



MINISTRY OF TOURISM DEVELOPMENT & TRANSPORT

MINISTERIAL BRIEFING

SUBJECT: Cruise Ship (Casinos) Bill 2013

2nd October 2013

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PART I THE LEGISLATION

CRUISE SHIP (CASINOS) BILL 2013

PART II THE MINISTERIAL BRIEF

A. General Overview

Mr. Speaker, the purpose of the Bill before the House today seeks to provide for the operation of casinos on-board a licensed cruise ship at night while it is docked or anchored in a designated port in Bermuda; this Bill also consequently amends the Prohibition on Gaming Machines Act 2001 and the Criminal Code Act 1907 to exempt licensed cruise ships from gaming restrictions.

B. Introduction and Purpose

Mr. Speaker, it's an accepted fact that prior to the emergence of International Business in the late 1980's and the early 1990's Tourism was the main pillar of the Bermuda economy, and the majority of our visitors arrived by air. Although the majority of the visitors to the Island arrived by air cruise travellers were an important segment of our tourism market and Bermuda was and remains important to the cruise line industry. Bermuda's natural beauty and the charm of its people are the salient characteristics which attract cruise visitors.

Mr. Speaker, there are often public discussions, debates and comparisons drawn on the air visitors versus cruise visitors, the pros and cons of each and in particular their value and contribution to the local economy. There are some very strong views and opinions on the air versus cruise visitor subject but I think it is important to remember that all visitors arriving by airplane or cruise ship are important to our economy.

Mr. Speaker, the reality is in recent years the majority of our visitors have arrived by cruise ship and these ships and visitors make a substantial contribution to our economy and provide business opportunities for Bermudians. In essence Bermuda's tourism industry was built on cruise passengers dating back to the 1920's when ocean transportation was the only means of travel to and from the Island, the introduction of air travel in the middle of the last century naturally resulted in its emergence as the primary form of travel. But, Bermuda's cruise market continues to be a highly desirable and sought after destination. Due to our geographical location and the proximity to the USA eastern seaboard Bermuda is the only Island destination which can facilitate seven day cruise itineraries departing from north eastern cities in the USA.

Bermuda is in the unique position of having the potential to generate as much cruise traffic as desired. Bermuda is also in the enviable position of having three ports of call which provide a total of five berths compared to most Caribbean ports which generally have two cruise ship berths. Having multiple berths is definitely an advantage as they can be marketed separately within the cruise itinerary, however due to the increase and deployment of larger cruise ships there

are limitations with the ports of Hamilton and St. Georges.

Mr. Speaker, it is important that Bermuda maintains its position of strength in the cruise industry. This is for a number of reasons and I will mention a few.

1. Both Norwegian Cruise Line and Carnival Corporation have entered into long-term commitments with New York to provide more cruises in the future in return for infrastructure improvements. Their cruise ships have to sail somewhere, and we are a close and convenient destination. Royal Caribbean has also staked a strong claim to the northeast, and they are currently redeveloping their Homeport in Bayonne New Jersey to accommodate their existing and new class of cruise vessels.

2. Bermuda offers a premium product compared to many other destinations. Cruise line surveys show that people tend to cruise to Bermuda not only because of the cruise ship or cruise line but also because of the destination. Presently, we cannot accommodate all of the requests we get from cruise lines, in particular the larger cruise ships docking at Dockyard.

3The National Tourism Plan 2012 that will be implemented by the new Bermuda Tourism Authority recommends a target of 415,000 cruise visitor arrivals by 2015, and 422,000 cruise visitor arrivals by 2022. This year's estimate for cruise visitors is 343,000.

Mr. Speaker, the cruise industry is important to Bermuda and in order to develop strategies, to achieve these targets that were set out in the unanimously endorsed National

Tourism Plan, better understanding of the cruise ship product particularly within the Bermuda context, is paramount. We need to ensure that Bermuda continues to provide a competitive cruise product.

Mr. Speaker, Bermuda's major competitors are other summer destinations, namely Alaska, Europe, and to a lesser degree Canada/New England. Until 2008, Bermuda was losing market share to these geographic destinations, in particular Alaska. However, Alaska dramatically increased their cruise passenger tax, which resulted in many cruise lines reducing the number of ships sailing there. Alaska has since reduced their passenger tax, and is now regaining some of the market share they lost to us.

