



MARINE TORTS & CASUALTIES COMMITTEE

Notice of Meeting and 2nd Amended Meeting Agenda

Wednesday, May 3, 2023
1015 hrs to 1145 hrs EST

In Person: Holland & Knight LLP
31 West 52nd Street, New York, New York 10019

In-Person Attendance Instructions:

Please e-mail your name and firm/company affiliation to our Secretary, Adam Deitz, who is compiling a list for building security: adam@marinerlaw.com

Zoom Attendance Instructions:

You must register in advance for this meeting using this link:

<https://us02web.zoom.us/join/zoom/register/tZMtdO-gpzspG9axduBnPku6V2xdMBZdQP8l>

After registering, you will receive a confirmation email containing information about joining the meeting.

1. Welcome and Introductions (*Frederick B. Goldsmith, Goldsmith & Ogrodowski, LLC, Chair*)
2. The Small Passenger Vessel Liability Fairness Act and its Amendment of the Vessel Owners' Limitation of Liability Act (*Gregory M. Burts, Phelps Dunbar, LLP, YLC Liaison*)
3. The Small Passenger Vessel Safety Act, an update (*Adam E. Deitz, Mariner Law, PLLC, Tacoma, Secretary*)
4. U.S. Coast Guard Response to Sexual Assault and Sexual Harassment (*Mr. Deitz*)
5. Spring 2023 Issue of *Bitter End Bulletin* (*Mr. Deitz*)
6. Distinguished Guest Speaker: The Honorable John G. Ingram, Retired Justice, New York State Supreme Court and Judicial Member, Maritime Law Association of the U.S. (*Introduced by Mr. Goldsmith*) (topics to include perspectives from 34 years of maritime law practice, observations from 17 years on the bench, insights into trial and mediation of maritime and other cases)
7. Questions, Comments, Discussion of Recent Significant Legal Developments
8. Concluding Remarks (*Mr. Goldsmith*)

Amendments to the Limitation of Liability Act 46 USC 30501, et seq.

The following is the draft text of the Limitation of Liability Act with the amendments contained in James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 PL 117-263, December 23, 2022, 136 Stat 2395 noted in RED

T. 46 subch. III ch. 305 subch. I prec. § 30501
“Subchapter I—General Provisions”

~~In this chapter, the term “owner” includes a charterer that mans, supplies, and navigates a vessel at the charterer’s own expense or by the charterer’s own procurement.~~

“SUBCHAPTER I—GENERAL PROVISIONS”

§ 30501. Definitions.

“In this chapter:

“(1) COVERED SMALL PASSENGER VESSEL.—The term ‘covered small passenger vessel’—

“(A) means a small passenger vessel, as defined in section 2101¹, that is—

“(i) not a wing-in-ground craft; and

“(ii) carrying—

“(I) not more than 49 passengers on an overnight domestic voyage; and

“(II) not more than 150 passengers on any voyage that is not an overnight domestic voyage; and

“(B) includes any wooden vessel constructed prior to March 11, 1996, carrying at least 1 passenger for hire.

¹ 46 USC § 2101 definition of ‘small passenger vessel’ provided for reference:

(45) “small passenger vessel” means a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and a vessel of less than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—

(A) carrying more than 6 passengers, including at least one passenger for hire;

(B) that is chartered with the crew provided or specified by the owner or the owner’s representative and carrying more than 6 passengers;

(C) that is chartered with no crew provided or specified by the owner or the owner’s representative and carrying more than 12 passengers;

(D) that is a submersible vessel carrying at least one passenger for hire; or

(E) that is a ferry carrying more than 6 passengers.

“(2) OWNER.—The term ‘owner’ includes a charterer that mans, supplies, and navigates a vessel at the charterer’s own expense or by the charterer’s own procurement.”.

46 U.S.C.A. § 30502

~~Except as otherwise provided, this chapter (except section 30503) applies to seagoing vessels and vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters.~~

“SUBCHAPTER II—EXONERATION AND LIMITATION OF LIABILITY”

§ 30502. Application

“(a) IN GENERAL.—Except as otherwise provided, this chapter (except section 30521) applies to seagoing vessels and vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters.

“(b) EXCEPTION.—This chapter (except for section 30526) shall not apply to covered small passenger vessels.”

~~46 U.S.C.A. § 30503~~ 46 USCA § 30521

T. 46 sub. III ch. 305 subch. II prec. § 30503

“Subchapter II—Exoneration and Limitation of Liability

(a) In general.--If a shipper of an item named in subsection (b), contained in a parcel, package, or trunk, loads the item as freight or baggage on a vessel, without at the time of loading giving to the person receiving the item a written notice of the true character and value of the item and having that information entered on the bill of lading, the owner and master of the vessel are not liable as carriers. The owner and master are not liable beyond the value entered on the bill of lading.

(b) Items.--The items referred to in subsection (a) are precious metals, gold or silver plated articles, precious stones, jewelry, trinkets, watches, clocks, glass, china, coins, bills, securities, printings, engravings, pictures, stamps, maps, papers, silks, furs, lace, and similar items of high value and small size.

~~46 U.S.C.A. § 30504~~ 46 USCA § 30522

The owner of a vessel is not liable for loss or damage to merchandise on the vessel caused by a fire on the vessel unless the fire resulted from the design or neglect of the owner.

~~46 U.S.C.A. § 30505~~ 46 USCA § 30523

(a) In general.--Except as provided in section ~~30506~~ 30524 of this title, the liability of the owner of a vessel for any claim, debt, or liability described in subsection (b) shall not exceed the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner’s proportionate interest in the vessel and pending freight.

(b) Claims subject to limitation.--Unless otherwise excluded by law, claims, debts, and liabilities subject to limitation under subsection (a) are those arising from any embezzlement, loss, or destruction of any property, goods, or merchandise shipped or put on board the vessel, any loss, damage, or injury by collision, or any act, matter, or thing, loss, damage, or forfeiture, done, occasioned, or incurred, without the privity or knowledge of the owner.

(c) Wages.--Subsection (a) does not apply to a claim for wages.

~~46 U.S.C.A. § 30506~~ 46 USCA § 30524

(a) Application.--This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

(b) Minimum liability.--If the amount of the vessel owner's liability determined under section ~~30505~~ **30523** of this title is insufficient to pay all losses in full, and the portion available to pay claims for personal injury or death is less than \$420 times the tonnage of the vessel, that portion shall be increased to \$420 times the tonnage of the vessel. That portion may be used only to pay claims for personal injury or death.

(c) Calculation of tonnage.--Under subsection (b), the tonnage of a self-propelled vessel is the gross tonnage without deduction for engine room, and the tonnage of a sailing vessel is the tonnage for documentation. However, space for the use of seamen is excluded.

(d) Claims arising on distinct occasions.--Separate limits of liability apply to claims for personal injury or death arising on distinct occasions.

(e) Privity or knowledge.--In a claim for personal injury or death, the privity or knowledge of the master or the owner's superintendent or managing agent, at or before the beginning of each voyage, is imputed to the owner.

~~46 U.S.C.A. § 30507~~ 46 USCA § 30525

If the amounts determined under sections ~~30505~~ **30523** and ~~30506~~ **30524** of this title are insufficient to pay all claims--

(1) all claimants shall be paid in proportion to their respective losses out of the amount determined under section ~~30505~~ **30523** of this title; and

(2) personal injury and death claimants, if any, shall be paid an additional amount in proportion to their respective losses out of the additional amount determined under section ~~30506(b)~~ **30524(b)** of this title.

~~46 U.S.C.A. § 30508~~ 46 USCA § 30526

(a) Application.--This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

(b) Minimum time limits.--The owner, master, manager, or agent of a vessel transporting passengers or property between ports in the United States, or between a port in the United States and a port in a foreign country, may not limit by regulation, contract, or otherwise the period for--

(1) giving notice of, or filing a claim for, personal injury or death “, in the case of seagoing vessels,” to less than 6 months after the date of the injury or death “or in the case of covered small passenger vessels, to less than two years after the date of the injury or death”; or

(2) bringing a civil action for personal injury or death “, in the case of seagoing vessels,” to less than one year after the date of the injury or death “, or in the case of covered small passenger vessels, to less than two years after the date of the injury or death”.

(c) Effect of failure to give notice.--When notice of a claim for personal injury or death is required by a contract, the failure to give the notice is not a bar to recovery if--

(1) the court finds that the owner, master, or agent of the vessel had knowledge of the injury or death and the owner has not been prejudiced by the failure;

(2) the court finds there was a satisfactory reason why the notice could not have been given; or

(3) the owner of the vessel fails to object to the failure to give the notice.

(d) Tolling of period to give notice.--If a claimant is a minor or mental incompetent, or if a claim is for wrongful death, any period provided by a contract for giving notice of the claim is tolled until the earlier of--

(1) the date a legal representative is appointed for the minor, incompetent, or decedent's estate; or

(2) 3 years after the injury or death.

~~46 U.S.C.A. § 30509~~ 46 USCA § 30527

(a) Prohibition.--

(1) In general.--The owner, master, manager, or agent of a vessel transporting passengers between ports in the United States, or between a port in the United States and a port in a foreign country, may not include in a regulation or contract a provision limiting--

(A) the liability of the owner, master, or agent for personal injury or death caused by the negligence or fault of the owner or the owner's employees or agents; or

(B) the right of a claimant for personal injury or death to a trial by court of competent jurisdiction.

(2) Voidness.--A provision described in paragraph (1) is void.

(b) Emotional distress, mental suffering, and psychological injury.--

(1) In general.--Subsection (a) does not prohibit a provision in a contract or in ticket conditions of carriage with a passenger that relieves an owner, master, manager, agent, operator, or crewmember of a vessel from liability for infliction of emotional distress, mental suffering, or

psychological injury so long as the provision does not limit such liability when the emotional distress, mental suffering, or psychological injury is--

(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator;

(B) the result of the claimant having been at actual risk of physical injury, and the risk was caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator; or

(C) intentionally inflicted by a crewmember or the owner, master, manager, agent, or operator.

(2) Sexual offenses.--This subsection does not limit the liability of a crewmember or the owner, master, manager, agent, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.

~~46 U.S.C.A. § 30510~~ 46 USCA § 30528

In a civil action by any person in which the owner or operator of a vessel or employer of a crewmember is claimed to have vicarious liability for medical malpractice with regard to a crewmember occurring at a shoreside facility, and to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, the owner, operator, or employer is entitled to rely on any statutory limitations of liability applicable to the doctor, hospital, medical facility, or other health care provider in the State of the United States in which the shoreside medical care was provided.

~~46 U.S.C.A. § 30511~~ 46 USCA § 30529

(a) In general.--The owner of a vessel may bring a civil action in a district court of the United States for limitation of liability under this chapter. The action must be brought within 6 months after a claimant gives the owner written notice of a claim.

(b) Creation of fund.--When the action is brought, the owner (at the owner's option) shall--

(1) deposit with the court, for the benefit of claimants--

(A) an amount equal to the value of the owner's interest in the vessel and pending freight, or approved security; and

(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter; or

(2) transfer to a trustee appointed by the court, for the benefit of claimants--

(A) the owner's interest in the vessel and pending freight; and

(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter.

(c) Cessation of other actions.--When an action has been brought under this section and the owner has complied with subsection (b), all claims and proceedings against the owner related to the matter in question shall cease.

~~46 U.S.C.A. § 30512~~ **46 USCA § 30530**

This chapter does not affect the liability of an individual as a master, officer, or seaman, even though the individual is also an owner of the vessel.

Source of Amendment:

PL 117-263, December 23, 2022, 136 Stat 2395

James M. Inhofe National Defense Authorization Act for Fiscal Year 2023

[Act is divided into 11 'Divisions']

(11) Division K - "Don Young Coast Guard Authorization Act of 2022" [page 2237 of 2473]

Title CXV – Maritime

Subtitle A- Vessel Safety

Sec. 11503. Exoneration and limitation of liability for small passenger vessels

United States Code Annotated
Title 46. Shipping (Refs & Annos)
Subtitle III. Maritime Liability
Chapter 305. Exoneration and Limitation of Liability
Subchapter I. General Provisions

46 U.S.C.A. § 30501
Formerly cited as 46 App. USCA § 186

§ 30501. Definitions

Effective: December 23, 2022
[Currentness](#)

In this chapter:

(1) Covered small passenger vessel.--The term “covered small passenger vessel”--

(A) means a small passenger vessel, as defined in [section 2101](#), that is--

(i) not a wing-in-ground craft; and

(ii) carrying--

(I) not more than 49 passengers on an overnight domestic voyage; and

(II) not more than 150 passengers on any voyage that is not an overnight domestic voyage; and

(B) includes any wooden vessel constructed prior to March 11, 1996, carrying at least 1 passenger for hire.

(2) Owner.--The term “owner” includes a charterer that mans, supplies, and navigates a vessel at the charterer's own expense or by the charterer's own procurement.

CREDIT(S)

([Pub.L. 109-304](#), § 6(c), Oct. 6, 2006, 120 Stat. 1512; [Pub.L. 117-263](#), Div. K, Title CXV, § 11503(b), Dec. 23, 2022, 136 Stat. 4130.)

[Notes of Decisions \(93\)](#)

46 U.S.C.A. § 30501, 46 USCA § 30501

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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United States Code Annotated
Title 46. Shipping (Refs & Annos)
Subtitle III. Maritime Liability
Chapter 305. Exoneration and Limitation of Liability
Subchapter I. General Provisions

46 U.S.C.A. § 30502
Formerly cited as 46 App. USCA § 188

§ 30502. Application

Effective: December 23, 2022
[Currentness](#)

(a) In general.--Except as otherwise provided, this chapter (except [section 30521](#)) applies to seagoing vessels and vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters.

(b) Exception.--This chapter (except for [section 30526](#)) shall not apply to covered small passenger vessels.

CREDIT(S)

(Pub.L. 109-304, § 6(c), Oct. 6, 2006, 120 Stat. 1512; Pub.L. 117-263, Div. K, Title CXV, § 11503(c), Dec. 23, 2022, 136 Stat. 4130.)

[Notes of Decisions \(58\)](#)

46 U.S.C.A. § 30502, 46 USCA § 30502

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30503

[§ 30503. Transferred to 46 U.S.C.A. § 30521. Pub.L. 117-263,
Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130]

Effective: December 23, 2022

[Currentness](#)

46 U.S.C.A. § 30503, 46 USCA § 30503

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30504

[§ 30504. Transferred to 46 U.S.C.A. § 30522. Pub.L. 117-263,
Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130]

Effective: December 23, 2022

[Currentness](#)

46 U.S.C.A. § 30504, 46 USCA § 30504

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30505

[§ 30505. Transferred to 46 U.S.C.A. § 30523. Pub.L. 117-263,
Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130]

Effective: December 23, 2022

[Currentness](#)

46 U.S.C.A. § 30505, 46 USCA § 30505

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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46 U.S.C.A. § 30506

[§ 30506. Transferred to 46 U.S.C.A. § 30524. Pub.L. 117-263,
Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130]

Effective: December 23, 2022

[Currentness](#)

46 U.S.C.A. § 30506, 46 USCA § 30506

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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46 U.S.C.A. § 30507

[§ 30507. Transferred to 46 U.S.C.A. § 30525. Pub.L. 117-263,
Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130]

Effective: December 23, 2022

[Currentness](#)

46 U.S.C.A. § 30507, 46 USCA § 30507

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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46 U.S.C.A. § 30508

[§ 30508. Transferred to 46 U.S.C.A. § 30526. Pub.L. 117-263,
Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130]

Effective: December 23, 2022

[Currentness](#)

46 U.S.C.A. § 30508, 46 USCA § 30508

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subtitle III. Maritime Liability
Chapter 305. Exoneration and Limitation of Liability
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46 U.S.C.A. § 30509

[§ 30509. Transferred to 46 U.S.C.A. § 30527. Pub.L. 117-263,
Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130]

Effective: December 23, 2022

[Currentness](#)

46 U.S.C.A. § 30509, 46 USCA § 30509

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subtitle III. Maritime Liability
Chapter 305. Exoneration and Limitation of Liability
Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30510

[§ 30510. Transferred to 46 U.S.C.A. § 30528. Pub.L. 117-263,
Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130]

Effective: December 23, 2022

[Currentness](#)

46 U.S.C.A. § 30510, 46 USCA § 30510

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subtitle III. Maritime Liability
Chapter 305. Exoneration and Limitation of Liability
Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30511

[§ 30511. Transferred to 46 U.S.C.A. § 30529. Pub.L. 117-263,
Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130]

Effective: December 23, 2022

[Currentness](#)

46 U.S.C.A. § 30511, 46 USCA § 30511

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Chapter 305. Exoneration and Limitation of Liability
Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30512

[§ 30512. Transferred to 46 U.S.C.A. § 30530. Pub.L. 117-263,
Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130]

Effective: December 23, 2022

[Currentness](#)

46 U.S.C.A. § 30512, 46 USCA § 30512

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30521

Formerly cited as 46 USCA § 30503 Formerly cited as 46 App. USCA § 181

§ 30521. Declaration of nature and value of goods

Effective: December 23, 2022

[Currentness](#)

(a) In general.--If a shipper of an item named in subsection (b), contained in a parcel, package, or trunk, loads the item as freight or baggage on a vessel, without at the time of loading giving to the person receiving the item a written notice of the true character and value of the item and having that information entered on the bill of lading, the owner and master of the vessel are not liable as carriers. The owner and master are not liable beyond the value entered on the bill of lading.

(b) Items.--The items referred to in subsection (a) are precious metals, gold or silver plated articles, precious stones, jewelry, trinkets, watches, clocks, glass, china, coins, bills, securities, printings, engravings, pictures, stamps, maps, papers, silks, furs, lace, and similar items of high value and small size.

CREDIT(S)

(Pub.L. 109-304, § 6(c), Oct. 6, 2006, 120 Stat. 1512, § 30503; renumbered § 30521, Pub.L. 117-263, Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130.)

[Notes of Decisions \(61\)](#)

46 U.S.C.A. § 30521, 46 USCA § 30521

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30522

Formerly cited as 46 USCA § 30504 Formerly cited as 46 App. USCA § 182

§ 30522. Loss by fire

Effective: December 23, 2022

[Currentness](#)

The owner of a vessel is not liable for loss or damage to merchandise on the vessel caused by a fire on the vessel unless the fire resulted from the design or neglect of the owner.

CREDIT(S)

([Pub.L. 109-304](#), § 6(c), Oct. 6, 2006, 120 Stat. 1513, § 30504; renumbered § 30522, [Pub.L. 117-263](#), Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130.)

[Notes of Decisions \(272\)](#)

46 U.S.C.A. § 30522, 46 USCA § 30522

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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United States Code Annotated
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Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30523

Formerly cited as 46 USCA § 30505 Formerly cited as 46 App. USCA § 183; 46 App. USCA § 189

§ 30523. General limit of liability

Effective: December 23, 2022

[Currentness](#)

(a) In general.--Except as provided in [section 30524](#) of this title, the liability of the owner of a vessel for any claim, debt, or liability described in subsection (b) shall not exceed the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner's proportionate interest in the vessel and pending freight.

(b) Claims subject to limitation.--Unless otherwise excluded by law, claims, debts, and liabilities subject to limitation under subsection (a) are those arising from any embezzlement, loss, or destruction of any property, goods, or merchandise shipped or put on board the vessel, any loss, damage, or injury by collision, or any act, matter, or thing, loss, damage, or forfeiture, done, occasioned, or incurred, without the privity or knowledge of the owner.

(c) Wages.--Subsection (a) does not apply to a claim for wages.

CREDIT(S)

([Pub.L. 109-304](#), § 6(c), Oct. 6, 2006, 120 Stat. 1513, § 30505; renumbered § 30523 and amended, [Pub.L. 117-263](#), Div. K, Title CXV, § 11503(a)(3), (f)(2), Dec. 23, 2022, 136 Stat. 4130, 4131.)

[Notes of Decisions \(1899\)](#)

46 U.S.C.A. § 30523, 46 USCA § 30523

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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United States Code Annotated
Title 46. Shipping (Refs & Annos)
Subtitle III. Maritime Liability
Chapter 305. Exoneration and Limitation of Liability
Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30524

Formerly cited as 46 USCA § 30506 Formerly cited as 46 App. USCA § 183

§ 30524. Limit of liability for personal injury or death

Effective: December 23, 2022

[Currentness](#)

(a) Application.--This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

(b) Minimum liability.--If the amount of the vessel owner's liability determined under [section 30523](#) of this title is insufficient to pay all losses in full, and the portion available to pay claims for personal injury or death is less than \$420 times the tonnage of the vessel, that portion shall be increased to \$420 times the tonnage of the vessel. That portion may be used only to pay claims for personal injury or death.

(c) Calculation of tonnage.--Under subsection (b), the tonnage of a self-propelled vessel is the gross tonnage without deduction for engine room, and the tonnage of a sailing vessel is the tonnage for documentation. However, space for the use of seamen is excluded.

(d) Claims arising on distinct occasions.--Separate limits of liability apply to claims for personal injury or death arising on distinct occasions.

