

Union Calendar No. 162

103D CONGRESS
1ST SESSION

H. R. 1250

[Report No. 103-307]

A BILL

To amend the coastwise trade laws to clarify their application to certain passenger vessels.

OCTOBER 26, 1993

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1993

Mr. TAYLOR of Mississippi (for himself, Mr. STUDDS, Mr. LIPINSKI, Mr. FIELDS of Texas, Mr. BATEMAN, and Mr. TAUZIN) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

OCTOBER 26, 1993

Additional sponsors: Mr. GENE GREEN of Texas, Mr. PASTOR, Mr. DINGELL, Mr. PARKER, Mr. HUGHES, Mr. PETERSON of Minnesota, and Ms. MOLINARI

OCTOBER 26, 1993

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 9, 1993]

A BILL

To amend the coastwise trade laws to clarify their application to certain passenger vessels.

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.**

2 *This Act may be cited as the “United States-Flag Pas-*
3 *senger Vessel Act of 1993”.*

4 **SEC. 2. COASTWISE TRANSPORTATION OF PASSENGERS.**

5 *(a) IN GENERAL.—Section 8 of the Act of June 19,*
6 *1886 (46 App. U.S.C. 289), is amended to read as follows:*

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

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

11 *“(1) the vessel meets the requirements of section*
12 *27 of the Merchant Marine Act, 1920 and section 2*
13 *of the Shipping Act, 1916 for engaging in the coast-*
14 *wise trade; and*

15 *“(2) for a vessel that is at least 5 net tons, the*
16 *vessel is documented under chapter 121 of title 46,*
17 *United States Code, with a coastwise endorsement.*

18 *“(b) PENALTIES.—*

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

3 *“(c) DEFINITIONS.—For purposes of this section—*

4 *“(1) the term ‘coastwise trade’ includes—*

5 *“(A) transportation of a passenger from a*
6 *place in any State or possession of the United*
7 *States and returning to that place, if during*
8 *that transportation no passenger departs from*
9 *the vessel in a foreign country; and*

10 *“(B) transportation of a passenger between*
11 *points in the United States, either directly or by*
12 *way of a foreign port; and*

13 *“(2) the term ‘passenger’ does not include a trav-*
14 *el agent on a voyage if—*

15 *“(A) the purpose of the voyage is to promote*
16 *future trips on the vessel;*

17 *“(B) money is not paid to the vessel owner*
18 *or charterer for the voyage; and*

19 *“(C) the voyage goes beyond the territorial*
20 *sea of the United States.”.*

21 *(b) EXCEPTION.—*

22 *(1) IN GENERAL.—Notwithstanding the amend-*
23 *ment made by subsection (a), an ineligible vessel may*
24 *engage in transport of passengers in coastwise trade*

1 *(as those terms are defined in that amendment) on a*
2 *trade route, if—*

3 *(A) the vessel engaged, in the period begin-*
4 *ning January 1, 1990, and ending March 9,*
5 *1993, in transport of passengers in coastwise*
6 *trade on that trade route; and*

7 *(B) within one year after the date of the en-*
8 *actment of this Act, the owner files with the Sec-*
9 *retary of Transportation an affidavit certifying*
10 *compliance with subparagraph (A) and listing*
11 *each trade route on which the vessel engaged in*
12 *transport of passengers in coastwise trade in the*
13 *period described in subparagraph (A).*

14 *(2) SCHEDULED EXPIRATION OF EXCEPTION.—*
15 *Paragraph (1) does not apply to an ineligible vessel*
16 *after the later of—*

17 *(A) January 1, 2000,*

18 *(B) the date that is 15 years after the date*
19 *of completion of construction of the vessel, or*

20 *(C) the date that is 15 years after the date*
21 *of completion of any major conversion of the ves-*
22 *sel that is begun before the date of the enactment*
23 *of this Act.*

24 *(3) EXPIRATION OF EXCEPTION FOR FAILURE TO*
25 *RECREW.—Paragraph (1) does not apply to an ineli-*

1 *gible vessel after the date that is 5 years after the date*
2 *of the enactment of this Act, unless—*

3 *(A) each individual employed on the vessel*
4 *after the one-year period beginning on the date*
5 *of the enactment of this Act is either a citizen of*
6 *the United States or an alien lawfully admitted*
7 *to the United States for permanent residence;*
8 *and*

9 *(B) not more than 25 percent of the total*
10 *number of individuals employed on the vessel*
11 *after the one-year period beginning on the date*
12 *of the enactment of this Act are aliens lawfully*
13 *admitted to the United States for permanent*
14 *residence.*

15 *(4) TERMINATION OF EXCEPTION UPON ENTRY OF*
16 *REPLACEMENT.—Paragraph (1) does not apply to an*
17 *ineligible vessel with respect to a trade route after the*
18 *date of the entry into service on that trade route of*
19 *an eligible vessel, if—*