Europe, which includes the Mediterranean and Northern Europe, is also a major competitor to Bermuda. In recent years, a number of new ports have been developed resulting in many new and interesting itineraries. In 2010 alone, there was a 16% increase in cruise capacity in Europe. Current geo-political and economic realities in Greece, Spain, Portugal, the UK and North Africa Red Sea destinations may impact growth moving forward, and Bermuda may be in a position to benefit from this situation. As previously stated understanding our competition and the cruise lines decision making process forms an important pillar of our Cruise Ship Policy, which enables us to continue to deliver a competitive product.

Cruise lines make decisions based on a number of factors, including customer requests and satisfaction ratings, berth availability and generally Bermuda does well with customer satisfaction ratings compared to other destinations. We

are still considered a safe and premium destination, providing a high-quality product. But ultimately, the primary deployment consideration for cruise lines is the revenue received from each sailing. Cruise lines measure profits based on three categories; the ticket prices they receive for each itinerary; operational costs such as fuel; Government fees and port dues, and the amount of on-board revenue.

Mr. Speaker, cruises to Bermuda usually achieve higher ticket prices compared to many other destinations, but lower than Alaska and Europe. Cruises to Canada and New England in the fall season also generate higher ticket prices than Bermuda.

Cruises to Bermuda generate less on-board revenue than other destinations. This is due to the following factors:

- Cruises to Bermuda generally experience higher operational costs than many other destinations and itineraries. These costs include our high Cruise Passenger and Cabin Taxes, which is amongst the highest in the world. Cruises to Bermuda also use more fuel, due to the long sailing distance from their home ports and Bermuda.
- Cruises to Bermuda sell fewer shore excursions than many other destinations. This is due to the longer stays that ships have on the Island, and our excellent transportation system both public and private, which allows visitors ample time and transportation options to experience the Island without booking shore excursions and finally;
- Most ships spend multiple nights in Bermuda, with shops, casinos and other revenue sources closed while in port;

Mr. Speaker, even though cruises to Bermuda may not generate as much profit as some of our summer competitors, we are still of strategic importance to cruise lines when they are making their deployment considerations. Therefore we have a corresponding responsibility to effectively work and partner with the cruise lines to address and consider some of their concerns.

The subject of “opening casinos” for overnighting ships is continuously a high priority item for discussion for cruise principals that currently deploy their vessels to Bermuda and also those considering Bermuda. Bermuda is one of the few ports in the world where ships routinely have multiple night stays and currently the requirement is that the casinos and shops must remain closed while the ships are in port. Through our discussions with cruise principals they have clearly stated this policy has a huge effect on on-board revenue and that the on-board revenue is achieved mainly through their casinos and shops. This is particularly true for the smaller and older ships that can physically dock in St. George’s and Hamilton, but chose not to sail here because of limited revenue potential while in port overnight.

While the destination is a very important consideration for an individual considering a cruise, the type of cruise ship including the cruise line and the onboard amenities is also very important to the discerning cruise passenger. For cruise passenger considering a Bermuda cruise the lack of gaming for 30% to 40% of the nights onboard is the only disqualifier.

Mr. Speaker, I refer to my earlier statements about understanding your customer wants and desires, and the

importance of remaining competitive and current and for these reasons and after careful consideration this Bill is being considered in this Honorable House today.

Mr. Speaker, there are some who may feel the broader issue of gaming in Bermuda should be resolved first and I will reaffirm the OBA's commitment to have a referendum on gaming in the very near and not too distant future. But the cruise ship "opening of casinos" in the evening, while in port, is a separate and distinct matter. The fact that ships routinely overnight in Bermuda puts us in an enviable position, as other competing destinations are providing concessions to encourage cruise lines to overnight in their ports. Several other jurisdictions have recently modified their gambling legislation to permit cruise ship casino gambling while in port; notably Barbados, Gibraltar, and Bahamas. In those instances, the respective Governments negotiated licence fees, established permitting criteria, and achieved longer stays in port. Other destinations that allow in port gaming include the US Virgin Islands, Antigua and Barbuda and Aruba to name a few.