(e) Privity or knowledge.--In a claim for personal injury or death, the privity or knowledge of the master or the owner's superintendent or managing agent, at or before the beginning of each voyage, is imputed to the owner.

CREDIT(S)

([Pub.L. 109-304](#), § 6(c), Oct. 6, 2006, 120 Stat. 1513, § 30506; renumbered § 30524 and amended, [Pub.L. 117-263](#), Div. K, Title CXV, § 11503(a)(3), (f)(3), Dec. 23, 2022, 136 Stat. 4130, 4131.)

Notes of Decisions (19)

46 U.S.C.A. § 30524, 46 USCA § 30524

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30525

Formerly cited as 46 USCA § 30507 Formerly cited as 46 App. USCA § 183; 46 App. USCA § 184

§ 30525. Apportionment of losses

Effective: December 23, 2022

[Currentness](#)

If the amounts determined under [sections 30523](#) and [30524](#) of this title are insufficient to pay all claims--

(1) all claimants shall be paid in proportion to their respective losses out of the amount determined under [section 30523](#) of this title; and

(2) personal injury and death claimants, if any, shall be paid an additional amount in proportion to their respective losses out of the additional amount determined under [section 30524\(b\)](#) of this title.

CREDIT(S)

([Pub.L. 109-304](#), § 6(c), Oct. 6, 2006, 120 Stat. 1513, § 30507; renumbered § 30525 and amended, [Pub.L. 117-263](#), Div. K, Title CXV, § 11503(a)(3), (f)(4), Dec. 23, 2022, 136 Stat. 4130, 4131.)

[Notes of Decisions \(79\)](#)

46 U.S.C.A. § 30525, 46 USCA § 30525

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30526

Formerly cited as 46 USCA § 30508 Formerly cited as 46 App. USCA § 183; 46 App. USCA § 183b

§ 30526. Provisions requiring notice of claim or limiting time for bringing action

Effective: December 23, 2022

[Currentness](#)

(a) Application.--This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

(b) Minimum time limits.--The owner, master, manager, or agent of a vessel transporting passengers or property between ports in the United States, or between a port in the United States and a port in a foreign country, may not limit by regulation, contract, or otherwise the period for--

(1) giving notice of, or filing a claim for, personal injury or death, in the case of seagoing vessels, to less than 6 months after the date of the injury or death, or in the case of covered small passenger vessels, to less than two years after the date of the injury or death; or

(2) bringing a civil action for personal injury or death, in the case of seagoing vessels, to less than one year after the date of the injury or death, or in the case of covered small passenger vessels, to less than two years after the date of the injury or death.

(c) Effect of failure to give notice.--When notice of a claim for personal injury or death is required by a contract, the failure to give the notice is not a bar to recovery if--

(1) the court finds that the owner, master, or agent of the vessel had knowledge of the injury or death and the owner has not been prejudiced by the failure;

(2) the court finds there was a satisfactory reason why the notice could not have been given; or

(3) the owner of the vessel fails to object to the failure to give the notice.

(d) Tolling of period to give notice.--If a claimant is a minor or mental incompetent, or if a claim is for wrongful death, any period provided by a contract for giving notice of the claim is tolled until the earlier of--

- (1) the date a legal representative is appointed for the minor, incompetent, or decedent's estate; or
- (2) 3 years after the injury or death.

CREDIT(S)

(Pub.L. 109-304, § 6(c), Oct. 6, 2006, 120 Stat. 1514, § 30508; renumbered § 30526 and amended, Pub.L. 117-263, Div. K, Title CXV, § 11503(a)(3), (d), Dec. 23, 2022, 136 Stat. 4130, 4131.)

[Notes of Decisions \(133\)](#)

46 U.S.C.A. § 30526, 46 USCA § 30526

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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46 U.S.C.A. § 30527

Formerly cited as 46 USCA § 30509 Formerly cited as 46 App. USCA § 183c

§ 30527. Provisions limiting liability for personal injury or death

Effective: December 23, 2022

[Currentness](#)

(a) Prohibition.--

(1) In general.--The owner, master, manager, or agent of a vessel transporting passengers between ports in the United States, or between a port in the United States and a port in a foreign country, may not include in a regulation or contract a provision limiting--

(A) the liability of the owner, master, or agent for personal injury or death caused by the negligence or fault of the owner or the owner's employees or agents; or

(B) the right of a claimant for personal injury or death to a trial by court of competent jurisdiction.

(2) Voidness.--A provision described in paragraph (1) is void.

(b) Emotional distress, mental suffering, and psychological injury.--

(1) In general.--Subsection (a) does not prohibit a provision in a contract or in ticket conditions of carriage with a passenger that relieves an owner, master, manager, agent, operator, or crewmember of a vessel from liability for infliction of emotional distress, mental suffering, or psychological injury so long as the provision does not limit such liability when the emotional distress, mental suffering, or psychological injury is--

(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator;

(B) the result of the claimant having been at actual risk of physical injury, and the risk was caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator; or

(C) intentionally inflicted by a crewmember or the owner, master, manager, agent, or operator.

(2) Sexual offenses.--This subsection does not limit the liability of a crewmember or the owner, master, manager, agent, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.

CREDIT(S)

([Pub.L. 109-304](#), § 6(c), Oct. 6, 2006, 120 Stat. 1514, § 30509; renumbered § 30527, [Pub.L. 117-263](#), Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130.)

[Notes of Decisions \(44\)](#)

46 U.S.C.A. § 30527, 46 USCA § 30527

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30528

Formerly cited as 46 USCA § 30510 Formerly cited as 46 App. USCA § 183

§ 30528. Vicarious liability for medical malpractice with regard to crew

Effective: December 23, 2022

[Currentness](#)

In a civil action by any person in which the owner or operator of a vessel or employer of a crewmember is claimed to have vicarious liability for medical malpractice with regard to a crewmember occurring at a shoreside facility, and to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, the owner, operator, or employer is entitled to rely on any statutory limitations of liability applicable to the doctor, hospital, medical facility, or other health care provider in the State of the United States in which the shoreside medical care was provided.

CREDIT(S)

([Pub.L. 109-304](#), § 6(c), Oct. 6, 2006, 120 Stat. 1515, § 30510; renumbered § 30528, [Pub.L. 117-263](#), Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130.)

[Notes of Decisions \(3\)](#)

46 U.S.C.A. § 30528, 46 USCA § 30528

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subchapter II. Exoneration and Limitation of Liability

46 U.S.C.A. § 30529

Formerly cited as 46 USCA § 30511 Formerly cited as 46 App. USCA § 185

§ 30529. Action by owner for limitation

Effective: December 23, 2022

[Currentness](#)

(a) In general.--The owner of a vessel may bring a civil action in a district court of the United States for limitation of liability under this chapter. The action must be brought within 6 months after a claimant gives the owner written notice of a claim.

(b) Creation of fund.--When the action is brought, the owner (at the owner's option) shall--

(1) deposit with the court, for the benefit of claimants--

(A) an amount equal to the value of the owner's interest in the vessel and pending freight, or approved security; and

(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter; or

(2) transfer to a trustee appointed by the court, for the benefit of claimants--

(A) the owner's interest in the vessel and pending freight; and

(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter.

(c) Cessation of other actions.--When an action has been brought under this section and the owner has complied with subsection (b), all claims and proceedings against the owner related to the matter in question shall cease.

CREDIT(S)

(Pub.L. 109-304, § 6(c), Oct. 6, 2006, 120 Stat. 1515, § 30511; renumbered § 30529, Pub.L. 117-263, Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130.)

[Notes of Decisions \(523\)](#)

46 U.S.C.A. § 30529, 46 USCA § 30529

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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46 U.S.C.A. § 30530

Formerly cited as 46 USCA § 30512 Formerly cited as 46 App. USCA § 187

§ 30530. Liability as master, officer, or seaman not affected

Effective: December 23, 2022

[Currentness](#)

This chapter does not affect the liability of an individual as a master, officer, or seaman, even though the individual is also an owner of the vessel.

CREDIT(S)

([Pub.L. 109-304](#), § 6(c), Oct. 6, 2006, 120 Stat. 1516, § 30512; renumbered § 30530, [Pub.L. 117-263](#), Div. K, Title CXV, § 11503(a)(3), Dec. 23, 2022, 136 Stat. 4130.)

[Notes of Decisions \(13\)](#)

46 U.S.C.A. § 30530, 46 USCA § 30530

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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United States Code Annotated
Title 46. Shipping (Refs & Annos)
Subtitle II. Vessels and Seamen
Part B. Inspection and Regulation of Vessels
Chapter 33. Inspection Generally

46 U.S.C.A. § 3306

§ 3306. Regulations

Effective: January 1, 2021

[Currentness](#)

(a) To carry out this part and to secure the safety of individuals and property on board vessels subject to inspection, including covered small passenger vessels (as defined in subsection (n)(5)), the Secretary shall prescribe necessary regulations to ensure the proper execution of, and to carry out, this part in the most effective manner for--

(1) the design, construction, alteration, repair, and operation of those vessels, including superstructures, hulls, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, boilers, unfired pressure vessels, piping, electric installations, and accommodations for passengers and crew, sailing school instructors, and sailing school students;

(2) lifesaving equipment and its use;

(3) firefighting equipment, its use, and precautionary measures to guard against fire;

(4) inspections and tests related to paragraphs (1), (2), and (3) of this subsection; and

(5) the use of vessel stores and other supplies of a dangerous nature, including rechargeable devices utilized for personal or commercial electronic equipment.

(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that--

(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

(C) for lifesaving equipment, the foreign government--

(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.

(c) In prescribing regulations for sailing school vessels, the Secretary shall consult with representatives of the private sector having experience in the operation of vessels likely to be certificated as sailing school vessels. The regulations shall--

(1) reflect the specialized nature of sailing school vessel operations, and the character, design, and construction of vessels operating as sailing school vessels; and

(2) include requirements for notice to sailing school instructors and sailing school students about the specialized nature of sailing school vessels and applicable safety regulations.

(d) In prescribing regulations for nautical school vessels operated by the United States Merchant Marine Academy or by a State maritime academy (as defined in [section 51102](#) of this title), the Secretary shall consider the function, purpose, and operation of the vessels, their routes, and the number of individuals who may be carried on the vessels.

(e) When the Secretary finds it in the public interest, the Secretary may suspend or grant exemptions from the requirements of a regulation prescribed under this section related to lifesaving and firefighting equipment, muster lists, ground tackle and hawsers, and bilge systems.

(f) In prescribing regulations for offshore supply vessels, the Secretary shall consider the characteristics, methods of operation, and the nature of the service of offshore supply vessels.

(g) In prescribing regulations for fish processing or fish tender vessels, the Secretary shall consult with representatives of the private sector having experience in the operation of these vessels. The regulations shall reflect the specialized nature and economics of fish processing or fish tender vessel operations and the character, design, and construction of fish processing or fish tender vessels.

(h) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons as measured under [section 14502](#) of this title, or an alternate tonnage measured under [section 14302](#) of this title as prescribed by the Secretary under [section 14104](#) of this title carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of [section 2113\(4\)](#) of this title.

(i) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than ¹ 500 gross tons as measured under [section](#)

14502 of this title, or an alternate tonnage measured under [section 14302](#) of this title as prescribed by the Secretary under [section 14104](#) of this title carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of [section 2113\(4\)](#) of this title.

(j) The Secretary may establish by regulation a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels.

(k)(1) Each vessel of the United States that is constructed under a contract entered into after the date of enactment of the Maritime Safety Act of 2010, or that is delivered after January 1, 2011, with an aggregate capacity of 600 cubic meters or more of oil fuel, shall comply with the requirements of Regulation 12A under Annex I to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, entitled “Oil Fuel Tank Protection”.

(2) The Secretary may prescribe regulations to apply the requirements described in Regulation 12A to vessels described in paragraph (1) that are not otherwise subject to that convention. Any such regulation shall be considered to be an interpretive rule for the purposes of [section 553 of title 5](#).

(3) In this subsection the term “oil fuel” means any oil used as fuel in connection with the propulsion and auxiliary machinery of the vessel in which such oil is carried.

(l)(1) The Secretary shall require that a freight vessel inspected under this chapter be outfitted with distress signaling and location technology for the higher of--

(A) the minimum complement of officers and crew specified on the certificate of inspection for such vessel; or

(B) the number of persons onboard the vessel; and

(2) the requirement described in paragraph (1) shall not apply to vessels operating within the baseline from which the territorial sea of the United States is measured.

(m)(1) The Secretary shall promulgate regulations requiring companies to maintain records of all incremental weight changes made to freight vessels inspected under this chapter, and to track weight changes over time to facilitate rapid determination of the aggregate total.

(2) Records maintained under paragraph (1) shall be stored, in paper or electronic form, onboard such vessels for not less than 3 years and shoreside for the life of the vessel.

(n) **Covered small passenger vessels.--**

(1) **Regulations.--**The Secretary shall prescribe additional regulations to secure the safety of individuals and property on board covered small passenger vessels.

(2) Comprehensive review.--In order to prescribe the regulations under paragraph (1), the Secretary shall conduct a comprehensive review of all requirements (including calculations), in existence on the date of enactment of the Elijah E. Cummings Coast Guard Authorization Act of 2020, that apply to covered small passenger vessels, with respect to fire detection, protection, and suppression systems, and avenues of egress, on board such vessels.

(3) Requirements.--

(A) In general.--Subject to subparagraph (B), the regulations prescribed under paragraph (1) shall include, with respect to covered small passenger vessels, regulations for--

(i) marine firefighting training programs to improve crewmember training and proficiency, including emergency egress training for each member of the crew, to occur for all members on the crew--

(I) at least monthly while such members are employed on board the vessel; and

(II) each time a new crewmember joins the crew of such vessel;

(ii) in all areas on board the vessel where passengers and crew have access, including dining areas, sleeping quarters, and lounges--

(I) interconnected fire detection equipment, including audible and visual alarms; and

(II) additional fire extinguishers and other firefighting equipment;

(iii) the installation and use of monitoring devices to ensure the wakefulness of the required night watch;

(iv) increased fire detection and suppression systems (including additional fire extinguishers) on board such vessels in unmanned areas with machinery or areas with other potential heat sources;

(v) all general areas accessible to passengers to have no less than 2 independent avenues of escape that are--

(I) constructed and arranged to allow for free and unobstructed egress from such areas;

(II) located so that if one avenue of escape is not available, another avenue of escape is available; and

(III) not located directly above, or dependent on, a berth;

(vi) the handling, storage, and operation of flammable items, such as rechargeable batteries, including lithium ion batteries utilized for commercial purposes on board such vessels;

(vii) passenger emergency egress drills for all areas on the vessel to which passengers have access, which shall occur prior to the vessel beginning each excursion; and

(viii) all passengers to be provided a copy of the emergency egress plan for the vessel.

(B) Applicability to certain covered small passenger vessels.--The requirements described in clauses (iii), (v), (vii), and (viii) of subparagraph (A) shall only apply to a covered small passenger vessel that has overnight passenger accommodations.

(4) Interim requirements.--

(A) Interim requirements.--The Secretary shall, prior to issuing final regulations under paragraph (1), implement interim requirements to enforce the requirements under paragraph (3).

(B) Implementation.--The Secretary shall implement the interim requirements under subparagraph (A) without regard to chapters 5 and 6 of title 5 and [Executive Order Nos. 12866](#) and [13563](#) (5 U.S.C. 601 note; relating to regulatory planning and review and relating to improving regulation and regulatory review).

(5) Definition of covered small passenger vessel.--In this subsection, the term “covered small passenger vessel”--

(A) except as provided in subparagraph (B), means a small passenger vessel (as defined in [section 2101](#)) that--

(i) has overnight passenger accommodations; or

(ii) is operating on a coastwise or oceans route; and

(B) does not include a ferry (as defined in [section 2101](#)) or fishing vessel (as defined in [section 2101](#)).

CREDIT(S)

(Pub.L. 98-89, Aug. 26, 1983, 97 Stat. 513; Pub.L. 98-364, Title IV, § 402(5), July 17, 1984, 98 Stat. 446; Pub.L. 103-206, Title V, § 512(a), Dec. 20, 1993, 107 Stat. 2442; Pub.L. 104-324, Title VI, § 604(a), (c), Title VII, § 712, Oct. 19, 1996, 110 Stat. 3930, 3931, 3936; Pub.L. 108-293, Title IV, § 415(b), Aug. 9, 2004, 118 Stat. 1047; Pub.L. 109-304, § 15(12), Oct. 6, 2006, 120 Stat. 1703; Pub.L. 111-281, Title VI, § 612, Oct. 15, 2010, 124 Stat. 2970; Pub.L. 115-232, Div. C, Title XXXV, § 3542(b), Aug. 13, 2018, 132 Stat. 2324; Pub.L. 115-265, Title II, § 206(a)(1), Oct. 11, 2018, 132 Stat. 3746; Pub.L. 116-283, Div. G, Title LVXXXIV [LXXXIV], § 8441(a), Jan. 1, 2021, 134 Stat. 4742.)

Notes of Decisions (18)

Footnotes

1 So in original. Probably should be “than”.

46 U.S.C.A. § 3306, 46 USCA § 3306

Current through P.L. 117-338. Some statute sections may be more current, see credits for details.

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Subtitle II. Vessels and Seamen
Part A. General Provisions
Chapter 21. General (Refs & Annos)

46 U.S.C.A. § 2101

§ 2101. General definitions

Effective: December 4, 2018

[Currentness](#)

In this subtitle--

(1) “associated equipment”--

(A) means--

(i) a system, accessory, component, or appurtenance of a recreational vessel; or

(ii) a marine safety article intended for use on board a recreational vessel; but

(B) with the exception of emergency locator beacons for recreational vessels operating beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes, does not include radio equipment.

(2) “Coast Guard” means the organization established and continued under [section 1 of title 14](#)¹.

(3) “Commandant” means the Commandant of the Coast Guard.

(4) “commercial service” includes any type of trade or business involving the transportation of goods or individuals, except service performed by a combatant vessel.

(5) “consideration” means an economic benefit, inducement, right, or profit including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies.

(6) “crude oil” means a liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

(7) “crude oil tanker” means a tanker engaged in the trade of carrying crude oil.

(8) “dangerous drug” means a narcotic drug, a controlled substance, or a controlled substance analog (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 ([21 U.S.C. 802](#))).

(9) “discharge”, when referring to a substance discharged from a vessel, includes spilling, leaking, pumping, pouring, emitting, emptying, or dumping, however caused.

(10) “ferry” means a vessel that is used on a regular schedule--

(A) to provide transportation only between places that are not more than 300 miles apart; and

(B) to transport only--

(i) passengers; or

(ii) vehicles, or railroad cars, that are being used, or have been used, in transporting passengers or goods.

(11) “fish” means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life, except marine mammals and birds.

(12) “fishing vessel” means a vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

(13) “fish processing vessel” means a vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing, or brine chilling.

(14) “fish tender vessel” means a vessel that commercially supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish to or from a fishing, fish processing, or fish tender vessel or a fish processing facility.

(15) “freight vessel” means a motor vessel of more than 15 gross tons as measured under [section 14502](#) of this title, or an alternate tonnage measured under [section 14302](#) of this title as prescribed by the Secretary under [section 14104](#) of this title that carries freight for hire, except an oceanographic research vessel or an offshore supply vessel.

(16) “Great Lakes barge” means a non-self-propelled vessel of at least 3,500 gross tons as measured under [section 14502](#) of this title, or an alternate tonnage measured under [section 14302](#) of this title as prescribed by the Secretary under [section 14104](#) of this title operating on the Great Lakes.

(17) “hazardous material” means a liquid material or substance that is--

(A) flammable or combustible;

(B) designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act ([33 U.S.C. 1321](#)); or

(C) designated a hazardous material under [section 5103\(a\) of title 49](#).

(18) “major conversion” means a conversion of a vessel that--

(A) substantially changes the dimensions or carrying capacity of the vessel;

(B) changes the type of the vessel;

(C) substantially prolongs the life of the vessel; or

(D) otherwise so changes the vessel that it is essentially a new vessel, as decided by the Secretary.

(19) “marine environment” means--

(A) the navigable waters of the United States and the land and resources in and under those waters;

(B) the waters and fishery resources of an area over which the United States asserts exclusive fishery management authority;

(C) the seabed and subsoil of the outer Continental Shelf of the United States, the resources of the Shelf, and the waters superjacent to the Shelf; and

(D) the recreational, economic, and scenic values of the waters and resources referred to in subclauses (A)-(C) of this clause.

(20) “mobile offshore drilling unit” means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources.

(21) “motor vessel” means a vessel propelled by machinery other than steam.

(22) “nautical school vessel” means a vessel operated by or in connection with a nautical school or an educational institution under [section 558 of title 40](#).

(23) “navigable waters of the United States” includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

(24) “oceanographic research vessel” means a vessel that the Secretary finds is being employed only in instruction in oceanography or limnology, or both, or only in oceanographic or limnological research, including studies about the sea such as seismic, gravity meter, and magnetic exploration and other marine geophysical or geological surveys, atmospheric research, and biological research.

(25) “offshore supply vessel” means a motor vessel that regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

(26) “oil” includes oil of any type or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes except dredged spoil.

