



Legislation Introduced to Repeal the Passenger Act to Alaska

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On September 23, 2021, Sen. Lisa Murkowski (R-AK) introduced legislation entitled the “[Cruising for Alaska’s Workforce Act](#)” to exempt from certain U.S. domestic maritime transportation restrictions voyages of large passenger vessels between a port in Alaska and another U.S. port.

The U.S. has had an express law restricting the transportation of “passengers” between two ports in the United States to qualified U.S.-flag vessels since 1886 under what came to be known as the “Passenger Vessel Services Act” or “PVSA.” Prior law going back to 1838 impliedly limited such carriage to U.S.-flag vessels. Most vessels in the 19th century carried both cargoes and passengers and so earlier laws limiting the carriage of cargoes to U.S.-owned vessels effectively also restricted the carriage of passengers. The PVSA is sometimes lumped together with other domestic maritime restrictions and referred to as the “Jones Act,” which more accurately relates to the transportation of “merchandise” versus “passengers.”

Foreign passenger vessels have nevertheless provided service between the lower 48 states and Alaska in part by taking advantage of an administrative interpretation. That interpretation provides that a voyage becomes a qualifying foreign voyage if there is at least one “stop” in another country.

When Canada forbade such “stops” as part of its COVID response, foreign passenger vessels could no longer offer service between the U.S. and Alaska even if they otherwise complied with U.S. COVID requirements. The absence of cruising to Alaska caused significant economic harm to Alaska communities which depended on such tourism, and the U.S. Congress amended the PVSA on May 24, 2021 to provide temporary relief in the “Alaska Tourism Restoration Act” (Pub. L. No. 117-14).

That Act “deemed,” until March 31, 2022, enumerated foreign passenger vessels to have made the requisite foreign “stop” to be able to operate between Alaska and ports in other parts of the United States without penalty.

The recently introduced legislation would make permanent the exemption for foreign passenger vessels transporting more than 1,000 passengers serving Alaska and would dispense with the enumerated list of foreign passenger vessels and the “deeming” of the requisite “stop.” The proposed legislation also provides a process whereby a qualifying U.S. registered vessel, even one that is not coastwise qualified (in other words, one built outside the United States), could displace the entirety of the foreign fleet serving Alaska.

The proposed legislation also includes a provision which appears to be intended to exempt the crew on these foreign passenger vessels from U.S. visa requirements. Since the vessels will be engaged in U.S. interstate commerce, it is not clear whether other laws such as the Internal Revenue Code and the National Labor Relations Act would nevertheless apply to the vessels despite being exempted from the penalties in the PVSA.

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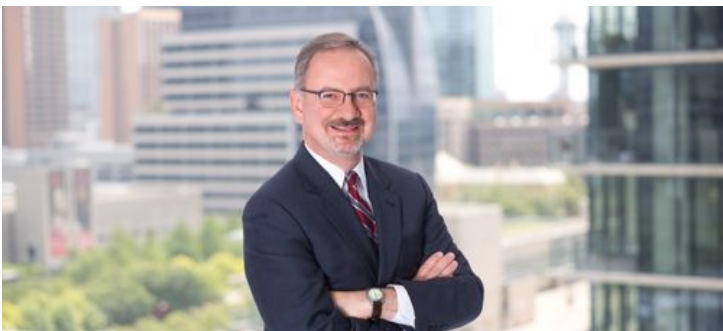
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