



U.S. Department of
Transportation

Cabotage definition and standards for emergency exemption

Cabotage is the carriage of revenue traffic by a foreign air carrier solely between two U.S. points, other than as part of a through trip on that same foreign carrier that involves travel to or from a foreign point. Cabotage has long been banned by U.S. law (49 U.S.C. §41703(c)), except in certain emergency circumstances.

Thus, for example, because of the cabotage prohibition, Air France could not carry a Los Angeles-originating passenger on a one-way flight from LA to New York. However, it could carry the passenger from LA to New York if the passenger had a through Air France ticket to Paris and, following a stopover in New York, boarded another Air France flight to Paris.

For cabotage purposes, "United States" includes all U.S. territories. Thus, for example, a foreign carrier could not carry a revenue passenger solely within American Samoa or between American Samoa and Honolulu. That would constitute prohibited cabotage.

The cabotage prohibition has been narrowly interpreted and strictly enforced by the Department of Transportation. Exceptions on anything other than the limited emergency basis described below would require legislation.

The one area where exceptions are possible is in the case of "emergencies" that meet specific statutory criteria. The "emergency cabotage" exception to the general cabotage prohibition allows the Department to grant an exemption to a foreign carrier, for up to 30-day periods, to conduct cabotage operations, if:

1. Because of an emergency created by unusual circumstances not arising in the normal course of business, U.S. carriers cannot accommodate the traffic;
2. All possible efforts have been made to accommodate that traffic using U.S. air carriers;
3. The exemption is necessary to avoid undue hardship for the traffic; and
4. In a situation involving a labor dispute, the exemption will not result in an unreasonable advantage to any party.

It should be noted that the assertion that U.S. carriers actively serving a domestic market are charging excessive fares provides no basis for concluding that the criteria justifying an emergency grant have been met.

One instance where the Department has granted emergency cabotage authority in the wake of a service disruption was in 2003/2004, when we authorized Polynesian Airlines to conduct small-aircraft inter-island passenger operations within American Samoa in markets where the incumbent U.S. passenger carrier had suspended service. As soon as U.S. passenger carrier services were once again available in the market, the statutory criteria for permitting cabotage ended and we ceased awarding cabotage authority.

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