(27) “oil spill response vessel” means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.

(28) “overall in length” means--

(A) for a foreign vessel or a vessel engaged on a foreign voyage, the greater of--

(i) 96 percent of the length on a waterline at 85 percent of the least molded depth measured from the top of the keel (or on a vessel designed with a rake of keel, on a waterline parallel to the designed waterline); or

(ii) the length from the fore side of the stem to the axis of the rudder stock on that waterline; and

(B) for any other vessel, the horizontal distance of the hull between the foremost part of the stem and the aftermost part of the stern, excluding fittings and attachments.

(29) “passenger”--

(A) means an individual carried on the vessel except--

(i) the owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

(ii) the master; or

(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services;

(B) on an offshore supply vessel, means an individual carried on the vessel except--

(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

(ii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

(iii) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

(iv) an individual employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel;

(C) on a fishing vessel, fish processing vessel, or fish tender vessel, means an individual carried on the vessel except--

(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

(ii) a managing operator;

(iii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

(iv) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

(v) an observer or sea sampler on board the vessel pursuant to a requirement of State or Federal law; or

(D) on a sailing school vessel, means an individual carried on the vessel except--

(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

(ii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

(iii) an employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

(iv) a sailing school instructor or sailing school student.

(30) “passenger for hire” means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.

(31) “passenger vessel” means a vessel of at least 100 gross tons as measured under [section 14502](#) of this title, or an alternate tonnage measured under [section 14302](#) of this title as prescribed by the Secretary under [section 14104](#) of this title--

(A) carrying more than 12 passengers, including at least one passenger for hire;

(B) that is chartered and carrying more than 12 passengers;

(C) that is a submersible vessel carrying at least one passenger for hire; or

(D) that is a ferry carrying a passenger.

(32) “product carrier” means a tanker engaged in the trade of carrying oil except crude oil.

(33) “public vessel” means a vessel that--

(A) is owned, or demise chartered, and operated by the United States Government or a government of a foreign country; and

(B) is not engaged in commercial service.

(34) “recreational vessel” means a vessel--

(A) being manufactured or operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure.

(35) “recreational vessel manufacturer” means a person engaged in the manufacturing, construction, assembly, or importation of recreational vessels, components, or associated equipment.

(36) “riding gang member” means an individual who--

(A) has not been issued a merchant mariner document under chapter 73;

(B) does not perform--

(i) watchstanding, automated engine room duty watch, or personnel safety functions; or

(ii) cargo handling functions, including any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go;

(C) does not serve as part of the crew complement required under [section 8101](#);

(D) is not a member of the steward's department; and

(E) is not a citizen or temporary or permanent resident of a country designated by the United States as a sponsor of terrorism or any other country that the Secretary, in consultation with the Secretary of State and the heads of other appropriate United States agencies, determines to be a security threat to the United States.

(37) “sailing instruction” means teaching, research, and practical experience in operating vessels propelled primarily by sail and may include--

(A) any subject related to that operation and to the sea, including seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature; and

(B) only when in conjunction with a subject referred to in subclause (A) of this clause, instruction in mathematics and language arts skills to sailing school students having learning disabilities.

(38) “sailing school instructor” means an individual who is on board a sailing school vessel to provide sailing instruction, but does not include an operator or crewmember who is among those required to be on board the vessel to meet a requirement established under part F of this subtitle.

(39) “sailing school student” means an individual who is on board a sailing school vessel to receive sailing instruction.

(40) “sailing school vessel” means a vessel--

(A) that is less than 500 gross tons as measured under [section 14502](#) of this title, or an alternate tonnage measured under [section 14302](#) of this title as prescribed by the Secretary under [section 14104](#) of this title;

(B) carrying more than 6 individuals who are sailing school instructors or sailing school students;

(C) principally equipped for propulsion by sail, even if the vessel has an auxiliary means of propulsion; and

(D) owned or demise chartered, and operated by an organization described in [section 501\(c\)\(3\) of the Internal Revenue Code of 1986 \(26 U.S.C. 501\(c\)\(3\)\)](#) and exempt from tax under section 501(a) of that Code, or by a State or political subdivision of a State, during times that the vessel is operated by the organization, State, or political subdivision only for sailing instruction.

(41)(A) Subject to subparagraph (B), “scientific personnel” means individuals on board an oceanographic research vessel only to engage in scientific research, or to instruct or receive instruction in oceanography or limnology.

(B)(i) Such term includes an individual who is on board an oceanographic research vessel only to--

(I) engage in scientific research;

(II) instruct in oceanography or limnology; or

(III) receive instruction in oceanography or limnology.

(ii) For purposes of clause (i), the age of an individual may not be considered in determining whether the individual is described in such clause.

(42) “seagoing barge” means a non-self-propelled vessel of at least 100 gross tons as measured under [section 14502](#) of this title, or an alternate tonnage measured under [section 14302](#) of this title as prescribed by the Secretary under [section 14104](#) of this title making voyages beyond the Boundary Line.

(43) “seagoing motor vessel” means a motor vessel of at least 300 gross tons as measured under [section 14502](#) of this title, or an alternate tonnage measured under [section 14302](#) of this title as prescribed by the Secretary under [section 14104](#) of this title making voyages beyond the Boundary Line.

(44) “Secretary” means the Secretary of the department in which the Coast Guard is operating.

(45) “small passenger vessel” means a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and a vessel of less than 100 gross tons as measured under [section 14502](#) of this title, or an alternate tonnage measured under [section 14302](#) of this title as prescribed by the Secretary under [section 14104](#) of this title--

(A) carrying more than 6 passengers, including at least one passenger for hire;

(B) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying more than 6 passengers;

(C) that is chartered with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers;

(D) that is a submersible vessel carrying at least one passenger for hire; or

(E) that is a ferry carrying more than 6 passengers.

(46) “steam vessel” means a vessel propelled in whole or in part by steam, except a recreational vessel of not more than 40 feet in length.

(47) “submersible vessel” means a vessel that is capable of operating below the surface of the water.

(48) “tanker” means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous material in bulk in the cargo spaces.

(49) “tank vessel” means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that--

(A) is a vessel of the United States;

(B) operates on the navigable waters of the United States; or

(C) transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States.

(50) “towing vessel” means a commercial vessel engaged in or intending to engage in the service of pulling, pushing, or hauling along side, or any combination of pulling, pushing, or hauling along side.

(51) “uninspected passenger vessel” means an uninspected vessel--

(A) of at least 100 gross tons as measured under [section 14502](#) of this title, or an alternate tonnage measured under [section 14302](#) of this title as prescribed by the Secretary under [section 14104](#) of this title--

(i) carrying not more than 12 passengers, including at least one passenger for hire; or

(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 12 passengers; and

(B) of less than 100 gross tons as measured under [section 14502](#) of this title, or an alternate tonnage measured under [section 14302](#) of this title as prescribed by the Secretary under [section 14104](#) of this title--

(i) carrying not more than 6 passengers, including at least one passenger for hire; or

(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 6 passengers.

(52) “uninspected vessel” means a vessel not subject to inspection under [section 3301](#) of this title that is not a recreational vessel.

(53) “vessel of war” means a vessel--

(A) belonging to the armed forces of a country;

(B) bearing the external marks distinguishing vessels of war of that country;

(C) under the command of an officer commissioned by the government of that country and whose name appears in the appropriate service list or its equivalent; and

(D) staffed by a crew under regular armed forces discipline.

(54) “wing-in-ground craft” means a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water's surface.

CREDIT(S)

(Pub.L. 98-89, Aug. 26, 1983, 97 Stat. 501; Pub.L. 98-364, Title IV, § 402(1), July 17, 1984, 98 Stat. 445; Pub.L. 98-454, Title III, § 301(a), Oct. 5, 1984, 98 Stat. 1734; Pub.L. 98-557, § 34(a), Oct. 30, 1984, 98 Stat. 2876; Pub.L. 99-307, § 1(1), (2), May 19, 1986, 100 Stat. 444; Pub.L. 99-509, Title V, § 5102(b)(1), Oct. 21, 1986, 100 Stat. 1926; Pub.L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub.L. 99-640, §§ 10(b)(1), 11(a), 13(d), Nov. 10, 1986, 100 Stat. 3549 to 3551; Pub.L. 100-239, § 6(a)(1), Jan. 11, 1988, 101 Stat. 1781; Pub.L. 100-424, § 8(c)(1), Sept. 9, 1988, 102 Stat. 1593; Pub.L. 100-710, Title I, § 104(a)(1), (2), Nov. 23, 1988, 102 Stat. 4749; Pub.L. 101-225, Title II, § 209, Dec. 12, 1989, 103 Stat. 1913; Pub.L. 101-380, Title IV, § 4103(a)(2)(A), Aug. 18, 1990, 104 Stat. 511; Pub.L. 101-595, Title VI, § 603(1), Nov. 16, 1990, 104 Stat. 2993; Pub.L. 102-587, Title V, § 5208(a), Nov. 4, 1992, 106 Stat. 5075; Pub.L. 103-206, Title V, §§ 502 to 510, Dec. 20, 1993, 107 Stat. 2439; Pub.L. 103-272, § 5(l), July 5, 1994, 108 Stat. 1375; Pub.L. 104-324, Title VII, § 709, Title XI, § 1104(a), Oct. 19, 1996, 110 Stat. 3934, 3966; Pub.L. 105-383, Title III, § 301(b)(1), Nov. 13, 1998, 112 Stat. 3417; Pub.L. 107-217, § 3(m)(1), Aug. 21, 2002, 116 Stat. 1302; Pub.L. 107-295, Title IV, § 419, Nov. 25, 2002, 116 Stat. 2124; Pub.L. 109-241, Title III, §§ 301, 312(b),

July 11, 2006, 120 Stat. 526, 533; [Pub.L. 109-304](#), § 15(2), Oct. 6, 2006, 120 Stat. 1702; [Pub.L. 111-281](#), Title VI, §§ 617(a)(1)(A), 618, Oct. 15, 2010, 124 Stat. 2972, 2975; [Pub.L. 111-330](#), § 1(9), Dec. 22, 2010, 124 Stat. 3570; [Pub.L. 115-232](#), Div. C, Title XXXV, § 3541(a)(1), Aug. 13, 2018, 132 Stat. 2322; [Pub.L. 115-282](#), Title V, § 515, Dec. 4, 2018, 132 Stat. 4279.)

Footnotes

¹ See References to Sections of Title 14 Redesignated by [Pub.L. 115-282](#) note set out under this section.

46 U.S.C.A. § 2101, 46 USCA § 2101

Current through P.L. 117-262. Some statute sections may be more current, see credits for details.

One Hundred Seventeenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday,
the third day of January, two thousand and twenty-two*

An Act

To authorize appropriations for fiscal year 2023 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

(a) IN GENERAL.—This Act may be cited as the “James M. Inhofe National Defense Authorization Act for Fiscal Year 2023”.

(b) REFERENCES.—Any reference in this or any other Act to the “National Defense Authorization Act for Fiscal Year 2023” shall be deemed to be a reference to the “James M. Inhofe National Defense Authorization Act for Fiscal Year 2023”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into 11 divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.
- (4) Division D—Funding Tables.
- (5) Division E—Non-Department of Defense Matters.
- (6) Division F—Intelligence Authorization Act for Fiscal Year 2023.
- (7) Division G—Homeland Security.
- (8) Division H—Water Resources.
- (9) Division I—Department of State Authorizations.
- (10) Division J—Oceans and Atmosphere.
- (11) Division K—Don Young Coast Guard Authorization Act of 2022.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Organization of Act into divisions; table of contents.
- Sec. 3. Congressional defense committees.
- Sec. 4. Budgetary effects of this Act.
- Sec. 5. Explanatory statement.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Authorization of appropriations.

H. R. 7776—42

Subtitle E—Illegal Fishing and Forced Labor Prevention

Sec. 11329. Definitions.

CHAPTER 1—COMBATING HUMAN TRAFFICKING THROUGH SEAFOOD IMPORT
MONITORING

Sec. 11330. Enhancement of Seafood Import Monitoring Program Message Set in
Automated Commercial Environment system.

Sec. 11331. Data sharing and aggregation.

Sec. 11332. Import audits.

Sec. 11333. Availability of fisheries information.

Sec. 11334. Report on Seafood Import Monitoring Program.

Sec. 11335. Authorization of appropriations.

CHAPTER 2—STRENGTHENING INTERNATIONAL FISHERIES MANAGEMENT TO COMBAT
HUMAN TRAFFICKING

Sec. 11336. Denial of port privileges.

Sec. 11337. Identification and certification criteria.

Sec. 11338. Equivalent conservation measures.

Sec. 11339. Capacity building in foreign fisheries.

Sec. 11340. Training of United States observers.

Sec. 11341. Regulations.

TITLE CXIV—SUPPORT FOR COAST GUARD WORKFORCE

Subtitle A—Support for Coast Guard Members and Families

Sec. 11401. Coast Guard child care improvements.

Sec. 11402. Armed Forces access to Coast Guard child development services.

Sec. 11403. Cadet pregnancy policy improvements.

Sec. 11404. Combat-related special compensation.

Sec. 11405. Study on food security.

Subtitle B—Healthcare

Sec. 11406. Development of medical staffing standards for Coast Guard.

Sec. 11407. Healthcare system review and strategic plan.

Sec. 11408. Data collection and access to care.

Sec. 11409. Behavioral health policy.

Sec. 11410. Members asserting post-traumatic stress disorder or traumatic brain
injury.

Sec. 11411. Improvements to Physical Disability Evaluation System and transition
program.

Sec. 11412. Expansion of access to counseling.

Sec. 11413. Expansion of postgraduate opportunities for members of Coast Guard
in medical and related fields.

Sec. 11414. Study on Coast Guard medical facilities needs.

Sec. 11415. Study on Coast Guard telemedicine program.

Subtitle C—Housing

Sec. 11416. Study on Coast Guard housing access, cost, and challenges.

Sec. 11417. Audit of certain military housing conditions of enlisted members of
Coast Guard in Key West, Florida.

Sec. 11418. Study on Coast Guard housing authorities and privatized housing.

Sec. 11419. Strategy to improve quality of life at remote units.

Subtitle D—Other Matters

Sec. 11420. Report on availability of emergency supplies for Coast Guard per-
sonnel.

Sec. 11421. Fleet mix analysis and shore infrastructure investment plan.

TITLE CXV—MARITIME

Subtitle A—Vessel Safety

Sec. 11501. Responses to safety recommendations.

Sec. 11502. Requirements for DUKW amphibious passenger vessels.

Sec. 11503. Exoneration and limitation of liability for small passenger vessels.

Sec. 11504. At-sea recovery operations pilot program.

Sec. 11505. Historic wood sailing vessels.

Sec. 11506. Certificates of numbers for undocumented vessels.

Sec. 11507. Comptroller General review and report on Coast Guard oversight of
third-party organizations.

Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) **DUKW AMPHIBIOUS PASSENGER VESSEL.**—The term “DUKW amphibious passenger vessel” means a vessel that uses, modifies, or is derived from the GMC DUKW-353 design, and which is operating as a small passenger vessel in waters subject to the jurisdiction of the United States, as defined in section 2.38 of title 33, Code of Federal Regulations (or a successor regulation).

SEC. 11503. EXONERATION AND LIMITATION OF LIABILITY FOR SMALL PASSENGER VESSELS.

(a) **RESTRUCTURING.**—Chapter 305 of title 46, United States Code, is amended—

(1) by inserting before section 30501 the following:

“Subchapter I—General Provisions”;

(2) by inserting before section 30503 the following:

“Subchapter II—Exoneration and Limitation of Liability”;

and

(3) by redesignating sections 30503 through 30512 as sections 30521 through 30530, respectively.

(b) **DEFINITIONS.**—Section 30501 of title 46, United States Code, is amended to read as follows:

“§ 30501. Definitions

“In this chapter:

“(1) **COVERED SMALL PASSENGER VESSEL.**—The term ‘covered small passenger vessel’—

“(A) means a small passenger vessel, as defined in section 2101, that is—

“(i) not a wing-in-ground craft; and

“(ii) carrying—

“(I) not more than 49 passengers on an overnight domestic voyage; and

“(II) not more than 150 passengers on any voyage that is not an overnight domestic voyage; and

“(B) includes any wooden vessel constructed prior to March 11, 1996, carrying at least 1 passenger for hire.

“(2) **OWNER.**—The term ‘owner’ includes a charterer that mans, supplies, and navigates a vessel at the charterer’s own expense or by the charterer’s own procurement.”.

(c) **APPLICABILITY.**—Section 30502 of title 46, United States Code, is amended to read as follows:

“§ 30502. Application

“(a) **IN GENERAL.**—Except as otherwise provided, this chapter (except section 30521) applies to seagoing vessels and vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters.

“(b) **EXCEPTION.**—This chapter (except for section 30526) shall not apply to covered small passenger vessels.”.

(d) PROVISIONS REQUIRING NOTICE OF CLAIM OR LIMITING TIME FOR BRINGING ACTION.—Section 30526(b) of title 46, United States Code, as redesignated by subsection (a), is amended—

(1) in paragraph (1)—

(A) by inserting “, in the case of seagoing vessels,” after “personal injury or death”; and

(B) by inserting “, or in the case of covered small passenger vessels, to less than two years after the date of the injury or death” after “date of the injury or death”; and

(2) in paragraph (2)—

(A) by inserting “, in the case of seagoing vessels,” after “personal injury or death”; and

(B) by inserting “, or in the case of covered small passenger vessels, to less than two years after the date of the injury or death” after “date of the injury or death”.

(e) CHAPTER ANALYSIS.—The analysis for chapter 305 of title 46, United States Code, is amended—

(1) by inserting before the item relating to section 30501 the following:

“SUBCHAPTER I—GENERAL PROVISIONS”;

(2) by inserting after the item relating to section 30502 the following:

“SUBCHAPTER II—EXONERATION AND LIMITATION OF LIABILITY”;

(3) by striking the item relating to section 30501 and inserting the following:

“30501. Definitions.”;

and

(4) by redesignating the items relating to sections 30503 through 30512 as items relating to sections 30521 through 30530, respectively.

(f) CONFORMING AMENDMENTS.—Title 46, United States Code, is further amended—

(1) in section 14305(a)(5) by striking “section 30506” and inserting “section 30524”;

(2) in section 30523(a), as redesignated by subsection (a), by striking “section 30506” and inserting “section 30524”;

(3) in section 30524(b), as redesignated by subsection (a), by striking “section 30505” and inserting “section 30523”; and

(4) in section 30525, as redesignated by subsection (a)—

(A) in the matter preceding paragraph (1) by striking “sections 30505 and 30506” and inserting “sections 30523 and 30524”;

(B) in paragraph (1) by striking “section 30505” and inserting “section 30523”; and

(C) in paragraph (2) by striking “section 30506(b)” and inserting “section 30524(b)”.

SEC. 11504. AT-SEA RECOVERY OPERATIONS PILOT PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct a pilot program to evaluate the potential use of remotely controlled or autonomous operation and monitoring of certain vessels for the purposes of—

(1) better understanding the complexities of such at-sea operations and potential risks to navigation safety, vessel security, maritime workers, the public, and the environment;

(2) REPORT.—Not later than 1 year after the date on which the report under subsection (a)(2) is submitted, the Commandant shall submit to Congress a report on the plan required under paragraph (1).

TITLE CXV—MARITIME

Subtitle A—Vessel Safety

SEC. 11501. RESPONSES TO SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

<< 14 USCA § 721 >>

§ 721. Responses to safety recommendations

“(a) IN GENERAL.—Not later than 90 days after the National Transportation Safety Board submits to the Commandant a recommendation, and supporting justification for such recommendation, relating to transportation safety, the Commandant shall submit to the National Transportation Safety Board a written response to the recommendation, including whether the Commandant—

“(1) concurs with the recommendation;

“(2) partially concurs with the recommendation; or

“(3) does not concur with the recommendation.

“(b) EXPLANATION OF CONCURRENCE.—The Commandant shall include in a response submitted under subsection (a)—

“(1) with respect to a recommendation with which the Commandant concurs or partially concurs, an explanation of the actions the Commandant intends to take to implement such recommendation or part of such recommendation; and

“(2) with respect to a recommendation with which the Commandant does not concur, the reasons the Commandant does not concur.

“(c) FAILURE TO RESPOND.—If the National Transportation Safety Board has not received the written response required under subsection (a) by the end of the time period described in such subsection, the National Transportation Safety Board shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that such response has not been received.”.

<< 14 USCA T. 14 sub. I ch. 7 prec. § 701 >>

(b) CLERICAL AMENDMENT.—The analysis for chapter 7 of title 14, United States Code, is amended by adding at the end the following:

“721. Responses to safety recommendations.”.

<< 46 USCA § 3306 NOTE >>

SEC. 11502. REQUIREMENTS FOR DUKW AMPHIBIOUS PASSENGER VESSELS.

(a) RULEMAKING REQUIRED.—

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(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Commandant shall initiate a rulemaking to establish additional safety standards for DUKW amphibious passenger vessels.