Mr. Speaker, we appreciate that as a cruise destination Bermuda is unique, but we have to remain competitive, and allowing cruise lines to open their casinos, in the evening while in port, is a mutually beneficial proposition. The cruise lines stand to increase their on-board revenue while keeping an important amenity available for their guest and the Bermuda Government will earn revenue from the licence fees.

To qualify for opening of casinos, the cruise ship must be in port one night or more, and approvals and authorizations

will be granted for the entire period that the ship calls on Bermuda, during any one season for ships making fifteen (15) or more calls. A season is between the period of April 1st through November 30th each calendar year. For occasional callers, ships making fourteen (14) or less calls that seek to open their casinos, will be authorized on a per voyage basis.

As an incentive to encourage cruise lines operating ships that are capable of berthing in the port of Hamilton and St. Georges, cruise ships with a passenger capacity not exceeding 2000 will not be charged a licence fee. In our discussions with the operators of these smaller, and often older ships, they have shared with us that they are at a competitive disadvantage compared to the larger and newer ships that berth at Dockyard. Not charging them a permit fee will assist in placing them in a more competitive position.

Mr. Speaker, I would like to bring to your attention and to the attention of the Honourable members, there is an anomaly in Clause 6 of the Bill and in the second schedule, as it does not provide a per voyage licence fee for cruise ships making 14 or less voyages to Bermuda. This matter has been raised with the Attorney-General's Chambers and it is agreed Clause 6 and Schedule 2 needs to be slightly amended. This will be addressed when we go into committee. I would like to thank the Honourable Member, MP Terry Lister for noticing this anomaly.

Mr. Speaker, the operating hours for the casinos will be between the hours of 9 p.m. and 5 a.m. and at no other times during the day. The use of the casino is to be limited to passengers on board the ship only. No local residents or visitors to the ship will be allowed to participate in casino

activities.

Mr. Speaker, the obvious question and concern is what impact this will have on our local retailers, restaurateurs and entertainment businesses that rely on cruise passengers to support their businesses. Our research has indicated that the majority of visiting cruise passengers return to their ship by 9 p.m., and by this time most of our retail shops are closed. However, and I want to emphasise the word however, if the destination provides good products, that include good entertainment and amenities that goes beyond the traditional offerings, the passenger will stay ashore to take in the local experience and spend money. Not all cruise passengers purchase their tickets at a discounted price, many of the passengers are well-heeled and high income earners, and these new ships have one and two bedroom suites with butler services on their upper decks that have a price point comparable to high end resorts. These high net income passengers chose to cruise because of the product and service that is offered, and similarly they will patronize local businesses if we have the products on offer that they desire. Therefore, the impact to local businesses will be minimal and our ministry will closely monitor and analyze the impact to this segment of our local businesses and enterprise

Mr. Speaker, in closing I would like to restate the importance of the cruise visitor business in our national tourism strategy. It is a fact that the cruise visitor spend and contribution to the local economy is less, when compared to the air visitor, but that does not mean that they are not important. There is no Bermuda Government marketing spend to attract cruise visitor to our Island, the cruise lines do their own marketing and promotion of Bermuda.

Mr. Speaker, what we need to focus and improve on is providing improved and better products to encourage and increase visitor spend, and we also need to have a well-directed and focused campaign on converting those cruise passengers into air visitors. They are all coming from home ports that are within our largest capture market with flights that take a couple of hours to reach here. A one (1) out of twenty (20) or 5% conversion rate would be equivalent to an annual increase of fifteen (15) to twenty (20) thousand air passengers, an untapped potential that is being hand delivered to us.

I believe, by allowing the cruise lines that overnight, to open their casinos under strict controls, will provide their guests with another amenity to enhance their Bermuda visit; will provide Government with much needed revenue, and will give us a negotiating tool to attract the smaller ships to berth in Hamilton and St. George's.

Thank you, **Mr. Speaker**.

PART III CLAUSE BY CLAUSE

This Bill seeks to provide for the operation of casinos on-board a cruise ship while it is docked in a designated port in Bermuda; and amends the Prohibition on Gaming Machines Act 2001 and the Criminal Code Act 1907 to exempt licensed cruise ships from gaming restrictions.

Clause 1 - provides the title of the Bill.

