by the shipyard under applicable con-
13 tract law, each time period in this Act related to de-
14 livery of a vessel by that shipyard shall be extended
15 for whatever period of time the circumstance on
16 which the defense is predicated continues to exist.

17 (d) EXPIRATION OF COASTWISE ENDORSEMENT.—
18 The coastwise endorsement for an eligible cruise vessel
19 under section 101(a) shall expire 24 months after the de-
20 livery date for the replacement vessel or vessels for that
21 eligible cruise vessel. For purposes of this subsection, the
22 term “replacement vessel or vessels” means 1 or more ves-
23 sels the operator of the eligible cruise vessel is obligated
24 to construct in the United States under the contract de-
25 scribed in subsection (a) with respect to the eligible cruise

1 vessel that have at least the same number of passenger
2 berths as the eligible cruise vessel, or they, replace.

3 (e) REFLAGGING UNDER FOREIGN REGISTRY.—Not-
4 withstanding section 9(c) of the Shipping Act, 1916 (46
5 U.S.C. App. 808), the operator of an eligible cruise vessel
6 issued a certificate of documentation with a temporary
7 coastwise endorsement under section 101(a), or a cruise
8 vessel constructed under a contract described in subsection
9 (a) of this section, may place that vessel under foreign
10 registry.

11 **SEC. 104. CERTAIN OPERATIONS PROHIBITED.**

12 Neither an eligible cruise vessel operating in domestic
13 itineraries under a certificate of documentation issued
14 under section 101(a) nor a vessel constructed under a con-
15 tract described in section 103(a) may—

16 (1) operate as a ferry;

17 (2) regularly carry for hire both passengers and
18 vehicles or other cargo; or

19 (3) operate between or among the islands of
20 Hawaii.

21 **SEC. 105. PRIORITIES WITHIN DOMESTIC MARKETS.**

22 (a) NOTIFICATION OF SECRETARY.—

23 (1) NEW VESSELS.—Any person eligible under
24 section 12102 of title 46, United States Code, to
25 document a vessel under chapter 121 of that title

1 that enters into a contract with a United States
2 shipyard for the construction of a cruise vessel
3 that—

4 (A) will be at least 20,000 gross registered
5 tons,

6 (B) will have no fewer than 800 passenger
7 berths, and

8 (C) is otherwise eligible for a certificate of
9 documentation and a coastwise trade endorse-
10 ment,

11 shall notify the Secretary, at such time and in such
12 manner and form as the Secretary may require, of
13 the construction of that vessel not less than 2 full
14 calendar years before the earliest date on which the
15 vessel is intended to commence operations.

16 (2) RECONSTRUCTION.—The notification re-
17 quirement of paragraph (1) also applies to any such
18 person that enters into a contract with a United
19 States shipyard for the reconstruction of any vessel,
20 including a vessel that has a certificate of docu-
21 mentation under chapter 121 of title 46, United
22 States Code, will, after reconstruction, will be that
23 size and capacity and be eligible for such an en-
24 dorsement.

1 (b) PRIORITY TO U.S.-BUILT VESSELS.—The Sec-
2 retary shall give priority to any cruise vessel described in
3 subsection (a) over any other cruise vessel of comparable
4 operations in a comparable market under a certificate of
5 documentation issued under section 101(a) if the Sec-
6 retary, after notice and an opportunity for public com-
7 ment, determines that the employment in the coastwise
8 trade of the vessel issued a certificate of documentation
9 under section 101(a) will adversely affect the coastwise
10 trade business of any person operating a vessel not docu-
11 mented under section 101(a) in the coastwise trade.

12 (c) FACTORS CONSIDERED.—In determining and as-
13 signing priorities, the Secretary shall consider, among
14 other factors determined by the Secretary to be
15 appropriate—

16 (1) the scope of a vessel’s itinerary, including—

17 (A) the ports between which it operates;

18 and

19 (B) the duration of the cruise;

20 (2) the time frame within which the vessel will
21 serve a particular itinerary;

22 (3) the size of the vessel; and

23 (4) the retail per diem of the vessel.

24 (d) IMPLEMENTATION.—

1 (1) INTINERARY SUBMISSION REQUIRED.—The
2 Secretary shall require the operator of each vessel
3 issued a certificate of documentation under section
4 101(a) to submit, in April of each year, a proposed
5 itinerary for that vessel for cruise itineraries for the
6 calendar year beginning 20 months after the date on
7 which the itinerary is required to be submitted.

8 (2) PUBLICATION AND COMMENT.—

9 (A) PUBLICATION.—The Secretary shall
10 cause any itinerary submitted under paragraph
11 (1), and any late submission or revision sub-
12 mitted under paragraph (3), to be published in
13 the Federal Register.

14 (B) COMMENT PERIOD.—The Secretary
15 shall receive and consider comments from the
16 public on any itinerary published under sub-
17 paragraph (A) for a period of 30 days after the
18 date on which the itinerary is published.

19 (3) REVISIONS AND LATER SUBMISSIONS.—The
20 Secretary shall permit late submissions and revisions
21 of submissions after the final list of approved
22 itineraries is published under paragraph (4)(C)(iii)
23 and before the start date of a requested itinerary.