(2) DEADLINE FOR REGULATIONS.—The regulations issued under paragraph (1) shall take effect not later than 18 months after the Commandant promulgates a final rule pursuant to such paragraph.

(b) REQUIREMENTS.—The regulations required under subsection (a) shall include the following:

(1) A requirement that operators of DUKW amphibious passenger vessels provide reserve buoyancy for such vessels through passive means, including watertight compartmentalization, built-in flotation, or such other means as determined appropriate by the Commandant, in order to ensure that such vessels remain afloat and upright in the event of flooding, including when carrying a full complement of passengers and crew.

(2) An identification, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, of limiting environmental conditions, such as weather, in which DUKW amphibious passenger vessels may safely operate and a requirement that such limiting conditions be described in the certificate of inspection of each DUKW amphibious passenger vessel.

(3) Requirements that an operator of a DUKW amphibious passenger vessel—

(A) proceed to the nearest harbor or safe refuge in any case in which a watch or warning is issued for wind speeds exceeding the wind speed equivalent used to certify the stability of such DUKW amphibious passenger vessel; and

(B) maintain and monitor a weather monitor radio receiver at the operator station of the vessel that is automatically activated by the warning alarm device of the National Weather Service.

(4) A requirement that—

(A) operators of DUKW amphibious passenger vessels inform passengers that seat belts may not be worn during waterborne operations;

(B) before the commencement of waterborne operations, a crew member shall visually check that the seatbelt of each passenger is unbuckled; and

(C) operators or crew maintain a log recording the actions described in subparagraphs (A) and (B).

(5) A requirement for annual training for operators and crew of DUKW amphibious passenger vessels, including—

(A) training for personal flotation and seat belt requirements, verifying the integrity of the vessel at the onset of each waterborne departure, identification of weather hazards, and use of National Weather Service resources prior to operation; and

(B) training for crew to respond to emergency situations, including flooding, engine compartment fires, man-overboard situations, and in water emergency egress procedures.

(c) CONSIDERATION.—In issuing the regulations required under subsection (a), the Commandant shall consider whether personal *4129 flotation devices should be required for the duration of the waterborne transit of a DUKW amphibious passenger vessel.

(d) WAIVER.—The Commandant may waive the reserve buoyancy requirements described in subsection (b)(1) for a DUKW amphibious passenger vessel if the Commandant certifies in writing, using the best available science, to the appropriate congressional committees that such requirement is not practicable or technically or practically achievable for such vessel.

(e) NOTICE TO PASSENGERS.—A DUKW amphibious passenger vessel that receives a waiver under subsection (d) shall provide a prominently displayed notice on its website, ticket counter, and each ticket for passengers that the vessel is exempt from meeting Coast Guard safety compliance standards concerning reserve buoyancy.

(f) INTERIM REQUIREMENTS.—Prior to issuing final regulations pursuant to subsection (a) and not later than 180 days after the date of enactment of this Act, the Commandant shall require that operators of DUKW amphibious passenger vessels implement the following requirements:

(1) Remove the canopies and any window coverings of such vessels for waterborne operations, or install in such vessels a canopy that does not restrict horizontal or vertical escape by passengers in the event of flooding or sinking.

(2) If a canopy and window coverings are removed from any such vessel pursuant to paragraph (1), require that all passengers wear a personal flotation device approved by the Coast Guard before the onset of waterborne operations of such vessel.

(3) Reengineer such vessels to permanently close all unnecessary access plugs and reduce all through-hull penetrations to the minimum number and size necessary for operation.

(4) Install in such vessels independently powered electric bilge pumps that are capable of dewatering such vessels at the volume of the largest remaining penetration in order to supplement an operable Higgins pump or a dewatering pump of equivalent or greater capacity.

(5) Install in such vessels not fewer than 4 independently powered bilge alarms.

(6) Conduct an in-water inspection of any such vessel after each time a through-hull penetration of such vessel has been removed or uncovered.

(7) Verify through an in-water inspection the watertight integrity of any such vessel at the outset of each waterborne departure of such vessel.

(8) Install underwater LED lights that activate automatically in an emergency.

(9) Otherwise comply with any other provisions of relevant Coast Guard guidance or instructions in the inspection, configuration, and operation of such vessels.

(g) IMPLEMENTATION.—The Commandant shall implement the interim requirements under subsection (f) without regard to chapters 5 and 6 of title 5, United States Code, and Executive Order Nos. 12866 and 13563 (5 U.S.C. 601 note).

(h) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee *4130 Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) DUKW AMPHIBIOUS PASSENGER VESSEL.—The term “DUKW amphibious passenger vessel” means a vessel that uses, modifies, or is derived from the GMC DUKW–353 design, and which is operating as a small passenger vessel in waters subject to the jurisdiction of the United States, as defined in section 2.38 of title 33, Code of Federal Regulations (or a successor regulation).

SEC. 11503. EXONERATION AND LIMITATION OF LIABILITY FOR SMALL PASSENGER VESSELS.

(a) RESTRUCTURING.—Chapter 305 of title 46, United States Code, is amended—

(1) by inserting before section 30501 the following:

T. 46 subt. III ch. 305 subch. I prec. § 30501

“Subchapter I—General Provisions”;

(2) by inserting before section 30503 the following:

T. 46 subd. III ch. 305 subch. II prec. § 30503

“Subchapter II—Exoneration and Limitation of Liability”;

and

<< 46 USCA § 30503 >>

<< 46 USCA § 30521 >>

<< 46 USCA § 30504 >>

<< 46 USCA § 30522 >>

<< 46 USCA § 30505 >>

<< 46 USCA § 30523 >>

<< 46 USCA § 30506 >>

<< 46 USCA § 30524 >>

<< 46 USCA § 30507 >>

<< 46 USCA § 30525 >>

<< 46 USCA § 30508 >>

<< 46 USCA § 30526 >>

<< 46 USCA § 30509 >>

<< 46 USCA § 30527 >>

<< 46 USCA § 30510 >>

<< 46 USCA § 30528 >>

<< 46 USCA § 30511 >>

<< 46 USCA § 30529 >>

<< 46 USCA § 30512 >>

<< 46 USCA § 30530 >>

(3) by redesignating sections 30503 through 30512 as sections 30521 through 30530, respectively.

(b) DEFINITIONS.—Section 30501 of title 46, United States Code, is amended to read as follows:

<< 46 USCA § 30501 >>

§ 30501. Definitions

“In this chapter:

“(1) COVERED SMALL PASSENGER VESSEL.—The term ‘covered small passenger vessel’—

“(A) means a small passenger vessel, as defined in section 2101, that is—

“(i) not a wing-in-ground craft; and

“(ii) carrying—

“(I) not more than 49 passengers on an overnight domestic voyage; and

“(II) not more than 150 passengers on any voyage that is not an overnight domestic voyage; and

“(B) includes any wooden vessel constructed prior to March 11, 1996, carrying at least 1 passenger for hire.

“(2) OWNER.—The term ‘owner’ includes a charterer that mans, supplies, and navigates a vessel at the charterer's own expense or by the charterer's own procurement.”.

(c) APPLICABILITY.—Section 30502 of title 46, United States Code, is amended to read as follows:

<< 46 USCA § 30501 >>

§ 30502. Application

“(a) IN GENERAL.—Except as otherwise provided, this chapter (except section 30521) applies to seagoing vessels and vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters.

“(b) EXCEPTION.—This chapter (except for section 30526) shall not apply to covered small passenger vessels.”.

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(d) PROVISIONS REQUIRING NOTICE OF CLAIM OR LIMITING TIME FOR BRINGING ACTION.—Section 30526(b) of title 46, United States Code, as redesignated by subsection (a), is amended—

(1) in paragraph (1)—

<< 46 USCA § 30526 >>

(A) by inserting “, in the case of seagoing vessels,” after “personal injury or death”; and

<< 46 USCA § 30526 >>

(B) by inserting “, or in the case of covered small passenger vessels, to less than two years after the date of the injury or death” after “date of the injury or death”; and

(2) in paragraph (2)—

<< 46 USCA § 30526 >>

(A) by inserting “, in the case of seagoing vessels,” after “personal injury or death”; and

<< 46 USCA § 30526 >>

(B) by inserting “, or in the case of covered small passenger vessels, to less than two years after the date of the injury or death” after “date of the injury or death”.

(e) CHAPTER ANALYSIS.—The analysis for chapter 305 of title 46, United States Code, is amended—

(1) by inserting before the item relating to section 30501 the following:

“SUBCHAPTER I—GENERAL PROVISIONS”;

(2) by inserting after the item relating to section 30502 the following:

<< 46 USCA T. 46 subt. III ch. 305 prec. § 30501 >>

“SUBCHAPTER II—EXONERATION AND LIMITATION OF LIABILITY”;

<< 46 USCA T. 46 subt. III ch. 305 prec. § 30501 >>

(3) by striking the item relating to section 30501 and inserting the following:

“30501. Definitions.”;

and

<< 46 USCA T. 46 subt. III ch. 305 prec. § 30501 >>

(4) by redesignating the items relating to sections 30503 through 30512 as items relating to sections 30521 through 30530, respectively.

(f) CONFORMING AMENDMENTS.—Title 46, United States Code, is further amended—

<< 46 USCA § 14305 >>

(1) in section 14305(a)(5) by striking “section 30506” and inserting “section 30524”;

<< 46 USCA § 30523 >>

(2) in section 30523(a), as redesignated by subsection (a), by striking “section 30506” and inserting “section 30524”;

<< 46 USCA § 30524 >>

(3) in section 30524(b), as redesignated by subsection (a), by striking “section 30505” and inserting “section 30523”; and

(4) in section 30525, as redesignated by subsection (a)—

<< 46 USCA § 30525 >>

(A) in the matter preceding paragraph (1) by striking “sections 30505 and 30506” and inserting “sections 30523 and 30524”;

<< 46 USCA § 30525 >>

(B) in paragraph (1) by striking “section 30505” and inserting “section 30523”; and

<< 46 USCA § 30525 >>

(C) in paragraph (2) by striking “section 30506(b)” and inserting “section 30524(b)”.

<< 14 USCA § 501 NOTE >>

SEC. 11504. AT-SEA RECOVERY OPERATIONS PILOT PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct a pilot program to evaluate the potential use of remotely controlled or autonomous operation and monitoring of certain vessels for the purposes of—

(1) better understanding the complexities of such at-sea operations and potential risks to navigation safety, vessel security, maritime workers, the public, and the environment;

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(2) gathering observational and performance data from monitoring the use of remotely-controlled or autonomous vessels; and

(3) assessing and evaluating regulatory requirements necessary to guide the development of future occurrences of such operations and monitoring activities.

(b) DURATION AND EFFECTIVE DATE.—The duration of the pilot program established under this section shall be not more than 5 years beginning on the date on which the pilot program is established, which shall be not later than 180 days after the date of enactment of this Act.

(c) AUTHORIZED ACTIVITIES.—The activities authorized under this section include—

(1) remote over-the-horizon monitoring operations related to the active at-sea recovery of spaceflight components on an unmanned vessel or platform;

(2) procedures for the unaccompanied operation and monitoring of an unmanned spaceflight recovery vessel or platform; and

(3) unmanned vessel transits and testing operations without a physical tow line related to space launch and recovery operations, except within 12 nautical miles of a port.

(d) INTERIM AUTHORITY.—In recognition of potential risks to navigation safety, vessel security, maritime workers, the public, and the environment, and the unique circumstances requiring the use of remotely operated or autonomous vessels, the Secretary, in the pilot program established under subsection (a), may—

(1) allow remotely controlled or autonomous vessel operations to proceed consistent to the extent practicable under the proposed title 33, United States Code, and 46, United States Code, including navigation and manning laws and regulations;

(2) modify or waive applicable regulations and guidance as the Secretary considers appropriate to—

(A) allow remote and autonomous vessel at-sea operations and activities to occur while ensuring navigation safety; and

(B) ensure the reliable, safe, and secure operation of remotely-controlled or autonomous vessels; and

(3) require each remotely operated or autonomous vessel to be at all times under the supervision of 1 or more individuals—

(A) holding a merchant mariner credential which is suitable to the satisfaction of the Coast Guard; and

(B) who shall practice due regard for the safety of navigation of the autonomous vessel, to include collision avoidance.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the Secretary to—

(1) permit foreign vessels to participate in the pilot program established under subsection (a);

(2) waive or modify applicable laws and regulations under the proposed title 33, United States Code, and title 46, United States Code, except to the extent authorized under subsection (d)(2);

(3) waive or modify applicable laws and regulations under titles 49 and 51 of the United States Code; or

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(4) waive or modify any regulations arising under international conventions.

(f) SAVINGS PROVISION.—Nothing in this section may be construed to authorize the employment in the coastwise trade of a vessel or platform that does not meet the requirements of sections 12112, 55102, 55103, and 55111 of title 46, United States Code.

(g) AUTHORITY UNAFFECTED.—Nothing in this section shall be construed to affect, impinge, or alter any authority of the Secretary of Transportation under titles 49 and 51, United States Code.

(h) BRIEFINGS.—The Secretary or the designee of the Secretary shall brief the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Science, Space, and Technology of the House of Representatives on the program established under subsection (a) on a quarterly basis.

(i) REPORT.—Not later than 180 days after the expiration of the pilot program established under subsection (a), the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Science, Space, and Technology of the House of Representatives a final report regarding an assessment of the execution of the pilot program and implications for maintaining navigation safety, the safety of maritime workers, and the preservation of the environment.

(j) GAO REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Comptroller General of the United States shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the state of autonomous and remote technologies in the operation of shipboard equipment and the safe and secure navigation of vessels in Federal waters of the United States.

(2) ELEMENTS.—The report required under paragraph (1) shall include the following:

(A) An assessment of commercially available autonomous and remote technologies in the operation of shipboard equipment and the safe and secure navigation of vessels during the 10 years immediately preceding the date of the report.

(B) An analysis of the safety, physical security, cybersecurity, and collision avoidance risks and benefits associated with autonomous and remote technologies in the operation of shipboard equipment and the safe and secure navigation of vessels, including environmental considerations.

(C) An assessment of the impact of such autonomous and remote technologies, and all associated technologies, on labor, including—

(i) roles for credentialed and noncredentialed workers regarding such autonomous, remote, and associated technologies; and

(ii) training and workforce development needs associated with such technologies.

(D) An assessment and evaluation of regulatory requirements necessary to guide the development of future autonomous, remote, and associated technologies in the *4134 operation of shipboard equipment and safe and secure navigation of vessels.

(E) An assessment of the extent to which such technologies are being used in other countries and how such countries have regulated such technologies.

(F) Recommendations regarding authorization, infrastructure, and other requirements necessary for the implementation of such technologies in the United States.

(3) CONSULTATION.—The report required under paragraph (1) shall include, at a minimum, consultation with the maritime industry including—

(A) vessel operators, including commercial carriers, entities engaged in exploring for, developing, or producing resources, including non-mineral energy resources in its offshore areas, and supporting entities in the maritime industry;

(B) shipboard personnel impacted by any change to autonomous vessel operations, in order to assess the various benefits and risks associated with the implementation of autonomous, remote, and associated technologies in the operation of shipboard equipment and safe and secure navigation of vessels and the impact such technologies would have on maritime jobs and maritime manpower;

(C) relevant federally funded research institutions, non-governmental organizations, and academia; and

(D) the commercial space industry.

(k) MERCHANT MARINER CREDENTIAL DEFINED.—In this section, the term “merchant mariner credential” means a merchant mariner license, certificate, or document that the Secretary is authorized to issue pursuant to title 46, United States Code.

SEC. 11505. HISTORIC WOOD SAILING VESSELS.

(a) REPORT ON HISTORIC WOOD SAILING VESSELS.—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report evaluating the practicability of the application of section 3306(n)(3)(A)(v) of title 46, United States Code, to historic wood sailing vessels.

(2) **ELEMENTS.**—The report required under paragraph (1) shall include the following:

(A) An assessment of the compliance, as of the date on which the report is submitted under paragraph (1), of historic wood sailing vessels with section 3306(n)(3)(A)(v) of title 46, United States Code.

(B) An assessment of the safety record of historic wood sailing vessels.

(C) An assessment of any risk that modifying the requirements under such section would have on the safety of passengers and crew of historic wood sailing vessels.

(D) An evaluation of the economic practicability of requiring the compliance of historic wood sailing vessels with such section and whether such compliance would meaningfully improve safety of passengers and crew in a manner that is both feasible and economically practicable.

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(E) Any recommendations to improve safety in addition to, or in lieu of, applying such section to historic wood sailing vessels.

(F) Any other recommendations as the Comptroller General determines are appropriate with respect to the applicability of such section to historic wood sailing vessels.

(G) An assessment to determine if historic wood sailing vessels could be provided an exemption to such section and the changes to legislative or rulemaking requirements, including modifications to section 177.500(q) of title 46, Code of

Federal Regulations (as in effect on the date of enactment of this Act), that are necessary to provide the Commandant the authority to make such exemption or to otherwise provide for such exemption.

(b) CONSULTATION.—In completing the report required under subsection (a), the Comptroller General may consult with—

(1) the National Transportation Safety Board;

(2) the Coast Guard; and

(3) the maritime industry, including relevant federally funded research institutions, nongovernmental organizations, and academia.

(c) WAIVER FOR COVERED HISTORIC VESSELS.—The captain of a port may waive the requirements of section 3306(n)(3)(A)(v) of title 46, United States Code, with respect to covered historic vessels for not more than 2 years after the date on which the report required under subsection (a) is submitted.

(d) WAIVER FOR OTHER HISTORIC WOOD SAILING VESSELS.—

(1) IN GENERAL.—The captain of a port may, upon the request of the owner or operator of a historic wood sailing vessel that is not a covered historic vessel, waive the requirements of section 3306(n)(3)(A)(v) of title 46, United States Code, with respect to the historic wood sailing vessel for not more than 2 years after date on which the report required under subsection (a) is submitted, if the captain of the port—

(A) determines that it is technically infeasible for the historic wood sailing vessel to comply with the requirements described in section 3306(n)(3)(A)(v) of title 46, United States Code, due to its age; and

(B) approves the alternative arrangements proposed for the historic wood sailing vessel in accordance with paragraph (2).

(2) REQUEST AND ALTERNATIVE ARRANGEMENTS.—An owner or operator of a historic wood sailing vessel requesting a waiver under paragraph (1) shall submit such a request to the captain of a port that includes the alternative arrangements the owner or operator will take to ensure an equivalent level of safety, to the maximum extent practicable, to the requirements under section 3306(n)(3)(A)(v) of title 46, United States Code.

(e) SAVINGS CLAUSE.—Nothing in this section shall limit any authority available, as of the date of enactment of this Act, to the captain of a port with respect to safety measures or any other authority as necessary for the safety of historic wood sailing vessels.

(f) NOTICE TO PASSENGERS.—Any vessel that receives a waiver under subsection (c) or subsection (d) shall, beginning on the date on which the requirements under section 3306(n)(3)(v) of title 46, United States Code, take effect, provide a prominently displayed notice on its website, ticket counter, and each ticket for a passenger ***4136** that the vessel is exempt from meeting the Coast Guard safety compliance standards concerning egress as described under such section.

(g) DEFINITIONS.—In this section:

(1) COVERED HISTORIC VESSELS.—The term “covered historic vessels” means each of the following:

(A) Adventuress (Official Number 210877).

(B) American Eagle (Official Number 229913).

(C) Angelique (Official Number 623562).

(D) Heritage (Official Number 649561).

(E) J & E Riggin (Official Number 226422).

(F) Ladona (Official Number 222228).

(G) Lady Washington (Official Number 944970).

(H) Lettie G. Howard (Official Number 222838).

(I) Lewis R. French (Official Number 015801).

(J) Mary Day (Official Number 288714).

(K) Stephen Taber (Official Number 115409).

(L) Victory Chimes (Official Number 136784).

(M) Grace Bailey (Official Number 085754).

(N) Mercantile (Official Number 214388).

(O) Mistress (Official Number 509004).

(P) Wendameen (Official Number 210173).

(2) HISTORIC WOOD SAILING VESSEL.—The term “historic wood sailing vessel” means a covered small passenger vessel, as defined in section 3306(n)(5) of title 46, United States Code, that—

(A) has overnight passenger accommodations;

(B) is a wood sailing vessel;

(C) has a hull constructed of wood;

(D) is principally equipped for propulsion by sail, even if the vessel has an auxiliary means of propulsion;

(E) has no fewer than three masts; and

(F) was constructed before 1986.

SEC. 11506. CERTIFICATES OF NUMBERS FOR UNDOCUMENTED VESSELS.

Section 12304(a) of title 46, United States Code, is amended—

<< 46 USCA § 12304 >>

(1) by striking “shall be pocketsized,”; and

<< 46 USCA § 12304 >>

(2) by inserting “in hard copy or digital form. Any certificate issued in hard copy under this section shall be pocketsized. The certificate shall be” after “and may be”.

**SEC. 11507. COMPTROLLER GENERAL REVIEW AND REPORT ON
COAST GUARD OVERSIGHT OF THIRD-PARTY ORGANIZATIONS.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall initiate a review that assesses the oversight of the Coast Guard of third-party organizations.