Clause 2 - provides definitions for various expressions in the Bill including the meanings of “casino”, “cruise ship”, and “licensed cruise ship”.

Clause 3 - prohibits the operation of a casino on a cruise ship docked at a designated port in Bermuda without a licence.

Clause 4 - provides the grounds on which a cruise ship is eligible to receive a licence.

Clause 5 - provides how application for a licence can be made, specifically that the owner of a cruise ship, or an agent on behalf of the owner, may make written application to the Minister for a licence to operate a casino; and, the Minister may consider when approving an application the opportunities of employment that would be created for Bermudians onboard a cruise ship and the promotion and advertising of Bermuda as a tourist destination.

Clause 6 - provides that the Minister may, on receiving a written application, grant a licence for the operation of a casino on-board a cruise ship while it is docked at a

designated port in Bermuda. It also provides that (a) the licence may be granted on such terms and conditions as the Minister sees fit, and (b) the licence is valid for one cruise ship season, may be renewed for a further cruise ship season and is not transferable.

Clause 7 - provides that the licence fee shall be paid into the Consolidated Fund and shall be in the amount prescribed in Schedule 2. It also provides cruise ships carrying less than 2000 passengers are not liable to pay the licence fee.

Clause 8 - provides that the Minister may suspend, refuse, revoke, or vary a licence on the specified grounds of failing to comply with the terms and conditions of a licence or the provisions of the Act, for providing misleading, false, or fraudulent representation. It also provides that (a) prior to the suspension, refusal, or revocation, the cruise ship applicant or licensee must be notified why the licence is being suspended, refused, or revoked and gives the licensee or applicant an opportunity to plead, in writing, why the licence should remain valid or why the licence should be issued; and (b) that notice of any suspension revocation or refusal shall be given by registered mail to the applicant's or licensee's last known address.

Clause 9 - provides that any applicant or licensee that does not agree with the decision of the Minister to suspend, refuse or revoke, a licence has a means of appealing that decision to the Supreme Court. The practice and procedures of any appeal made by an applicant or licensee are governed by the rules of the Supreme Court.

Clause 10 - provides that a licence shall be conspicuously displayed near any casino on a cruise ship.

Clause 11 - provides the conditions of operation of a casino on a licensed cruise ship: (a) the casino can only be open between the hours of 9 p.m. and 5 a.m.; and (b) only passengers, on-board a cruise ship, are allowed to participate in gaming in a casino.

Clause 12 - provides that Minister may appoint a public officer to act as an inspector to board a licensed cruise ship while docked in Bermuda to ensure compliance with the licence and any provisions of the Act. The public officer may inspect any casino located on-board a cruise ship and may require the operator of the casino to provide whatever information is required to carry out an inspection.

Clause 13 - provides the summary offence of operating a casino without a licence or contrary to the terms or conditions of any licence, the fine being \$20,000.

Clause 14 - provides the summary offence of wrongfully procuring a licence by providing false information, the fine being \$10,000.

Clause 15 - provides the summary offence of failing to comply with a customs officer while attempting to perform his duties or failing to comply with any requirement made by a customs officer, the fine being \$5,000.

Clause 16 - provides the summary offence of failing to display a licence at the entrance of any casino, the fine being \$1,000.

Clause 17 - gives the police the power to arrest without warrant a person who is guilty of an offence under the Act.

Clause 18 - provides that the Minister may make regulations to carry out the purposes of the Act.

Clause 19 - provides that the Minister may, by order, amend the Schedules to the Act. Both Regulations and orders made under that Act are subject to the negative resolution procedure.

Clause 20 - provides consequential amendments to the Prohibition on Gaming Machines Act 2001 by inserting the definition of “cruise ship” to distinguish between cruise ships as defined and other categories of passenger ships by adding the categories of vessels that are exempted from the prohibition on the importation of gaming machines provided in the Act.

Clause 21 - makes a related amendment to the Criminal Code Act 1907. Under section 155(2) of the Criminal Code Act 1907, it is an offence to keep a gaming house. A new subsection (3) has been inserted into section 155 to exempt a person operating a casino on a cruise ship from the application of the offence provision under section 155(2).

Clause 22 - provides the commencement of the Bill.

PART IV POTENTIAL QUESTIONS