24 (4) SCHEDULING.—

1 (A) ACTION BY SECRETARY.—Within 30
2 days after the close of the comment period on
3 an itinerary published under paragraph (2)(A),
4 the Secretary shall—

5 (i) review the itineraries submitted to
6 the Secretary for compliance with the pri-
7 orities established by this section;

8 (ii) advise affected cruise vessel opera-
9 tors of any specific itinerary that is not
10 available and the reason it is not available;
11 and

12 (iii) publish a proposed list of ap-
13 proved itineraries.

14 (B) OPERATORS' APPEALS.—The operator
15 of any eligible cruise vessel may appeal the Sec-
16 retary's decision under subparagraph (A)(ii)
17 within 30 days after the Secretary advises the
18 operator of the decision.

19 (C) RESOLUTION OF CONFLICTS.—As soon
20 as practicable after the end of the 30-day pe-
21 riod described in subparagraph (B), the Sec-
22 retary shall—

23 (i) resolve any appeals and consider
24 new itinerary proposals;

- 1 (ii) advise cruise vessel operators who
2 responded under subparagraph (B) of the
3 Secretary's decision with respect to the ap-
4 peal or the new itinerary proposal; and
5 (iii) publish a final list of approved
6 itineraries.

7 **SEC. 106. REPORT.**

8 The Secretary shall issue an annual report on the
9 number of vessels operating under certificate of
10 documentations granted under section 101(a), and on the
11 progress of construction on vessels to replace those vessels
12 under section 103.

13 **SEC. 107. ENFORCEMENT.**

14 (a) BREACH OF CONSTRUCTION CONTRACT BY OP-
15 ERATOR.—The Secretary shall revoke a temporary coast-
16 wise endorsement issued under section 101(a)(2) for a ves-
17 sel if the operator of that vessel commits a serious breach
18 of the construction contract required by section 103(a).
19 The revocation shall take effect at the conclusion of the
20 last voyage on the last cruise itinerary approved by the
21 Secretary before the Secretary made the determination to
22 revoke the endorsement.

23 (b) BREACH OF CONSTRUCTION CONTRACT BY SHIP-
24 YARD.—

1 (1) IN GENERAL.—If a shipyard commits a se-
2 rious breach of a construction contract required by
3 section 103(a) with an operator of a vessel for which
4 a certificate of documentation granted under section
5 101(a)—

6 (A) the operator shall notify the Secretary
7 immediately of the breach; and

8 (B) the operator may continue to operate
9 that vessel as if the contract were in effect for
10 a period of 24 months after notification of the
11 Secretary on the condition that the operator
12 will make good faith efforts during that 24-
13 month period to execute a contract with a
14 United States shipyard for the construction of
15 the vessels that were to have been constructed
16 under that contract.

17 (2) GOOD FAITH EFFORT REQUIRED.—If the
18 Secretary determines at any time during that 24-
19 month period that the operator has ceased to make
20 good faith efforts to execute such a contract, then
21 the Secretary shall immediately terminate the opera-
22 tor’s authority to continue operations under this
23 paragraph.

24 (c) SUBSTANTIAL BREACHES ONLY.—For purposes
25 of subsections (a) and (b), the term “serious breach of

1 contract” means a breach of contract for which an appro-
 2 priate remedy under section 2–703 or 2–711 of the Uni-
 3 form Commercial Code, as promulgated by the National
 4 Conference of Commissioners on Uniform State Law, is
 5 cancellation by the seller or buyer, respectively.

6 **TITLE II—OTHER PROVISIONS**

7 **SEC. 201. APPLICATION WITH JONES ACT AND OTHER ACTS.**

8 (a) IN GENERAL.—Nothing in this Act affects or oth-
 9 erwise modifies the authority contained in—

10 (1) Public Law 87–77 (46 U.S.C. App. 289b)
 11 authorizing the transportation of passengers and
 12 merchandise in Canadian vessels between ports in
 13 Alaska and the United States; or

14 (2) Public Law 98–563 (46 U.S.C. App. 289c)
 15 permitting the transportation of passengers between
 16 Puerto Rico and other United States ports.

17 (3) Section 27A of the Act of the Merchant Ma-
 18 rine Act, 1920 (46 U.S.C. App. 883–1).

19 (4) Section 8109 of the Department of Defense
 20 Appropriations Act, 1998.

21 (b) JONES ACT.—Except as in section 101(a), noth-
 22 ing in this Act affects or modifies the Merchant Marine
 23 Act, 1920 (46 U.S.C. App. 861 et seq.).

1 **SEC. 202. GLACIER BAY AND OTHER NATIONAL PARK SERV-**
2 **ICE AREA PERMITS.**

3 (a) IN GENERAL.—The Secretary of the Interior,
4 after consultation with the Secretary of Transportation,
5 shall issue new or otherwise available permits to United
6 States-flag vessels carrying passengers for hire to enter
7 Glacier Bay or any other area within the jurisdiction of
8 the National Park Service. Any such permit shall not af-
9 fect the rights of any person that, on the date of enact-
10 ment of this Act, holds a valid permit to enter Glacier
11 Bay or such other area.

12 (b) NEW PERMITS NOT AUTHORIZED.—Subsection
13 (a) does not authorize the Secretary of the Interior to
14 issue new permits, but, if new permits are authorized
15 under any other provision of law, they shall be awarded
16 in accordance with subsection (a).

Calendar No. 106

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