(b) ELEMENTS.—In carrying out the review required under subsection (a), the Comptroller General shall analyze the following:

(1) Coast Guard use of third-party organizations in the prevention mission of the Coast Guard and the extent to which the Coast Guard plans to increase such use to enhance prevention mission performance, including resource use and specialized expertise.

(2) The extent to which the Coast Guard has assessed the potential risks and benefits of using third-party organizations to support prevention mission activities.

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(3) The extent to which the Coast Guard provides oversight of third-party organizations authorized to support prevention mission activities.

(c) REPORT.—Not later than 1 year after initiating the review required under subsection (a), the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the results of such review.

<< 46 USCA § 8104 NOTE >>

SEC. 11508. ARTICULATED TUG-BARGE MANNING.

(a) IN GENERAL.—Notwithstanding the watch setting requirements set forth in section 8104 of title 46, United States Code, the Secretary shall authorize an Officer in Charge, Marine Inspection to issue an amended certificate of inspection that does not require engine room watch setting to inspected towing vessels certificated prior to July 19, 2022, forming part of an articulated tug-barge unit, provided that such vessels are equipped with engineering control and monitoring systems of a type accepted

for no engine room watch setting under a previously approved minimum safe manning document or certificate of inspection for articulated tug-barge units.

(b) DEFINITIONS.—In this section:

(1) CERTIFICATE OF INSPECTION.—The term “certificate of inspection” means a certificate of inspection under subchapter M of chapter I of title 46, Code of Federal Regulations.

(2) INSPECTED TOWING VESSEL.—The term “inspected towing vessel” means a vessel issued a certificate of inspection.

SEC. 11509. FISHING VESSEL SAFETY.

(a) IN GENERAL.—Chapter 45 of title 46, United States Code, is amended—

<< 46 USCA § 4502 >>

(1) in section 4502(f)(2) by striking “certain vessels described in subsection (b) if requested by the owner or operator; and” and inserting the following: “vessels described in subsection (b) if—

<< 46 USCA § 4502 >>

“(A) requested by an owner or operator; or

<< 46 USCA § 4502 >>

“(B) the vessel is—

“(i) at least 50 feet overall in length;

“(ii) built before July 1, 2013; and

“(iii) 25 years of age or older; and”;

<< 46 USCA § 4503 >>

(2) in section 4503(b) by striking “Except as provided in section 4503a, subsection (a)” and inserting “Subsection (a)”;

<< 46 USCA § 4503a >>

(3) by repealing section 4503a.

<< 46 USCA § 4502 NOTE >>

(b) ALTERNATIVE SAFETY COMPLIANCE AGREEMENTS.—Nothing in this section or the amendments made by this section shall be construed to affect or apply to any alternative compliance and safety agreement entered into by the Coast Guard that is in effect on the date of enactment of this Act.

<< 46 USCA T. 46 sub. II pt. B ch. 45 prec. § 4501 >>

(c) CONFORMING AMENDMENTS.—The analysis for chapter 45 of title 46, United States Code, is amended by striking the item relating to section 4503a.

<< 46 USCA § 3508 NOTE >>

SEC. 11510. EXEMPTIONS FOR CERTAIN PASSENGER VESSELS.

Notwithstanding any other provision of law, requirements authorized under sections 3508 and 3509 of title 46, United States Code, shall not apply to any passenger vessel, as defined in section 2101 of such title —

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- (1) that carries in excess of 250 passengers;
- (2) that is, or was, in operation exclusively within the inland rivers and internal waters of the United States on voyages inside the Boundary Line, as defined in section 103 of such title, on or before July 27, 2030; and
- (3) the operators or charterers of which operated any documented vessels with a coastwise endorsement prior to January 1, 2024.

SubtitleB—Merchant Mariner Credentialing

<< 46 USCA § 7502 NOTE >>

SEC. 11511. MODERNIZING MERCHANT MARINER CREDENTIALING SYSTEM.

(a) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Commandant shall submit to the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, and the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives, a report on the financial, human, and information technology infrastructure resources needed to establish an electronic merchant mariner licensing and documentation system.

(2) LEGISLATIVE AND REGULATORY SUGGESTIONS.—In preparing the report described in paragraph (1), the Commandant—

(A) shall include recommendations for any legislative or administrative actions as the Commandant determines necessary to establish the electronic merchant mariner licensing and documentation system described in paragraph (1) as soon as possible; and

(B) may include findings, conclusions, or recommendations from the study conducted under subsection (b).

(b) STUDY.—

(1) IN GENERAL.—In preparing the report required under subsection (a), the Commandant and the Administrator of the Maritime Administration, in coordination with the Commander of the United States Transportation Command, shall conduct a study on the feasibility of developing and maintaining a database as part of an electronic merchant mariner licensing and documentation system that—

(A) contains records with respect to each credentialed mariner, including credential validity, drug and alcohol testing results, and information on any final adjudicated agency action involving a credentialed mariner or regarding any involvement in a marine casualty; and

(B) maintains such records in a manner that allows data to be readily accessed by the Federal Government for the purpose of assessing workforce needs and for the purpose of the economic and national security of the United States.

(2) CONTENTS.—The study required under paragraph (1) shall—

(A) include an assessment of the resources, including information technology, and authorities necessary to *4139 develop and maintain the database described in such paragraph;

(B) specifically address ways to protect the privacy interests of any individual whose information may be contained within such database, which shall include limiting access to the database or having access to the database be monitored by, or accessed through, a member of the Coast Guard; and

(C) address the feasibility of incorporating in such database a reporting mechanism to alert the Administrator of the Maritime Administration each time a mariner's credential is reinstated upon completion of a period of suspension as the result of a suspension and revocation proceeding under section 7702 of title 46, United States Code, with details about the violation that led to such suspension.

(c) ELECTRONIC MERCHANT MARINER LICENSING AND DOCUMENTATION SYSTEM.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this Act, the Secretary shall implement an electronic merchant mariner licensing and documentation system.

**SEC. 11512. ASSESSMENT REGARDING APPLICATION
PROCESS FOR MERCHANT MARINER CREDENTIALS.**

(a) IN GENERAL.—The Secretary shall conduct an assessment to determine the resources, including personnel and computing resources, required to reduce the amount of time necessary to process an application for a merchant mariner credential to not more than 2 weeks after the date of receipt of such application.

(b) BRIEFING REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Secretary shall provide a briefing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives with the results of the assessment required under subsection (a).

SEC. 11513. GAO REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit a report to Congress that evaluates the processes of the National Maritime Center for processing and approving merchant mariner credentials, as of the date of enactment of this Act.

(b) CONTENTS.—In preparing the report required under subsection (a), the Comptroller General shall—

(1) analyze the effectiveness of the merchant mariner credentialing process, as of the date of enactment of this Act;

(2) analyze the backlogs relating to the merchant mariner credentialing process and the reasons for such backlogs; and

(3) provide recommendations for improving and expediting the merchant mariner credentialing process, including funding needed to support improved processing times.

<< 46 USCA § 7302 NOTE >>

SEC. 11514. MILITARY TO MARINERS ACT OF 2022.

(a) SHORT TITLE.—This section may be cited as the “Military to Mariners Act of 2022”.

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(b) MODIFICATION OF SEA SERVICE REQUIREMENTS FOR MERCHANT MARINER CREDENTIALS FOR VETERANS AND MEMBERS OF THE UNIFORMED SERVICES.—

(1) REVIEW AND REGULATIONS.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this Act, the Secretary shall—

(A) review and examine—

(i) the timeframes and impediments for veterans and members of the uniformed services to receive a merchant mariner credential;

(ii) the classifications of sea service acquired through training and service as a member of the Uniformed Services and level of equivalence such service has with respect to sea service on merchant vessels; and

(iii) the amount of sea service, including percent of the total time onboard for purposes of equivalent underway service, that will be accepted as required experience for all endorsements for applicants for a merchant mariner credential who are veterans or members of the Uniformed Services; and

(B) issue new regulations to—

(i) streamline, ensure the accuracy of, and expedite the transfer, review and acceptance of information pertaining to training and sea time for applicants for a merchant mariner credential who are veterans or members of the Uniformed Services;

(ii) increase the acceptable percentages of time equivalent to sea service for such applicants pursuant to findings of the review and examination conducted under subparagraph (A); and

(iii) reduce burdens and create a means of alternative compliance to demonstrate instructor competency for Standards of Training, Certification and Watchkeeping for Seafarers courses.

(2) CONSULTATION.—In carrying out paragraph (2), the Secretary shall consult with the National Merchant Marine Personnel Advisory Committee and shall take into account the present and future needs of the United States Merchant Marine labor workforce.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the United States Committee on the Marine Transportation System shall submit to the Committees on Commerce, Science, and Transportation and Armed Services of the Senate and the Committees on Transportation and Infrastructure and Armed Services of the House of Representatives, a report that contains an update on the activities carried out to implement—

(A) the July 2020 report by the Committee on the Marine Transportation System to the White House Office of Trade and Manufacturing Policy on the implementation of Executive Order 13860 (84 Fed. Reg. 8407; relating to supporting the transition of active duty servicemembers and military veterans into the Merchant Marine); and

(B) section 3511 of the National Defense Authorization Act for Fiscal Year 2020 (46 U.S.C. 3702 note).

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(c) **ASSESSMENT OF SKILLBRIDGE FOR EMPLOYMENT AS A MERCHANT MARINER.**—The Secretary, in collaboration with the Secretary of Defense, shall assess the use of the SkillBridge program of the Department of Defense as a means for transitioning active duty sea service personnel to employment as merchant mariners.

<< 46 USCA § 7302 NOTE >>

SEC. 11515. DEFINITIONS.

In this subtitle:

(1) **CREDENTIALLED MARINER.**—The term “credentialed mariner” means an individual with a merchant mariner credential.

(2) **MERCHANT MARINER CREDENTIAL.**—The term “merchant mariner credential” has the meaning given such term in section 7510(d) of title 46, United States Code.

(3) **UNIFORMED SERVICES.**—The term “uniformed services” has the meaning given the term “uniformed services” in section 2101 of title 5, United States Code.

SubtitleC—Other Matters

<< 46 USCA § 8701 NOTE >>

SEC. 11516. NONOPERATING INDIVIDUAL.

Section 8313(b) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) is amended by striking “the date that is 2 years after the date of the enactment of this Act” and inserting “January 1, 2025”.

SEC. 11517. OCEANOGRAPHIC RESEARCH VESSELS.

(a) **REPORT REQUIRED.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the total number of vessels known or estimated to operate or to have operated under section 50503 of title 46, United States Code, during each of the past 10 fiscal years.

(b) CONTENTS.—The report required under subsection (a) shall include the following elements:

(1) The total number of foreign-flagged vessels known or estimated to operate or to have operated as oceanographic research vessels (as such term is defined in section 2101 of title 46, United States Code) during each of the past 10 fiscal years.

(2) The total number of United States-flagged vessels known or estimated to operate or to have operated as oceanographic research vessels (as such term is defined section 2101 of title 46, United States Code) during each of the past 10 fiscal years.

SEC. 11518. PORT ACCESS ROUTES BRIEFING.

(a) ATLANTIC COAST PORT ACCESS ROUTE.—Not later than 30 days after the date of enactment of this Act, and not less than every 30 days thereafter until the requirements of section 70003 of title 46, United States Code, are fully executed with respect to the Atlantic Coast Port Access Route, the Secretary shall brief the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and *4142 Transportation of the Senate on any progress made to execute such requirements.

(b) OTHER COAST PORT ACCESS ROUTES.—Not later than 180 days after the date of enactment of this Act, and not less than every 180 days thereafter until the requirements of section 70003 of title 46, United States Code, are fully executed with respect to each of the Alaskan Arctic, Gulf of Mexico and Pacific Coast port access route studies, the Secretary shall brief the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of each study and the implementation of any recommendations made in each such study.

SEC. 11519. DEFINITION OF STATELESS VESSEL.

Section 70502(d)(1) of title 46, United States Code, is amended—

<< 46 USCA § 70502 >>

(1) in subparagraph (B) by striking “and” after the semicolon;

<< 46 USCA § 70502 >>

(2) in subparagraph (C) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

<< 46 USCA § 70502 >>

“(D) a vessel aboard which no individual, on request of an officer of the United States authorized to enforce applicable provisions of United States law, claims to be the master or is identified as the individual in charge, and that has no other claim of nationality or registry under paragraph (1) or (2) of subsection (e).”.

**SEC. 11520. LIMITATION ON RECOVERY FOR CERTAIN
INJURIES INCURRED IN AQUACULTURE ACTIVITIES.**

(a) IN GENERAL.—Section 30104 of title 46, United States Code, is amended—

<< 46 USCA § 30104 >>

<< 46 USCA § 30104 >>

(1) by inserting “(A) IN GENERAL.—” before the first sentence; and

(2) by adding at the end the following:

<< 46 USCA § 30104 >>

“(b) LIMITATION ON RECOVERY BY AQUACULTURE WORKERS.—

“(1) IN GENERAL.—For purposes of subsection (a), the term ‘seaman’ does not include an individual who—

“(A) is an aquaculture worker if State workers' compensation is available to such individual; and

“(B) was, at the time of injury, engaged in aquaculture in a place where such individual had lawful access.

“(2) AQUACULTURE WORKER DEFINED.—In this subsection, the term ‘aquaculture worker’ means an individual who—

“(A) is employed by a commercial enterprise that is involved in the controlled cultivation and harvest of aquatic plants and animals, including—

“(i) the cleaning, processing, or canning of fish and fish products;

“(ii) the cultivation and harvesting of shellfish; and

“(iii) the controlled growing and harvesting of other aquatic species;

“(B) does not hold a license issued under section 7101(c); and

“(C) is not required to hold a merchant mariner credential under part F of subtitle II.”.

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<< 46 USCA § 30104 NOTE >>

(b) APPLICABILITY.—The amendments made by this section shall apply to an injury incurred on or after the date of enactment of this Act.

SEC. 11521. REPORT ON SECURING VESSELS AND CARGO.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study that assesses the efforts of the Coast Guard with respect to securing vessels and maritime cargo bound for the United States from national security related risks and threats.

(b) ELEMENTS.—In conducting the study under subsection (a), the Comptroller General shall assess the following:

(1) Programs of the Coast Guard to secure vessels and maritime cargo bound for the United States from national security related risks and threats and the extent to which such programs cover the critical components of the global supply chain.

(2) The extent to which the Coast Guard has implemented leading practices in such programs, including the extent to which the Coast Guard has collaborated with foreign countries or foreign ports that ship goods to the United States to implement such leading practices.

(3) The extent to which the Coast Guard has assessed the effectiveness of such programs.

(c) REPORT.—Upon completion of the study conducted under subsection (a), the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the results of the study conducted under this section.

SEC. 11522. REPORT ON ENFORCEMENT OF COASTWISE LAWS.

Not later than 1 year of the date of enactment of this Act, the Commandant shall submit to Congress a report describing any changes to the enforcement of chapters 121 and 551 of title 46, United States Code, as a result of the amendments to section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(1)) made by section 9503 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283).

SEC. 11523. LAND CONVEYANCE, SHARPE ARMY DEPOT, LATHROP, CALIFORNIA.

Not later than 1 year after the date of enactment of this Act, the Administrator of the Maritime Administration shall complete the land conveyance required under section 2833 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283).

<< 46 USCA § 70022 NOTE >>

SEC. 11524. PROHIBITION ON ENTRY AND OPERATION.

(a) PROHIBITION.—

(1) IN GENERAL.—Except as otherwise provided in this section, during the period in which Executive Order 14065 (87 Fed. Reg. 10293, relating to blocking certain Russian property or transactions), or any successor Executive Order is in effect, no vessel described in subsection (b) may enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States.

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(2) LIMITATIONS ON APPLICATION.—

(A) IN GENERAL.—The prohibition under paragraph (1) shall not apply with respect to a vessel described in subsection (b) if the Secretary of State determines that—

(i) the vessel is owned or operated by a Russian national or operated by the government of the Russian Federation; and

(ii) it is in the national security interest not to apply the prohibition to such vessel.

(B) NOTICE.—Not later than 15 days after making a determination under subparagraph (A), the Secretary of State shall submit to the Committee on Foreign Affairs and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate written notice of the determination and the basis upon which the determination was made.

(C) PUBLICATION.—The Secretary of State shall publish a notice in the Federal Register of each determination made under subparagraph (A).

(3) SAVINGS CLAUSE.—The prohibition under paragraph (1) shall not apply with respect to vessels engaged in passage permitted under international law.

(b) VESSELS DESCRIBED.—A vessel referred to in subsection (a) is a vessel owned or operated by a Russian national or operated by the government of the Russian Federation.

(c) INFORMATION AND PUBLICATION.—The Secretary, with the concurrence of the Secretary of State, shall—

(1) maintain timely information on the registrations of all foreign vessels owned or operated by or on behalf of the Government of the Russian Federation, a Russian national, or a entity organized under the laws of the Russian Federation or any jurisdiction within the Russian Federation; and

(2) periodically publish in the Federal Register a list of the vessels described in paragraph (1).

(d) NOTIFICATION OF GOVERNMENTS.—

(1) IN GENERAL.—The Secretary of State shall notify each government, the agents or instrumentalities of which are maintaining a registration of a foreign vessel that is included on a list published under subsection (c)(2), not later than 30 days after such publication, that all vessels registered under such government's authority are subject to subsection (a).

(2) **ADDITIONAL NOTIFICATION.**—In the case of a government that continues to maintain a registration for a vessel that is included on such list after receiving an initial notification under paragraph (1), the Secretary shall issue an additional notification to such government not later than 120 days after the publication of a list under subsection (c)(2).

(e) **NOTIFICATION OF VESSELS.**—Upon receiving a notice of arrival under section 70001(a)(5) of title 46, United States Code, from a vessel described in subsection (b), the Secretary shall notify the master of such vessel that the vessel may not enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States, unless—

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(1) the Secretary of State has made a determination under subsection (a)(2); or

(2) the Secretary allows provisional entry of the vessel, or transfer of cargo from the vessel, under subsection (f).

(f) **PROVISIONAL ENTRY OR CARGO TRANSFER.**—Notwithstanding any other provision of this section, the Secretary may allow provisional entry of, or transfer of cargo from, a vessel, if such entry or transfer is necessary for the safety of the vessel or persons aboard.

SEC. 11525. FLOATING DRY DOCKS.

Section 55122(a) of title 46, United States Code, is amended—

(1) in paragraph (1)(C)—

<< 46 USCA § 55122 >>

(A) by striking “2015; and” and inserting “2015; or”;

<< 46 USCA § 55122 >>

(B) by striking “(C) was” and inserting the following:

<< 46 USCA § 55122 >>

“(C)(i) was”; and

(C) by adding at the end the following:

<< 46 USCA § 55122 >>

“(ii) had a letter of intent for purchase by such shipyard or affiliate signed prior to such date of enactment; and”; and

<< 46 USCA § 55122 >>

(2) in paragraph (2) by inserting “or, in the case of a dry dock described in paragraph (1)(C)(ii), occurs between Honolulu, Hawaii, and Pearl Harbor, Hawaii” before the period at the end.

SEC. 11526. UPDATED REQUIREMENTS FOR FISHING CREW AGREEMENTS.

Section 10601(b) of title 46, United States Code, is amended—

<< 46 USCA § 10601 >>

(1) in paragraph (2) by striking “and” after the semicolon;

<< 46 USCA § 10601 >>

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

<< 46 USCA § 10601 >>

“(3) in the case of a seaman employed on a vessel that is a catcher processor or fish processing vessel that employs more than 25 crewmembers, include a requirement that each crewmember shall be served not less than three meals a day that—

“(A) total not less than 3,100 calories; and

“(B) include adequate water and minerals in accordance with the United States Recommended Daily Allowances; and”.

TITLE CXVI—SEXUAL ASSAULT AND SEXUAL HARASSMENT PREVENTION AND RESPONSE

SEC. 11601. DEFINITIONS.

(a) IN GENERAL.—Section 2101 of title 46, United States Code, is amended—

<< 46 USCA § 2101 >>

(1) by redesignating paragraphs (45) through (54) as paragraphs (47) through (56), respectively; and

(2) by inserting after paragraph (44) the following:

<< 46 USCA § 2101 >>

“(45) ‘sexual assault’ means any form of abuse or contact as defined in chapter 109A of title 18, or a substantially similar offense under State, local, or Tribal law.

<< 46 USCA § 2101 >>

“(46) ‘sexual harassment’ means—

“(A) conduct that—

“(i) involves unwelcome sexual advances, requests for sexual favors, or deliberate or repeated offensive comments or gestures of a sexual nature if any—

“(I) submission to such conduct is made either explicitly or implicitly a term or condition of employment, pay, career, benefits, or entitlements of the individual;

“(II) submission to, or rejection, of such conduct by an individual is used as a basis for decisions affecting that individual's job, pay, career, benefits, or entitlements;

“(III) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive work environment; or

“(IV) conduct may have been by an individual's supervisor, a supervisor in another area, a co-worker, or another credentialed mariner; and

“(ii) is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive;

“(B) any use or condonation associated with first-hand or personal knowledge, by any individual in a supervisory or command position, of any form of sexual behavior to control, influence, or affect the career, pay, benefits, entitlements, or employment of a subordinate; and

“(C) any intentional or repeated unwelcome verbal comment or gesture of a sexual nature towards or about an individual by the individual's supervisor, a supervisor in another area, a coworker, or another credentialed mariner.”.