20 *(A) the eligible vessel has a passenger carry-*
21 *ing capacity that is equal to at least 75 percent*
22 *of the passenger carrying capacity of the ineli-*
23 *gible vessel, as determined by the Secretary of the*
24 *Department in which the Coast Guard is*
25 *operating;*

1 (B) the person that is the owner or
2 charterer of the eligible vessel submits to the Sec-
3 retary of Transportation, by not later than 270
4 days before the date of that entry into service—

5 (i) a notice of the intent of the person
6 to enter into that service; and

7 (ii) such evidence as the Secretary may
8 require that the person is offering and ad-
9 vertising that service;

10 (C) any individual employed on the ineli-
11 gible vessel after the one-year period beginning
12 on the date of the enactment of this Act—

13 (i) is not a citizen of the United
14 States; and

15 (ii) is not an alien lawfully admitted
16 to the United States for permanent resi-
17 dence; and

18 (D) more than 25 percent of the total num-
19 ber of individuals employed on the ineligible ves-
20 sel after the one-year period beginning on the
21 date of the enactment of this Act are aliens law-
22 fully admitted to the United States for perma-
23 nent residence.

24 (5) TERMINATION OF EXCEPTION UPON SALE OF
25 VESSEL.—Paragraph (1) does not apply to an ineli-

1 *gible vessel after any date on which the vessel is sold*
2 *after the date of the enactment of this Act.*

3 (6) *DEFINITIONS.—In this subsection—*

4 (A) *the term “eligible vessel” means a vessel*
5 *that is eligible under chapter 121 of title 46,*
6 *United States Code, for a certificate of docu-*
7 *mentation authorizing the vessel to engage in*
8 *coastwise trade;*

9 (B) *the term “ineligible vessel” means a ves-*
10 *sel that is not eligible under chapter 121 of title*
11 *46, United States Code, for a certificate of docu-*
12 *mentation authorizing the vessel to engage in*
13 *coastwise trade; and*

14 (C) *the term “major conversion” has the*
15 *meaning that term has under section 2101 of*
16 *title 46, United States Code.*

17 **SEC. 3. DOCUMENTATION OF VESSELS.**

18 (a)(1) *Notwithstanding the first proviso of section 27*
19 *of the Merchant Marine Act, 1920 (46 App. U.S.C. 883),*
20 *the Secretary of Transportation may issue a certificate of*
21 *documentation with a coastwise endorsement for any of the*
22 *vessels described in paragraph (2) if an application for that*
23 *certificate is submitted to the Secretary by not later than*
24 *2 years after the date of the enactment of this Act.*

25 (2) *The vessels referred to in paragraph (1)—*

1 (A) are vessels that engaged, in the period begin-
2 ning January 1, 1990, and ending March 9, 1993, in
3 coastwise trade described in section 8(c)(1)(A) of the
4 Act of June 19, 1886, as amended by section 2 of this
5 Act, and

6 (B) include the vessels *EUROPA SUN* (former
7 United States official number 596656), *EUROPA*
8 *STAR* (former United States official number 588270),
9 and *EMERALD PRINCESS* (former United States
10 official number 530095).

11 (b) Notwithstanding section 27 of the Merchant Marine
12 Act, 1920 (46 App. U.S.C. 883) and section 12106 of title
13 46, United States Code, the Secretary of Transportation
14 may issue a certificate of documentation with a coastwise
15 endorsement for the vessel *M/V HELTON VOYAGER*
16 (Spanish registration lista 2A-Folio-592) if—

17 (1) the person documenting the vessel entered a
18 contract before May 21, 1992, to purchase the vessel;

19 (2) the vessel undergoes a major conversion (as
20 defined in section 2101 of title 46, United States
21 Code) in a United States shipyard under a contract
22 signed before January 1, 1994;

23 (3) the cost of the major conversion is more than
24 the value of the vessel before the major conversion; and

1 (4) *the major conversion is completed and the*
2 *vessel is documented under chapter 121 of title 46,*
3 *United States Code, with a coastwise endorsement be-*
4 *fore January 1, 1995.*

5 **SEC. 4. LIMITATION ON AUTHORITY OF STATES TO REGU-**
6 **LATE GAMBLING DEVICES ON VESSELS.**

7 *Section 5(b)(2) of the Act of January 2, 1951 (15*
8 *U.S.C. 1175(b)(2)), commonly referred to as the “Johnson*
9 *Act”, is amended by adding at the end the following:*

10 “(C) *EXCLUSION OF CERTAIN VOYAGES AND*
11 *SEGMENTS.—A voyage or segment of a voyage is*
12 *not described in subparagraph (B) if it includes*
13 *or consists of, respectively, a segment—*

14 “(i) *that begins and ends in the same*
15 *State or possession of the United States;*

16 “(ii) *that is part of a voyage to an-*
17 *other State or possession of the United*
18 *States or to a foreign country; and*

19 “(iii) *in which the vessel reaches the*
20 *other State or possession of the United*
21 *States or the foreign country within 3 days*
22 *after leaving the State or possession of the*
23 *United States in which the segment*
24 *begins.”.*