

MARITIME LAW EXEMPTION

Exemption Provides Limited Competitive Advantage, but Barriers to Further Entry under U.S. Flag Remain



Highlights of [GAO-04-421](#), a report to the Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate

Why GAO Did This Study

No large U.S.-flagged cruise ships (ships registered in the U.S. that are U.S.-built, U.S.-owned, and U.S. crewed) are in operation. Foreign-flagged vessels cruising to foreign ports serve most of the U.S. demand for cruises. However, Norwegian Cruise Line (NCL) recently obtained an exemption from U.S. maritime law to operate three foreign-built ships under the U.S. flag in Hawaii. Cruise lines and others have raised concerns over the advantage the exemption might confer to NCL, since foreign-flagged competitors are unable to offer the same itineraries due to the Passenger Vessel Services Act (PVSA), which prevents foreign vessels from transporting passengers solely between U.S. ports. Concerns have also been raised over the effect this exemption might have on future attempts to grow the U.S.-flag cruise vessel fleet, since potential U.S.-flag competitors would need to build ships in the United States, presumably at higher cost.

GAO was asked to (1) review the original intent of the PVSA and rulings and decisions regarding it, (2) determine if the exemption will affect the implementation of the PVSA or other maritime laws, (3) assess the potential effects of the exemption on competition and entry into the U.S. domestic cruise market, and (4) assess the potential economic effects of granting other cruise lines similar exemptions.

The Departments of Homeland Security and Transportation generally agreed with the findings in this report.

www.gao.gov/cgi-bin/gettrpt?GAO-04-421.

To view the full product, including the scope and methodology, click on the link above. For more information, contact JayEtta Hecker at (202) 512-2834 or heckerj@gao.gov.

What GAO Found

The original intent of the PVSA, enacted in 1886, was to protect the U.S. maritime industry from foreign competition by penalizing foreign vessels that transport passengers solely between U.S. ports. However, several rulings and decisions interpreting the PVSA have allowed itineraries for foreign cruise vessels between U.S. ports that were previously restricted. For example, voyages by foreign vessels between two U.S. ports that include a distant foreign port, and round trip voyages from U.S. ports that include a nearby foreign port and other U.S. ports, do not violate the PVSA.

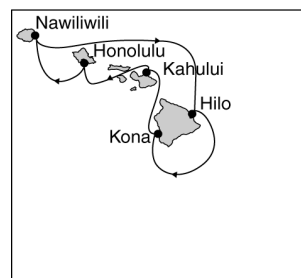
NCL's exemption will likely have little impact on how the PVSA or other maritime laws are administered or interpreted because it is specific to three NCL vessels and cannot be applied to any other vessels in any other areas.

The exemption effectively gives NCL a monopoly on interisland Hawaiian cruises—providing consumers with itineraries that were previously unavailable. However, NCL will likely have little power to raise prices on these itineraries because of competition from other vacation options. Because NCL is able to operate foreign-built ships in Hawaii, the exemption provides an additional obstacle for any potential U.S.-flag competitor to enter that market, since that competitor would need to build the ship in the United States at a higher cost. However, independent of the exemption, there were and still are other substantial obstacles for any potential U.S.-flag cruise vessel due to the higher capital and operating costs (e.g., labor costs) associated with the U.S. flag, as compared with existing foreign-flag cruise vessels offering itineraries through a foreign port.

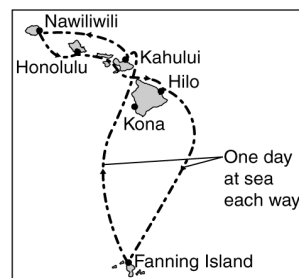
Granting additional exemptions to ease entry into the domestic trade could lead to benefits for port cities, U.S. seamen, and consumers; however, it is unclear how many cruise lines would choose to enter even if they were permitted to operate foreign-built ships under the U.S. flag, because of the higher operating costs associated with a U.S.-flag carrier operating in domestic itineraries and because of uncertain market conditions.

NCL's Exclusive Hawaiian Itinerary Compared to Itineraries for Foreign-Flag Vessels

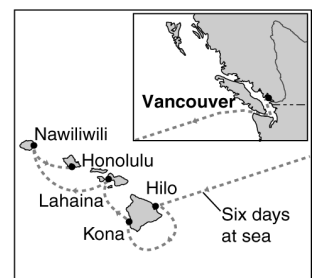
NCL itinerary with exempted ship. NCL itinerary with foreign-flag vessel through Fanning Island. Typical itinerary with foreign-flag vessel from West Coast.



Source: Norwegian Cruise Line.
7 days—59 daytime hours in port.



7 days—28 daytime hours in port.



11 days—40 daytime hours in port.