(b) REPORT.—The Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing any changes the Commandant may propose to the definitions added by the amendments in subsection (a).

(c) CONFORMING AMENDMENTS.—

<< 46 USCA § 2113 >>

(1) AUTHORITY TO EXEMPT CERTAIN VESSELS.—Section 2113(3) of title 46, United States Code, is amended by striking “section 2101(51)(A)” and inserting “section 2101(53)(A)”.

(2) UNINSPECTED PASSENGER VESSELS.—Section 4105 of title 46, United States Code, is amended—

<< 46 USCA § 4105 >>

(A) in subsections (b)(1) and (c) by striking “section 2101(51)” each place it appears and inserting “section 2101”; and

<< 46 USCA § 4105 >>

(B) in subsection (d) by striking “section 2101(51)(A)” and inserting “section 2101(53)(A)”.

<< 49 USCA § 1131 >>

(3) GENERAL AUTHORITY.—Section 1131(a)(1)(E) of title 49, United States Code, is amended by striking “section 2101(46)” and inserting “section 116”.

SEC. 11602. CONVICTED SEX OFFENDER AS GROUNDS FOR DENIAL.

(a) IN GENERAL.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

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<< 46 USCA § 7511 >>

§ 7511. Convicted sex offender as grounds for denial

“(a) SEXUAL ABUSE.—A license, certificate of registry, or merchant mariner's document authorized to be issued under this part shall be denied to an individual who has been convicted of a sexual offense prohibited under—

“(1) chapter 109A of title 18, except for subsection (b) of section 2244 of title 18; or

“(2) a substantially similar offense under State, local, or Tribal law.

“(b) ABUSIVE SEXUAL CONTACT.—A license, certificate of registry, or merchant mariner's document authorized to be issued under this part may be denied to an individual who within 5 years before applying for the license, certificate, or document, has been convicted of a sexual offense prohibited under subsection (b) of section 2244 of title 18, or a substantially similar offense under State, local, or Tribal law.”.

<< 46 USCA T. 46 subt. II pt. E ch. 75 prec. § 7501 >>

(b) CLERICAL AMENDMENT.—The analysis for chapter 75 of title 46, United States Code, is amended by adding at the end the following:

“7511. Convicted sex offender as grounds for denial.”.

SEC. 11603. SEXUAL HARASSMENT OR SEXUAL ASSAULT AS GROUNDS FOR SUSPENSION OR REVOCATION.

(a) IN GENERAL.—Chapter 77 of title 46, United States Code, is amended by inserting after section 7704 the following:

<< 46 USCA § 7704a >>

§ 7704a. Sexual harassment or sexual assault as grounds for suspension or revocation

“(a) SEXUAL HARASSMENT.—If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or merchant mariner's document issued under this part, within 5 years before the beginning of the suspension and revocation proceedings, is the subject of an official finding of sexual harassment, then the license, certificate of registry, or merchant mariner's document may be suspended or revoked.

“(b) SEXUAL ASSAULT.—If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or merchant mariner's document issued under this part, within 10 years before the beginning of the suspension and revocation proceedings, is the subject of an official finding of sexual assault, then the license, certificate of registry, or merchant mariner's document shall be revoked.

“(c) OFFICIAL FINDING.—

“(1) IN GENERAL.—In this section, the term ‘official finding’ means—

“(A) a legal proceeding or agency finding or decision that determines the individual committed sexual harassment or sexual assault in violation of any Federal, State, local, or Tribal law or regulation; or

“(B) a determination after an investigation by the Coast Guard that, by a preponderance of the evidence, the individual committed sexual harassment or sexual assault if the investigation affords appropriate due process rights to the subject of the investigation.

“(2) ADMINISTRATIVE LAW JUDGE REVIEW.—

“(A) COAST GUARD INVESTIGATION.—A determination under paragraph (1)(B) shall be reviewed and affirmed *4148 by an administrative law judge within the same proceeding as any suspension or revocation of a license, certificate of registry, or merchant mariner's document under subsection (a) or (b).

“(B) LEGAL PROCEEDING.—A determination under paragraph (1)(A) that an individual committed sexual harassment or sexual assault is conclusive in suspension and revocation proceedings.”.

<< 46 USCA T. 46 sub. II pt. E ch. 77 prec. § 7701 >>

(b) CLERICAL AMENDMENT.—The analysis for chapter 77 of title 46, United States Code, is amended by inserting after the item relating to section 7704 the following:

“7704a. Sexual harassment or sexual assault as grounds for suspension or revocation. ”.

SEC. 11604. ACCOMMODATION; NOTICES.

Section 11101 of title 46, United States Code, is amended—

<< 46 USCA § 11101 >>

(1) in subsection (a)(3) by striking “and” at the end;

<< 46 USCA § 11101 >>

(2) in subsection (a)(4) by striking the period at the end and inserting “; and”;

(3) in subsection (a) by adding at the end the following:

<< 46 USCA § 11101 >>

“(5) each crew berthing area shall be equipped with information regarding—

“(A) vessel owner or company policies prohibiting sexual assault and sexual harassment, retaliation, and drug and alcohol usage; and

“(B) procedures and resources to report crimes, including sexual assault and sexual harassment, including information—

“(i) on the telephone number, website address, and email address for reporting allegations of sexual assault and sexual harassment to the Coast Guard;

“(ii) on vessel owner or company procedures to report violations of company policy and access resources;

“(iii) on resources provided by outside organizations such as sexual assault hotlines and counseling;

“(iv) on the retention period for surveillance video recording after an incident of sexual harassment or sexual assault is reported; and

“(v) additional items specified in regulations issued by, and at the discretion of, the Secretary of the department in which the Coast Guard is operating.”; and

<< 46 USCA § 11101 >>

(4) in subsection (d) by adding at the end the following: “In each washing space in a visible location there shall be information regarding procedures and resources to report crimes upon the vessel, including sexual assault and sexual harassment, and vessel owner or company policies prohibiting sexual assault and sexual harassment, retaliation, and drug and alcohol usage.”.

SEC. 11605. PROTECTION AGAINST DISCRIMINATION.

Section 2114(a) of title 46, United States Code, is amended—

(1) in paragraph (1)—

<< 46 USCA § 2114 >>

(A) by redesignating subparagraphs (B) through (G) as subparagraphs (C) through (H), respectively; and

(B) by inserting after subparagraph (A) the following:

<< 46 USCA § 2114 >>

“(B) the seaman in good faith has reported or is about to report to the vessel owner, Coast Guard or other appropriate *4149 Federal agency or department sexual harassment or sexual assault against the seaman or knowledge of sexual harassment or sexual assault against another seaman;”; and

<< 46 USCA § 2114 >>

(2) in paragraphs (2) and (3) by striking “paragraph (1)(B)” and inserting “paragraph (1)(C)”.

<< 46 USCA § 3306 NOTE >>

SEC. 11606. ALCOHOL AT SEA.

(a) IN GENERAL.—The Commandant shall seek to enter into an agreement with the National Academy of Sciences not later than 1 year after the date of enactment of this Act under which the National Academy of Sciences shall prepare an assessment to determine safe levels of alcohol consumption and possession by crew members aboard vessels of the United States engaged in commercial service, except when such possession is associated with the commercial sale to individuals aboard the vessel who are not crew members.

(b) ASSESSMENT.—The assessment prepared pursuant to subsection (a) shall—

(1) take into account the safety and security of every individual on the vessel;

(2) take into account reported incidences of sexual harassment or sexual assault, as defined in section 2101 of title 46, United States Code; and

(3) provide any appropriate recommendations for any changes to laws, regulations, or employer policies.

(c) SUBMISSION.—Upon completion of the assessment under this section, the National Academy of Sciences shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Commandant, and the Secretary the assessment prepared pursuant to subsection (a).

(d) REGULATIONS.—The Commandant—

(1) shall, not later than 180 days after receiving the submission of the assessment under subsection (c), review the changes to regulations recommended in such assessment; and

(2) taking into account the safety and security of every individual on vessels of the United States engaged in commercial service, may issue regulations relating to alcohol consumption on such vessels.

(e) SAVINGS CLAUSE.—To the extent the Commandant issues regulations establishing safe levels of alcohol consumption in accordance with subsection (d), the Commandant may not issue regulations which prohibit—

(1) the owner or operator of a vessel from imposing additional restrictions on the consumption of alcohol, including the prohibition of the consumption of alcohol on such vessels; and

(2) possession of alcohol associated with the commercial sale to individuals aboard the vessel who are not crew members.

(f) REPORT REQUIRED.—If, by the date that is 2 years after the receipt of the assessment under subsection (c), the Commandant does not issue regulations under subsection (d), the Commandant shall provide a report by such date to the committees described in subsection (c)—

(1) containing the rationale for not issuing such regulations; and

(2) providing other recommendations as necessary to ensure safety at sea.

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SEC. 11607. SURVEILLANCE REQUIREMENTS.

(a) IN GENERAL.—Part B of subtitle II of title 46, United States Code, is amended by adding at the end the following:

T. 46 sub. II pt. B ch. 49 § 4901

“CHAPTER 49—OCEANGOING NON-PASSENGER COMMERCIAL VESSELS

“Sec.

“4901. Surveillance requirements.

<< 46 USCA § 4901 >>

§ 4901. Surveillance requirements

“(a) IN GENERAL.—A vessel engaged in commercial service that does not carry passengers, shall maintain a video surveillance system.

“(b) APPLICABILITY.—The requirements in this section shall apply to—

“(1) documented vessels with overnight accommodations for at least 10 individuals on board that are—

“(A) on a voyage of at least 600 miles and crosses seaward of the Boundary Line; or

“(B) at least 24 meters (79 feet) in overall length and required to have a load line under chapter 51;

“(2) documented vessels of at least 500 gross tons as measured under section 14502, or an alternate tonnage measured under section 14302 as prescribed by the Secretary under section 14104 on an international voyage; and

“(3) vessels with overnight accommodations for at least 10 individuals on board that are operating for no less than 72 hours on waters superjacent to the outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))).

“(c) PLACEMENT OF VIDEO AND AUDIO SURVEILLANCE EQUIPMENT.—

“(1) IN GENERAL.—The owner of a vessel to which this section applies shall install video and audio surveillance equipment aboard the vessel not later than 2 years after enactment of the Don Young Coast Guard Authorization Act of 2022, or during the next scheduled drydock, whichever is later.

“(2) LOCATIONS.—Video and audio surveillance equipment shall be placed in passageways on to which doors from staterooms open. Such equipment shall be placed in a manner ensuring the visibility of every door in each such passageway.

“(d) NOTICE OF VIDEO AND AUDIO SURVEILLANCE.—The owner of a vessel to which this section applies shall provide clear and conspicuous signs on board the vessel notifying the crew of the presence of video and audio surveillance equipment.

“(e) ACCESS TO VIDEO AND AUDIO RECORDS.—The owner of a vessel to which this section applies shall ensure that access to records of video and audio surveillance is not used as part of a labor action against a crew member or employment dispute unless used in a criminal or civil action.

“(f) RETENTION REQUIREMENTS.—The owner of a vessel to which this section applies shall retain all records of audio and video surveillance for not less than 1 year after the footage is obtained. Any video and audio surveillance found to be associated with an alleged incident should be preserved for not less than 5 years from the date of the alleged incident.

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“(g) PERSONNEL TRAINING.—A vessel owner or employer of a seafarer shall provide training for all individuals employed by the owner or employer for the purpose of responding to incidents of sexual assault or sexual harassment, including—

“(1) such training to ensure the individuals—

“(A) retain audio and visual records and other evidence objectively; and

“(B) act impartially without influence from the company or others; and

“(2) training on applicable Federal, State, Tribal, and local laws and regulations regarding sexual assault and sexual harassment investigations and reporting requirements.

“(g) DEFINITION OF OWNER.—In this section, the term ‘owner’ means the owner, charterer, managing operator, master, or other individual in charge of a vessel.

“(h) EXEMPTION.—Fishing vessels, fish processing vessels, and fish tender vessels are exempt from this section.”.

<< 46 USCA T. 46 subt. II pt. A ch. 21 prec. § 2101 >>

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle II of title 46, United States Code, is amended by adding after the item related to chapter 47 the following:

“49. Oceangoing Non-Passenger Commercial Vessels.4901”.

SEC. 11608. MASTER KEY CONTROL.

(a) IN GENERAL.—Chapter 31 of title 46, United States Code, is amended by adding at the end the following:

<< 46 USCA § 3106 >>

§ 3106. Master key control system

“(a) IN GENERAL.—The owner of a vessel subject to inspection under section 3301 shall—

“(1) ensure that such vessel is equipped with a vessel master key control system, manual or electronic, which provides controlled access to all copies of the vessel's master key of which access shall only be available to the individuals described in paragraph (2);

“(2) establish a list of all crew, identified by position, allowed to access and use the master key and maintain such list upon the vessel, within owner records and included in the vessel safety management system;

“(3) record in a log book information on all access and use of the vessel's master key, including—

“(A) dates and times of access;

“(B) the room or location accessed; and

“(C) the name and rank of the crew member that used the master key; and

“(4) make the list under paragraph (2) and the log book under paragraph (3) available upon request to any agent of the Federal Bureau of Investigation, any member of the Coast Guard, and any law enforcement officer performing official duties in the course and scope of an investigation.

“(b) PROHIBITED USE.—Crew not included on the list described in subsection (a)(2) shall not have access to or use the master key unless in an emergency and shall immediately notify the master and owner of the vessel following use of such key.

“(c) REQUIREMENTS FOR LOG BOOK.—The log book described in subsection (a)(3) and required to be included in a safety management system under section 3203(a)(6)

“(1) may be electronic; and

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“(2) shall be located in a centralized location that is readily accessible to law enforcement personnel.

“(d) PENALTY.—Any crew member who uses the master key without having been granted access pursuant to subsection (a)(2) shall be liable to the United States Government for a civil penalty of not more than \$1,000 and may be subject to suspension or revocation under section 7703.

“(e) EXEMPTION.—This section shall not apply to vessels subject to section 3507(f).”.

<< 46 USCA T. 46 sub. II pt. B ch. 31 prec. § 3101 >>

(b) CLERICAL AMENDMENT.—The analysis for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

“3106. Master key control system.”.

SEC. 11609. REQUIREMENT TO REPORT SEXUAL ASSAULT AND HARASSMENT.

Section 10104 of title 46, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

<< 46 USCA § 10104 >>

“(a) MANDATORY REPORTING BY RESPONSIBLE ENTITY OF A VESSEL.—

“(1) IN GENERAL.—The responsible entity of a vessel shall report to the Commandant any complaint or incident of harassment, sexual harassment, or sexual assault in violation of employer policy or law, of which such entity is made aware.

“(2) PENALTY.—A responsible entity of a vessel who knowingly fails to report in compliance with paragraph (1) is liable to the United States Government for a civil penalty of not more than \$50,000.

<< 46 USCA § 10104 >>

“(b) REPORTING PROCEDURES.—

“(1) RESPONSIBLE ENTITY OF A VESSEL REPORTING.—A report required under subsection (a) shall be made immediately after the responsible entity of a vessel gains knowledge of a sexual assault or sexual harassment incident by the fastest telecommunication channel available to—

“(A) a single entity in the Coast Guard designated by the Commandant to receive such reports; and

“(B) the appropriate officer or agency of the government of the country in whose waters the incident occurs.

“(2) CONTENTS.—Such shall include, to the best of the knowledge of the individual making the report—

“(A) the name, official position or role in relation to the vessel, and contact information of such individual;

“(B) the name and official number of the documented vessel;

“(C) the time and date of the incident;

“(D) the geographic position or location of the vessel when the incident occurred; and

“(E) a brief description of the alleged sexual harassment or sexual assault being reported.

“(3) RECEIVING REPORTS; COLLECTION OF INFORMATION.—

“(A) RECEIVING REPORTS.—With respect to reports submitted under subsection (a), the Commandant—

“(i) may establish additional reporting procedures, including procedures for receiving reports through—

“(I) a single telephone number that is continuously manned at all times; and

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“(II) a single email address that is continuously monitored; and

“(ii) shall use procedures that include preserving evidence in such reports and providing emergency service referrals.

“(B) COLLECTION OF INFORMATION.—After receipt of the report made under subsection (a), the Coast Guard shall collect information related to the identity of each alleged victim, alleged perpetrator, and any witnesses identified in the report through means designed to protect, to the extent practicable, the personal identifiable information of such individuals.

<< 46 USCA § 10104 >>

“(c) SUBPOENA AUTHORITY.—

“(1) IN GENERAL.—The Commandant may compel the testimony of witnesses and the production of any evidence by subpoena to determine compliance with this section.

“(2) JURISDICTIONAL LIMITS.—The jurisdictional limits of a subpoena issued under this section are the same as, and are enforceable in the same manner as, subpoenas issued under chapter 63 of this title.

<< 46 USCA § 10104 >>

“(d) COMPANY AFTER-ACTION SUMMARY.—

“(1) A responsible entity of a vessel that makes a report under subsection (a) shall—

“(A) submit to the Commandant a document with detailed information to describe the actions taken by such entity after becoming aware of the sexual assault or sexual harassment incident, including the results of any investigation into the complaint or incident and any action taken against the offending individual; and

“(B) make such submission not later than 10 days after such entity made the report under subsection (a).

“(2) CIVIL PENALTY.—A responsible entity of a vessel that fails to comply with paragraph (1) is liable to the United States Government for a civil penalty of \$25,000 and \$500 shall be added for each day of noncompliance, except that the total amount of a penalty with respect to a complaint or incident shall not exceed \$50,000 per violation.

<< 46 USCA § 10104 >>

“(e) INVESTIGATORY AUDIT.—The Commandant shall periodically perform an audit or other systematic review of the submissions made under this section to determine if there were any failures to comply with the requirements of this section.

<< 46 USCA § 10104 >>

“(f) APPLICABILITY; REGULATIONS.—

“(1) REGULATIONS.— The Secretary may issue regulations to implement the requirements of this section.

“(2) INTERIM REPORTS.—Any report required to be made to the Commandant under this section shall be made to the Coast Guard National Command Center, until regulations implementing the procedures required by this section are issued.

<< 46 USCA § 10104 >>

“(g) DEFINITION OF RESPONSIBLE ENTITY OF A VESSEL.—In this section, the term ‘responsible entity of a vessel’ means—

“(1) the owner, master, or managing operator of a documented vessel engaged in commercial service; or

“(2) the employer of a seafarer on such a vessel.”.

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SEC. 11610. SAFETY MANAGEMENT SYSTEM.

(a) SAFETY MANAGEMENT SYSTEM.—Section 3203 of title 46, United States Code, is amended—

(1) in subsection (a)—

<< 46 USCA § 3203 >>

(A) by redesignating paragraphs (5) and (6) as paragraphs (7) and (8); and

(B) by inserting after paragraph (4) the following:

<< 46 USCA § 3203 >>

“(5) with respect to sexual harassment and sexual assault, procedures for, and annual training requirements for all responsible persons and vessels to which this chapter applies on—

“(A) prevention;

“(B) bystander intervention;

“(C) reporting;

“(D) response; and

“(E) investigation;

<< 46 USCA § 3203 >>

“(6) the list required under section 3106(a)(2) and the log book required under section 3106(a)(3);”;

<< 46 USCA § 3203 >>

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (a) the following:

<< 46 USCA § 3203 >>

“(b) PROCEDURES AND TRAINING REQUIREMENTS.—In prescribing regulations for the procedures and training requirements described in subsection (a)(5), such procedures and requirements shall be consistent with the requirements to report sexual harassment or sexual assault under section 10104.

<< 46 USCA § 3203 >>

“(c) AUDITS.—

“(1) CERTIFICATES.—

“(A) SUSPENSION.—During an audit of a safety management system of a vessel required under section 10104(e), the Secretary may suspend the Safety Management Certificate issued for the vessel under section 3205 and issue a separate Safety Management Certificate for the vessel to be in effect for a 3-month period beginning on the date of the issuance of such separate certificate.

“(B) REVOCATION.—At the conclusion of an audit of a safety management system required under section 10104(e), the Secretary shall revoke the Safety Management Certificate issued for the vessel under section 3205 if the Secretary determines—

“(i) that the holder of the Safety Management Certificate knowingly, or repeatedly, failed to comply with section 10104; or

“(ii) other failure of the safety management system resulted in the failure to comply with such section.

“(2) DOCUMENTS OF COMPLIANCE.—

“(A) IN GENERAL.—Following an audit of the safety management system of a vessel required under section 10104(e), the Secretary may audit the safety management system of the responsible person for the vessel.

