

# CRUISE OPERATIONS IN THE UNITED STATES

A Legal and Regulatory Overview

Jonathan Benner  
Thompson Coburn LLP  
Washington, D.C.

Comité Maritime Internationale  
Tokyo

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# Cruise Line Economic Impact in U.S.

- The United States is the world's single largest national cruise market.
- Cruise operations contributed approximately \$36 billion to U.S. economy in 2023.
- US job creation attributable to the cruise industry is close to 300,000 jobs.
- Regions most heavily trafficked are Alaska/Pacific Northwest, Florida, Gulf Coast, New England, Hawaii.
- Impacts reach far beyond vessel operations to shoreside support operations, connecting air travel, suppliers, excursion operators, hotel facilities.
- Estimates of tax/fee contributions from cruise lines are approximately \$2.5 billion annually. (Source: CLIA).

# U.S. Legal/Regulatory Regime Governing Cruise Vessels

- As elsewhere in the world, the legal and regulatory regime is a complex layering of international, national, and local laws and regulations.
- Because of the federal constitutional structure of government in the United States, the lines between these categories is often confused, conflicting, and subject to dispute.
- These disputes are becoming more frequent and more frequently litigated as a result of increased cruise port calls, increased vessel sizes, increased perceived and actual local impacts (positive and negative), increased environmental and safety concerns.

# Dueling Sovereignties



# U.S. Constitutional Constraints Affecting Cruise Operations

- Commerce Clause (Article I, Section 8, Clause 3): “The Congress shall have Power To . . .regulate Commerce with foreign Nations and among the several States . . . .”
- Tonnage Clause (Article I, Section 10) “No State shall, without the Consent of Congress, lay any Duty of Tonnage. . . .”
- Supremacy Clause (Article VI) “This Constitution, and the Laws of the United States, which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby , any Thing in the Constitutions or Laws of any State to the contrary notwithstanding.”
- Right to Travel (?)

# Passenger Vessel Services Act

- Cabotage Restriction dating from 1886
  - Prohibits non-US-flag passenger vessels from transporting passengers between U.S. ports.
  - Does not apply to carriage to/from same port if a foreign port of call is part of voyage.
  - There have been exceptions/exemptions granted over time.

# States and Localities Retain Powers Not Granted to the National Government

- “Powers of the Police”
  - Responsibility for protecting and regulating public health, order, safety, [morals].
  - Powers not granted the national (federal) government by the Constitution
    - Tenth Amendment: “The Powers not delegated to the United States by the Constitution, not prohibited by it to the States, are reserved to the States respectively , or to the People.”

# U.S. State and Local Issues Affecting Cruise Operations

- Taxes and Fees:
  - Gross Receipts
  - Per Passenger or Head Taxes
  - Sales Taxes
  - Property Taxes



## U.S. State and Local Issues (continued)

- Imposition of State or Local Operating Constraints:
  - Number of Vessel Calls
  - Vessel Size Limitations
  - Passenger Disembarkation Limits
  - Date Restrictions
  - Zoning Restrictions

# Bar Harbor, Maine

- Local Ordinance limits disembarkations to 1,000 persons/day
  - Limitation is cumulative, not per vessel
  - Also seasonal limits
  - Local Merchants, Tender Operators, Pier Owners, Pilots brought legal action
  - Decision pending in First Circuit Court of Appeals
  - Possible that legality will ultimately be decided by US Supreme Court



# Alaska



## Alaska (Continued)

Largest Single US Domestic Cruise Market

Issues have included municipal head taxes, property taxes, calendar restrictions, and sales taxes re on-board sales.

Tax Issues Have Largely Been Resolved in Cruise Lines favor, but are persistently recurring.

# Hawaii

- Recently enacted Gross Receipts Tax
  - Denominated as a “Transient Accommodations Tax” and extends an existing landside tax imposed on hotels and rental accommodations to cruise vessels
  - Treats cruise fares as “rents” and assesses 11% tax on cruise line gross receipts, pro-rated to the number of days docked in Hawaiian ports in proportion to number of days of overall voyage.
  - Proceeds earmarked for various environmental programs, with overflow into the State’s General Fund.
  - Litigation likely

# Other locations

- Key West, Florida
- Charleston, South Carolina
- Monterrey, California.

# Thank you

Jonathan Benner

Thompson Coburn LLP

[jbenner@thompsoncoburn.com](mailto:jbenner@thompsoncoburn.com)