“(B) **SUSPENSION.**—During an audit under subparagraph (A), the Secretary may suspend the Document of Compliance issued to the responsible person under section 3205 and issue a separate Document of Compliance to such person to be in effect for a 3-month period beginning on the date of the issuance of such separate document.

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“(C) **REVOCATION.**—At the conclusion of an assessment or an audit of a safety management system under subparagraph (A), the Secretary shall revoke the Document of Compliance issued to the responsible person if the Secretary determines—

“(i) that the holder of the Document of Compliance knowingly, or repeatedly, failed to comply with section 10104;
or

“(ii) that other failure of the safety management system resulted in the failure to comply with such section.”.

<< 46 USCA § 3205 >>

(b) **VERIFICATION OF COMPLIANCE.**—Section 3205(c)(1) of title 46, United States Code, is amended by inserting “, or upon discovery from other sources of information acquired by the Coast Guard, including a discovery made during an audit or systematic review conducted under section 10104(e) of a failure of a responsible person or vessel to comply with a requirement of a safety management system for which a Safety Management Certificate and a Document of compliance has been issued under this section, including a failure to comply with regulations prescribed under section 3203(a)(7) and (8),” after “periodically”.

SEC. 11611. REPORTS TO CONGRESS.

(a) **IN GENERAL.**—Chapter 101 of title 46, United States Code, is amended by adding at the end the following:

<< 46 USCA § 10105 >>

§ 10105. Reports to Congress

“(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of the Don Young Coast Guard Authorization Act of 2022, and on an annual basis thereafter, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

“(1) the number of reports received under section 10104;

“(2) the number of penalties issued under such section;

“(3) the number of open investigations under such section, completed investigations under such section, and the outcomes of such open or completed investigations;

“(4) the number of assessments or audits conducted under section 3203 and the outcome of those assessments or audits;

“(5) a statistical analysis of compliance with the safety management system criteria under section 3203;

“(6) the number of credentials denied or revoked due to sexual harassment, sexual assault, or related offenses; and

“(7) recommendations to support efforts of the Coast Guard to improve investigations and oversight of sexual harassment and sexual assault in the maritime sector, including funding requirements and legislative change proposals necessary to ensure compliance with title CXVI of the Don Young Coast Guard Authorization Act of 2022 and the amendments made by such title.

“(b) PRIVACY.—In collecting the information required under subsection (a), the Commandant shall collect such information in a manner that protects the privacy rights of individuals who are subjects of such information.”.

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<< 46 USCA T. 46 subt. II pt. G ch. 101 prec. § 10101 >>

(b) CLERICAL AMENDMENT.—The analysis for chapter 101 of title 46, United States Code, is amended by adding at the end the following:

“10105. Reports to Congress.”.

TITLE CXVII—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subtitle A—National Oceanic and Atmospheric Administration Commissioned Officer Corps

SEC. 11701. DEFINITIONS.

Section 212(b) of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3002(b)) is amended by adding at the end the following:

<< 33 USCA § 3002 >>

“(8) UNDER SECRETARY.—The term ‘Under Secretary’ means the Under Secretary of Commerce for Oceans and Atmosphere.”.

SEC. 11702. REQUIREMENT FOR APPOINTMENTS.

<< 33 USCA § 3021 >>

Section 221(c) of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3021(c)) is amended by striking “may not be given” and inserting the following: “may—

<< 33 USCA § 3021 >>

“(1) be given only to an individual who is a citizen of the United States; and

<< 33 USCA § 3021 >>

“(2) not be given.”.

SEC. 11703. REPEAL OF REQUIREMENT TO PROMOTE ENSIGNS AFTER 3 YEARS OF SERVICE.

(a) IN GENERAL.—Section 223 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3023) is amended to read as follows:

<< 33 USCA § 3023 >>

“SEC. 223. SEPARATION OF ENSIGNS FOUND NOT FULLY QUALIFIED.

“If an officer in the permanent grade of ensign is at any time found not fully qualified, the officer's commission shall be revoked and the officer shall be separated from the commissioned service.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Act entitled “An Act to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes” (Public Law 107–372) is amended by striking the item relating to section 223 and inserting the following:

“Sec. 223. Separation of ensigns found not fully qualified.”.

SEC. 11704. AUTHORITY TO PROVIDE AWARDS AND DECORATIONS.

(a) IN GENERAL.—Subtitle A of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.) is amended by adding at the end the following:

<< 33 USCA § 3010 >>

“SEC. 220. AWARDS AND DECORATIONS.

“The Under Secretary may provide ribbons, medals, badges, trophies, and similar devices to members of the commissioned officer *4157 corps of the Administration and to members of other uniformed services for service and achievement in support of the missions of the Administration.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Act entitled “An Act to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes” (Public Law 107–372) is amended by inserting after the item relating to section 219 the following:

“Sec. 220. Awards and decorations.”.

SEC. 11705. RETIREMENT AND SEPARATION.

(a) INVOLUNTARY RETIREMENT OR SEPARATION.—Section 241(a)(1) of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3041(a)(1)) is amended to read as follows:

<< 33 USCA § 3041 >>

“(1) an officer in the permanent grade of captain or commander may—

 “(A) except as provided by subparagraph (B), be transferred to the retired list; or

 “(B) if the officer is not qualified for retirement, be separated from service; and”.

<< 33 USCA § 3043 >>

(b) RETIREMENT FOR AGE.—Section 243(a) of that Act (33 U.S.C. 3043(a)) is amended by striking “be retired” and inserting “be retired or separated (as specified in section 1251(e) of title 10, United States Code)”.

(c) RETIREMENT OR SEPARATION BASED ON YEARS OF CREDITABLE SERVICE.—Section 261(a) of that Act (33 U.S.C. 3071(a)) is amended—

<< 33 USCA § 3071 >>

(1) by redesignating paragraphs (17) through (26) as paragraphs (18) through (27), respectively; and

(2) by inserting after paragraph (16) the following:

<< 33 USCA § 3071 >>

“(17) Section 1251(e), relating to retirement or separation based on years of creditable service.”.

SEC. 11706. IMPROVING PROFESSIONAL MARINER STAFFING.

(a) IN GENERAL.—Subtitle E of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.) is amended by adding at the end the following:

<< 30 USCA § 3079b >>

“SEC. 269B. SHORE LEAVE FOR PROFESSIONAL MARINERS.

“(a) IN GENERAL.—The Under Secretary may prescribe regulations relating to shore leave for professional mariners without regard to the requirements of section 6305 of title 5, United States Code.

“(b) REQUIREMENTS.—The regulations prescribed under subsection (a) shall—

“(1) require that a professional mariner serving aboard an ocean-going vessel be granted a leave of absence of 4 days per pay period; and

“(2) provide that a professional mariner serving in a temporary promotion position aboard a vessel may be paid the difference between such mariner's temporary and permanent rates of pay for leave accrued while serving in the temporary promotion position.

“(c) PROFESSIONAL MARINER DEFINED.—In this section, the term ‘professional mariner’ means an individual employed on a vessel of the Administration who has the necessary expertise to serve *4158 in the engineering, deck, steward, electronic technician, or survey department.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Act entitled “An Act to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes” (Public Law 107–372) is amended by inserting after the item relating to section 269A the following:

“Sec. 269B. Shore leave for professional mariners.”.

SEC. 11707. LEGAL ASSISTANCE.

<< 10 USCA § 1044 >>

Section 1044(a)(3) of title 10, United States Code, is amended by inserting “or the commissioned officer corps of the National Oceanic and Atmospheric Administration” after “Public Health Service”.

<< 33 USCA T. 33 ch. 17 subch. I prec. § 851 NOTE >>

**SEC. 11708. ACQUISITION OF AIRCRAFT FOR AGENCY AIR, ATMOSPHERE,
AND WEATHER RECONNAISSANCE AND RESEARCH MISSION.**

(a) INCREASED FLEET CAPACITY.—

(1) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere shall acquire adequate aircraft platforms with the necessary observation and modification requirements—

(A) to meet agency-wide air reconnaissance and research mission requirements, particularly with respect to hurricanes and tropical cyclones, and also for atmospheric chemistry, climate, air quality for public health, full-season fire weather research and operations, full-season atmospheric river air reconnaissance observations, and other mission areas; and

(B) to ensure data and information collected by the aircraft are made available to all users for research and operations purposes.

(2) CONTRACTS.—In carrying out paragraph (1), the Under Secretary shall negotiate and enter into 1 or more contracts or other agreements, to the extent practicable and necessary, with 1 or more governmental or nongovernmental entities.

(b) ACQUISITION OF AIRCRAFT TO REPLACE WP-3D AIRCRAFT.—Subject to the availability of appropriations, the Under Secretary may enter into a contract for the acquisition of up to 6 aircraft to replace the WP-3D aircraft that provides for—

(1) the first newly acquired aircraft to be fully operational before the retirement of the last WP-3D aircraft operated by the National Oceanic and Atmospheric Administration; and

(2) the second newly acquired aircraft to be fully operational not later than 1 year after the first such aircraft is required to be fully operational under subparagraph (A).

(c) ACQUISITION OF AIRCRAFT TO REPLACE END OF LIFE-CYCLE AIRCRAFT.—Subject to the availability of appropriations, the Under Secretary shall maintain the ability of the National Oceanic and Atmospheric Administration to meet agency air reconnaissance and research mission requirements by acquiring new aircraft prior to the end of the service life of the aircraft being replaced with sufficient lead time that the replacement aircraft is fully operation prior to the retirement of the aircraft it is replacing.

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(d) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2023, there is authorized to be appropriated to the Under Secretary \$800,000,000 for the acquisition of aircraft under this section.

SEC. 11709. REPORT ON PROFESSIONAL MARINER STAFFING MODELS.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Natural Resources of the House of Representatives a report on staffing issues relating to professional mariners within the Office of Marine and Aviation Operations of the National Oceanic and Atmospheric Administration.

(b) ELEMENTS.—In conducting the report required under subsection (a), the Comptroller General shall consider—

(1) the challenges the Office of Marine and Aviation Operations faces in recruiting and retaining qualified professional mariners;

(2) workforce planning efforts to address such challenges; and

(3) other models or approaches that exist, or are under consideration, to provide incentives for the retention of qualified professional mariners.

(c) PROFESSIONAL MARINER DEFINED.—In this section, the term “professional mariner” means an individual employed on a vessel of the National Oceanic and Atmospheric Administration who has the necessary expertise to serve in the engineering, deck, steward, or survey department.

Subtitle B—Other Matters

SEC. 11710. CONVEYANCE OF CERTAIN PROPERTY OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION IN JUNEAU, ALASKA.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term “City” means the City and Borough of Juneau, Alaska.

(2) MASTER PLAN.—The term “Master Plan” means the Juneau Small Cruise Ship Infrastructure Master Plan released by the Docks and Harbors Board and Port of Juneau for the City and dated March 2021.

(3) PROPERTY.—The term “Property” means the parcel of real property consisting of approximately 2.4 acres, including tidelands, owned by the United States and under administrative custody and control of the National Oceanic and Atmospheric Administration and located at 250 Egan Drive, Juneau, Alaska, including any improvements thereon that are not authorized or required by another provision of law to be conveyed to a specific individual or entity.

(4) SECRETARY.—The term “Secretary” means the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere and the Administrator of the National Oceanic and Atmospheric Administration.

(b) CONVEYANCE AUTHORIZED.—

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(1) IN GENERAL.—The Secretary may convey, at fair market value, all right, title, and interest of the United States in and to the Property, subject to the restrictions in subsections (b)(2) and (c) and the requirements of this section.

(2) RESTRICTION.—The Secretary may not take action under this section until the Commandant notifies the Secretary in writing that the Coast Guard does not have an interest in acquiring the property, or a period of 180 calendar days expires following the date of enactment of this section.

(3) NOTIFICATION EXPIRATION.—If, the Secretary has not received notification under paragraph (2) at the end of the 180 calendar day period, the Secretary and the Commandant shall notify the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate in writing that no notification has been received.

(4) TERMINATION OF AUTHORITY.—The authority provided under paragraph (1) shall terminate on the date that is 3 years after the date of the enactment of this Act.

(c) TRANSFER OF PROPERTY TO COAST GUARD.—

(1) IN GENERAL.—If not later than 180 calendar days after the date of enactment of this Act the Commandant notifies the Secretary that the Coast Guard has an interest in the Property, the Secretary shall transfer the Property to the Coast Guard.

(2) TRANSFER.—Any transfer performed pursuant to this subsection shall—

(A) occur not later than 1 year of any written notification required under paragraph (1);

(B) include within the transfer from the Department of Commerce to the Coast Guard all legal obligations attached to ownership or administrative control of the Property, interest therein, or improvements thereto, including environmental compliance and restoration liabilities and historical preservation liabilities and responsibilities;

(C) be at no cost to the Department of Commerce, to include all land survey costs;

(D) not affect or limit any remaining real property interests held by the Department of Commerce on any real property subject to such transfer; and

(E) be accompanied by a memorandum of agreement between the Coast Guard and the Department of Commerce to require the Commandant to allow—

(i) future access to, and use of, the Property, including use of available pier space, to accommodate the reasonable expectations of the Secretary for future operational and logistical needs in southeast Alaska; and

(ii) continued access to, and use of, existing facilities on the Property, including a warehouse and machine shop, unless the Commandant determines that the Property on which the facilities are located is needed to support polar operations, at which time the Coast Guard shall provide the Department of Commerce access to and use of comparable space in reasonable proximity to the existing facilities.

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(d) RIGHT OF FIRST REFUSAL.—If the Coast Guard does not transfer the Property under subsection (c), the City shall have the right of first refusal with respect to the purchase, at fair market value, of the Property.

(e) SURVEY.—The exact acreage and legal description of the Property shall be determined by a survey satisfactory to the Secretary.

(f) CONDITION; QUITCLAIM DEED.—If the Property is conveyed under subsection (b)(1), the Property shall be conveyed—

(1) in an “as is, where is” condition; and

(2) via a quitclaim deed.

(g) FAIR MARKET VALUE.—

(1) IN GENERAL.—The fair market value of the Property shall be—

(A) determined by an appraisal that—

(i) is conducted by an independent appraiser selected by the Secretary; and

(ii) meets the requirements of paragraph (2); and

(B) adjusted, at the Secretary's discretion, based on the factors described in paragraph (3).

(2) APPRAISAL REQUIREMENTS.—An appraisal conducted under paragraph (1)(A) shall be conducted in accordance with nationally recognized appraisal standards, including the Uniform Standards of Professional Appraisal Practice.

(3) FACTORS.—The factors described in this paragraph are—

(A) matters of equity and fairness;

(B) actions taken by the City regarding the Property, if the City exercises the right of first refusal under subsection (d), including—

(i) comprehensive waterfront planning, site development, and other redevelopment activities supported by the City in proximity to the Property in furtherance of the Master Plan;

(ii) in-kind contributions made to facilitate and support use of the Property by governmental agencies; and

(iii) any maintenance expenses, capital improvement, or emergency expenditures made necessary to ensure public safety and access to and from the Property; and

(C) such other factors as the Secretary considers appropriate.

(h) COSTS OF CONVEYANCE.—If the City exercises the right of first refusal under subsection (d), all reasonable and necessary costs, including real estate transaction and environmental documentation costs, associated with the conveyance of the Property to the City under this section may be shared equitably by the Secretary and the City, as determined by the Secretary, including with the City providing in-kind contributions for any or all of such costs.

(i) PROCEEDS.—Any proceeds from a conveyance of the Property under subsection (b)(1) shall—

(1) be credited as discretionary offsetting collections to the applicable appropriations accounts or funds of the National Oceanic and Atmospheric Administration that exists as of the date of enactment of this Act; and

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(2) be used to cover costs associated with the conveyance of the Property, related relocation efforts, and other facility and infrastructure projects in Alaska and shall be made available for such purposes only to the extent and in the amounts provided in advance in appropriations Acts.

(j) MEMORANDUM OF AGREEMENT.—If the City exercises the right of first refusal under subsection (d), before finalizing a conveyance to the City under this section, the Secretary and the City shall enter into a memorandum of agreement to establish the terms under which the Secretary shall have future access to, and use of, the Property to accommodate the reasonable expectations of the Secretary for future operational and logistical needs in southeast Alaska.

(k) RESERVATION OR EASEMENT FOR ACCESS AND USE.—The conveyance authorized under subsection (b)(1) shall be subject to a reservation providing, or an easement granting, the Secretary, at no cost to the United States, a right to access and use the Property that—

(1) is compatible with the Master Plan; and

(2) authorizes future operational access and use by other Federal, State, and local government agencies that have customarily used the Property.

(l) LIABILITY.—In the event that the Property is conveyed to the City of Juneau the following shall apply:

(1) AFTER CONVEYANCE.—An individual or entity to which a conveyance is made under this section shall hold the United States harmless from any liability with respect to activities carried out on or after the date and time of the conveyance of the Property.

(2) BEFORE CONVEYANCE.—The United States shall remain responsible for any liability the United States incurred with respect to activities carried out by the United States on the Property before the date and time of the conveyance of the Property.

(m) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under this section as the Secretary considers appropriate and reasonable to protect the interests of the United States.

(n) ENVIRONMENTAL COMPLIANCE.—Nothing in this section shall be construed to affect or limit the application of or obligation to comply with any applicable environmental law, including—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(2) section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(o) CONVEYANCE NOT A MAJOR FEDERAL ACTION.—A conveyance under this section shall not be considered a major Federal action for purposes of section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

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TITLE CXVIII—TECHNICAL, CONFORMING, AND CLARIFYING AMENDMENTS

SEC. 11801. TERMS AND VACANCIES.

(a) IN GENERAL.—Section 46101(b) of title 46, United States Code, is amended by—

(1) in paragraph (2)—

<< 46 USCA § 46101 >>

(A) by striking “one year” and inserting “2 years”; and

<< 46 USCA § 46101 >>

(B) by striking “2 terms” and inserting “3 terms”; and

(2) in paragraph (3)—

<< 46 USCA § 46101 >>

(A) by striking “of the individual being succeeded” and inserting “to which such individual is appointed”;

<< 46 USCA § 46101 >>

(B) by striking “2 terms” and inserting “3 terms”; and

<< 46 USCA § 46101 >>

(C) by striking “the predecessor of that” and inserting “such”.

<< 46 USCA § 46101 NOTE >>

(b) APPLICABILITY.—The amendments made by this section shall not apply to Commissioners to whom section 403(b) of the Howard Coble Coast Guard and Maritime Transportation Act of 2014 (Public Law 113–281) applies.

SEC. 11802. PASSENGER VESSEL SECURITY AND SAFETY REQUIREMENTS.

Section 3507(k)(1) of title 46, United States Code, is amended—

<< 46 USCA § 3507 >>

(1) in subparagraph (A) by striking “at least 250” and inserting “250 or more”; and

(2) by striking subparagraph (B) and inserting the following:

<< 46 USCA § 3507 >>

“(B) has overnight accommodations for 250 or more passengers; and”.

SEC. 11803. TECHNICAL CORRECTIONS.

<< 14 USCA § 319 >>

(a) Section 319(b) of title 14, United States Code, is amended by striking “section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)” and inserting “section 44801 of title 49”.

<< 14 USCA § 1156 >>

(b) Section 1156(c) of title 14, United States Code, is amended by striking “section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)” and inserting “section 44801 of title 49”.

SEC. 11804. TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL TECHNICAL AMENDMENTS.

(a) IN GENERAL.—Section 70105 of title 46, United States Code, is amended—

<< 46 USCA § 70105 >>

(1) in the section heading by striking “**security cards**” and inserting “**worker identification credentials**”;

<< 46 USCA § 70105 >>

(2) by striking “transportation security card” each place it appears and inserting “transportation worker identification credential”;

<< 46 USCA § 70105 >>

(3) by striking “transportation security cards” each place it appears and inserting “transportation worker identification credentials”;

<< 46 USCA § 70105 >>

(4) by striking “card” each place it appears and inserting “credential”;

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<< 46 USCA § 70105 >>

(5) in the heading for subsection (b) by striking “CARDS” and inserting “CREDENTIALS”;

<< 46 USCA § 70105 >>

(6) in subsection (g) by striking “Assistant Secretary of Homeland Security for” and inserting “Administrator of”;

<< 46 USCA § 7010 >>

(7) by striking subsection (i) and redesignating subsections (j) and (k) as subsections (i) and (j), respectively;

<< 46 USCA § 70105 >>

(8) by striking subsection (l) and redesignating subsections (m) through (q) as subsections (k) through (o), respectively;

(9) in subsection (j), as so redesignated—

<< 46 USCA § 70105 >>

(A) in the subsection heading by striking “SECURITY CARD” and inserting “WORKER IDENTIFICATION CREDENTIAL”;
and

<< 46 USCA § 70105 >>

(B) in the heading for paragraph (2) by striking “SECURITY CARDS” and inserting “WORKER IDENTIFICATION CREDENTIAL”;

<< 46 USCA § 70105 >>

(10) in subsection (k)(1), as so redesignated, by striking “subsection (k)(3)” and inserting “subsection (j)(3)”;

<< 46 USCA § 70105 >>

(11) by striking paragraph (4) of subsection (k), as so redesignated; and

(12) in subsection (o), as so redesignated—

<< 46 USCA § 70105 >>

(A) in the subsection heading by striking “SECURITY CARD” and inserting “WORKER IDENTIFICATION CREDENTIAL”;

(B) in paragraph (1)—

<< 46 USCA § 70105 >>

(i) by striking “subsection (k)(3)” and inserting “subsection (j)(3)”;

<< 46 USCA § 70105 >>

(ii) by striking “This plan shall” and inserting “Such receipt and activation shall”; and

<< 46 USCA § 70105 >>

(C) in paragraph (2) by striking “on-site activation capability” and inserting “on-site receipt and activation of transportation worker identification credentials”.

<< 46 USCA T. 46 sub. VII ch. 701 subch. I prec. § 70101 >>

(b) CLERICAL AMENDMENT.—The analysis for chapter 701 of title 46, United States Code, is amended by striking the item related to section 70105 and inserting the following:

“70105. Transportation worker identification credentials.”.

<< 46 USCA § 70105 NOTE >>

(c) LIMITATION ON IMPLEMENTATION.—The Secretary may not implement the rule entitled “Transportation Worker Identification Credential (TWIC)—Reader Requirements” (81 Fed. Reg. 57651) for covered facilities before May 8, 2026.

<< 46 USCA § 70105 NOTE >>

(d) COVERED FACILITIES DEFINED.—In this section, the term “covered facilities” means—

- (1) facilities that handle Certain Dangerous Cargoes in bulk and transfer such cargoes from or to a vessel;
- (2) facilities that handle Certain Dangerous Cargoes in bulk, but do not transfer it from or to a vessel; and
- (3) facilities that receive vessels carrying Certain Dangerous Cargoes in bulk but, during the vessel-to-facility interface, do not transfer it from or to the vessel.

SEC. 11805. REINSTATEMENT.

(a) REINSTATEMENT.—The text of section 12(a) of the Act of June 21, 1940 (33 U.S.C. 522(a)), popularly known as the “Truman-Hobbs Act”, is—

<< 33 USCA § 522 >>

- (1) reinstated as it appeared on the day before the date of the enactment of section 8507(b) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 134 Stat. 4754); and

***4165**

<< 33 USCA § 522 >>

<< 33 USCA § 522 >>

- (2) redesignated as the sole text of section 12 of the Act of June 21, 1940 (33 U.S.C. 522).

<< 33 USCA § 522 NOTE >>

(b) EFFECTIVE DATE.—The provision reinstated under subsection (a) shall be treated as if such section 8507(b) had never taken effect.

<< 33 USCA § 522 >>

(c) CONFORMING AMENDMENT.—The provision reinstated under subsection (a) is amended by striking “, except to the extent provided in this section”.

SEC. 11806. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation for this Act”, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SEC. 11807. TECHNICAL AMENDMENT.

(a) IN GENERAL.—Section 6304 of title 46, United States Code, is amended—

<< 46 USCA § 6304 >>

(1) by striking “subpena” and inserting “subpoena” each place it appears; and

<< 46 USCA § 6304 >>

(2) in subsection (d) by striking “subpenas” and inserting “subpoenas”.

<< 46 USCA T. 46 subt. II pt. D ch. 63 prec. § 6301 >>

(b) CLERICAL AMENDMENT.—The analysis for chapter 63 of title 46, United States Code, is amended by striking the item relating to section 6304 and inserting the following:

“6304. Subpoena authority.”.

SEC. 11808. LIGHTHOUSE SERVICE AMENDMENTS.

(a) REPEALS.—The following provisions are repealed:

<< 33 USCA § 474 >>

(1) Sections 1, 2, and 3 of the Act of March 6, 1896 (33 U.S.C. 474).

<< 33 USCA § 711 >>

<< 33 USCA § 721 >>

(2) Section 4 of the Act of June 17, 1910 (33 U.S.C. 711; 721).

<< 33 USCA § 712 >>

(3) The first sentence of section 2 of the Act of July 27, 1912 (33 U.S.C. 712).

<< 33 USCA § 713 >>

(4) Section 10 of the Act of June 17, 1910 (33 U.S.C. 713).

<< 33 USCA § 714 >>

(5) Section 6 of the Act of June 17, 1910 (33 U.S.C. 714).

<< 33 USCA § 715 >>

(6) Section 5 of the Act of June 17, 1910 (33 U.S.C. 715).

<< 33 USCA § 719 >>

(7) Section 4679 of the Revised Statutes.

<< 33 USCA § 737 >>

(8) Section 4 of the Act of May 14, 1908 (33 U.S.C. 737).

<< 33 USCA § 738 >>

(9) The first sentence of the sixteenth paragraph of the section entitled “Coast Guard” under the heading “Treasury Department” of the Act of June 5, 1920 (33 U.S.C. 738).

<< 33 USCA § 744 >>

(10) Section 7 of the Act of June 20, 1918 (33 U.S.C. 744).

<< 33 USCA § 748a >>

(11) Section 2 of the Act of May 13, 1938 (33 U.S.C. 748a).

<< 33 USCA § 752b >>

(12) The Act of June 15, 1938 (33 U.S.C. 752b).

<< 33 USCA § 763 >>

(13) The last proviso of the second paragraph of the section entitled “Lighthouse Service” under the heading “Department of Commerce” of the Act of November 4, 1918 (33 U.S.C. 763).

<< 33 USCA § 763a-2 >>

(14) Section 7 of the Act of June 6, 1940 (33 U.S.C. 763a-2).

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<< 33 USCA § 764 >>

(15) The last paragraph of the section entitled “Lighthouse Service” under the heading “Department of Commerce” of the Act of March 4, 1921 (33 U.S.C. 764).

<< 33 USCA § 765 >>

<< 33 USCA § 766 >>

(16) Sections 1 and 2 of the Act of March 4, 1925 (33 U.S.C. 765; 766).

<< 33 USCA § 775 >>

(17) Section 5 of the Act of August 19, 1950 (33 U.S.C. 775).

<< 14 USCA T. 14 sub. II ch. 25 subch. I prec. § 2501 >>

<< 14 USCA § 2531 >>

<< 14 USCA § 2532 >>

<< 14 USCA § 2533 >>

<< 14 USCA § 2534 >>

(18) Subchapter III of chapter 25 of title 14, United States Code, and the items relating to such subchapter in the analysis for chapter 25 of such title.

<< 33 USCA § 714 NOTE >>

(b) OPERATION OF REPEALS.—The repeals under paragraphs (5) and (6) of subsection (a) shall not affect the operation of section 103 of title 14, United States Code.

<< 33 USCA § 472 >>

<< 14 USCA § 548 >>

(c) TRANSFER.—Chapter 313 of the Act of September 15, 1922 is transferred to appear at the end of subchapter III of chapter 5 of title 14, United States Code, redesignated as section 548 of such title, and amended—

<< 14 USCA § 548 >>

(1) by striking “That hereafter the Commissioner of Lighthouses” and insert “The Commandant of the Coast Guard”; and

<< 14 USCA § 548 >>

(2) by striking “Lighthouse Service” and inserting “Coast Guard”.

Approved December 23, 2022.

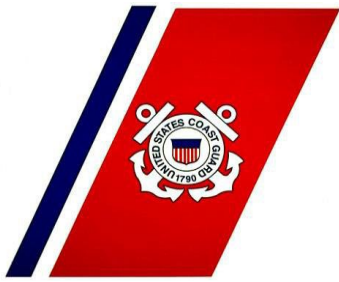
LEGISLATIVE HISTORY—H.R. 7776:

HOUSE REPORTS:

SENATE REPORTS:

CONGRESSIONAL RECORD, Vol. ():

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS ():



Marine Safety Information Bulletin

Commandant
U.S. Coast Guard
Inspections and Compliance Directorate
2703 Martin Luther King Jr Ave SE, STOP 7501
Washington, DC 20593-7501

MSIB Number: 1-23
Date: February 9, 2023
E-Mail: cgistips@uscg.mil

Reporting Sexual Misconduct on U.S. Vessels

Sexual misconduct that occurs onboard U.S. flagged vessels harms mariners, interrupts safe operations, and often leads to accidents, lost careers, and a lifetime of trauma for the survivors who endure the abuse. The Coast Guard is committed to investigating and pursuing appropriate enforcement actions for all reports of sexual misconduct on U.S. flagged vessels. This MSIB supersedes the Assistant Commandant for Prevention Policy's MSIB 11-21 "Reporting Sexual Assaults on U.S. Vessels" issued on December 16, 2021.

Recent changes to the law now require the responsible entity of a vessel, defined as the owner, master, or managing operator, to report any complaint or incident of harassment, sexual harassment, or sexual assault to the Coast Guard that violates company policy. To help facilitate reporting, the Coast Guard has consolidated reporting for all types of sexual misconduct and established multiple reporting options as detailed in the attached graphic. The reporting options include a *CGIS Tips App*, and/or the email address CGISTIPS@uscg.mil which can be used by all reporting sources, including bystanders and survivors, who have access to a smart phone or the internet. The reports, which can be anonymous or for attribution, are received and reviewed by the Coast Guard Investigative Service (CGIS). An investigation will be initiated for all reports received and someone will provide follow-up communications with all reporting sources who provide contact information. The Coast Guard also maintains a 24/7 watch, which can field reports of sexual misconduct via the National Command Center (NCC) phone number at 202-327-2100. CGIS will leverage all available resources to immediately initiate a criminal investigation for a sexual crime occurring on a U.S. flagged vessel anywhere in the world. The Coast Guard will respond to any reports of sexual misconduct with trained investigators and will hold offenders accountable through criminal prosecution and/or actions against U.S. Coast Guard issued merchant mariner credentials (MMCs).

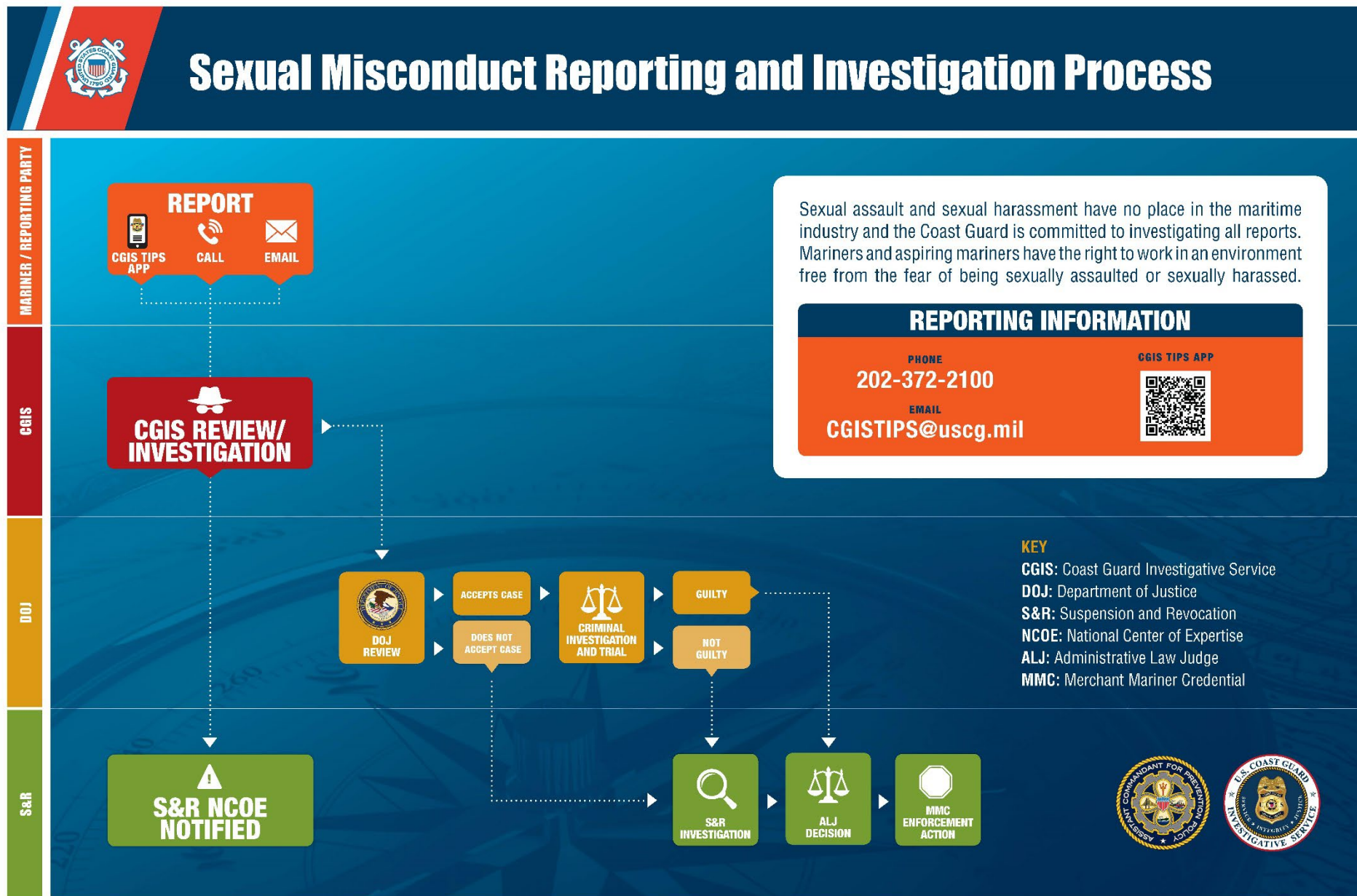
The *CGIS Tips App* can be downloaded from a mobile provider's marketplace using the following QR code:



If the responsible entity in charge of a U.S. flagged vessel makes a report, including providing detailed contact information for further follow-up, of a sexual misconduct incident through CGIS Tips, via the CGIS email at CGISTIPS@uscg.mil, or the NCC's phone line the report will satisfy the reporting requirements of [46 U.S. Code § 10104\(a\)](#).

Jeremy R. Gauthier, SES, U.S. Coast Guard, Director of the Coast Guard Investigative Service sends.

This release has been issued for public information and notification purposes only



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of the Complaint

of

ENERGETIC TANK, INC.,
as Owner of the M/V ALNIC MC,
for Exoneration from or Limitation of Liability

No. 18-cv-1359 (PAC) (RWL)

OPINION & ORDER

This case concerns a collision that occurred on August 21, 2017, in the Singapore Strait between a United States Navy warship and an oil tanker. Petitioner Energetic Tank, Inc. filed the instant action seeking either exoneration or limitation of its liability from the collision. The United States and dozens of injured or deceased sailors (the “Personal Injury Claimants” and “Wrongful Death Claimants,” respectively) then brought claims against Petitioner, seeking damages sounding in tort. The Court divided proceedings into two discrete phases: liability for the collision (“Phase I”), and determination of damages owed to the Claimants (“Phase II”).¹ Before issuing the final Judgment from Phase I, the Court solicited additional briefing on, *inter alia*, whether any of the Claimants were entitled to a jury trial in Phase II. *See* ECF No. 386. The Court now determines that both groups of Claimants will proceed before a jury in Phase II.

¹ Once limitation is denied, claims are no longer subject to limitation and claimants may elect to pursue their independent, common-law actions. *See In re Wood’s Petition*, 230 F.2d 197, 199 n.11 (2d Cir. 1956); *see also In re City of New York*, 03-cv-6049 Hearing Tr., ECF No. 926 2:1–25 (consolidating cases within limitation of liability proceeding and analyzing availability of jury trial based on characteristics of each individual claim). The Court previously determined that it would try Phase II on agreement by the parties. ECF Nos. 208, 240. Although the Court did not explicitly cite Fed. R. Civ. Pro. 42 as authorizing its ability to consolidate the Phase II claims for trial, it does so here *nunc pro tunc*. *See* Fed. R. Civ. Pro. 42(a); *In re Eastern and South Districts Asbestos Litig.*, 772 F. Supp. 1380, 1388 (E.D.N.Y. 1991), *rev’d on other grounds*, *In re Brooklyn Navy Yard Asbestos Litig.*, 971 F.2d 831 (2d Cir. 1992).

The Court assumes familiarity with the record as set forth in its previous Opinion and therefore only briefly summarizes it here. *See generally Matter of Energetic Tank, Inc.*, No. 18CV1359, 2022 WL 2159786 (S.D.N.Y. June 15, 2022) (the “Phase I Opinion”). Petitioner initiated this action by filing a complaint seeking relief under the Limitation of Liability Act. *See* 46 U.S.C. §§ 30501 *et seq.*² In Phase I, following a bench trial, the Court determined Petitioner was 20% at fault for the collision and the United States was 80% at fault and awarded each side damages. The Court also denied Petitioner exoneration or limitation of its liability. *See* Phase I Opinion at *34–35.³

The Court previously issued a choice-of-law decision, holding that Singapore law applies in this case to substantive issues of liability and damages. *See Matter of Energetic Tank, Inc.*, No. 118CV1359PACRWL, 2020 WL 114517, at *7 (S.D.N.Y. Jan. 10, 2020) (“Choice of Law Opinion”), *reconsideration denied*, No. 118CV1359PACRWL, 2020 WL 978257 (S.D.N.Y. Feb. 28, 2020). The Court reiterates that Singapore law governs the substantive aspects of Phase II. However, the parties agree that the right to a jury trial in federal court is a matter of federal law, *see McGuire v. Russell Miller, Inc.*, 1 F.3d 1306, 1314 (2d Cir. 1993), and thus, United States law governs the availability of a jury trial.

² A limitation of liability action is an admiralty proceeding that “allows a vessel owner to limit liability for damage or injury, occasioned without the owner’s privity or knowledge, to the value of the vessel or the owner’s interest in the vessel.” *Lewis v. Lewis & Clark Marine, Inc.*, 531 U.S. 438, 446 (2001).

³ The Petitioner and the United States have both filed interlocutory appeals of the Phase I Opinion. *See* ECF Nos. 409, 412. The United States’ appeal also challenges the Court’s determination that Singapore law applies to substantive matters of liability and damages. The Court determined that that a stay was not in the interest of justice and Phase II would continue pending the appeal. *See* ECF No. 419. Petitioner also filed an interlocutory appeal of the Court’s opinion dismissing Petitioner’s contribution claim against the United States for lack of jurisdiction. *See* ECF Nos. 419, 421.

I. UNDER THE “SAVING TO SUITORS CLAUSE,” THE PERSONAL INJURY CLAIMANTS MAY TRY THEIR CLAIMS BEFORE A JURY

While “the Seventh Amendment does not require jury trials in admiralty cases, neither that Amendment nor any other provision of the Constitution forbids them. Nor does any statute of Congress or Rule of Procedure, Civil or Admiralty, forbid jury trials in maritime cases.” *Fitzgerald v. U. S. Lines Co.*, 374 U.S. 16, 20 (1963) (citations omitted). Further, under 28 U.S.C. § 1333(1) (known as the “saving to suitors” clause), admiralty and maritime cases reserve “to suitors ‘in all cases all other remedies to which they are otherwise entitled’”, including the right to a jury trial. *See Lewis v. Lewis & Clark Marine, Inc.*, 531 U.S. 438, 444, 455 (2001) (quoting 28 U.S.C. § 1333(1)). Because a claimant is otherwise enjoined from proceeding in other fora during a limitation action, there is a “‘recurring and inherent conflict in admiralty law’ between the non-jury admiralty tradition and a claimant’s right to jury trial.” *Complaint of Poling Trans. Corp.*, 776 F. Supp. 779, 782 (S.D.N.Y. 1991) (quoting *Complaint of Dammers & Vanderheide & Scheepvaart Maats Christina B.V.*, 836 F.2d 750, 754 (2d Cir. 1988)). “[A]dmiralty courts must strive whenever possible to promote the policies underlying both provisions.” *Dammers*, 836 F.2d at 760. After all, the Limitation of Liability Act was not designed to “enabl[e] a vessel owner to take a tort victim’s case away from a jury” but rather “was fashioned by Congress as a shield rather than a sword.” *Poling Trans. Corp.*, 776 F. Supp 779 at 786 (quotations and citations omitted).

To promote both the non-jury admiralty tradition and a claimant’s right to a jury trial, a non-admiralty claim “with independent jurisdictional basis normally carrying a jury right . . . may be tried to the jury.” *Poling*, 776 F. Supp at 783 (internal quotations omitted); *see also Terracciano v. McAlinden Const. Co.*, 485 F.2d 304, 309 n.16 (2d Cir. 1973). One such independent jurisdictional basis is diversity jurisdiction based on common law tort claims, provided there are independent grounds for diversity of citizenship. *Ghotra by Ghotra v. Bandila Shipping, Inc.*, 113

F.3d 1050, 1054 (9th Cir. 1997); *see also Atlantic & Gulf Stevedores, Inc. v. Ellerman Lines, Ltd.*, 369 U.S. 355, 360–61 (1962).

Consistent with the jury right preserved in the “saving to suitors clause,” the Personal Injury Claimants may try their claims before a jury. Although Petitioner’s limitation proceeding is quintessentially an admiralty action, the Court already adjudicated the Petitioner’s limitation claims and liability for the crash in Phase I. *See* the Phase I Opinion. What remains in Phase II are the Personal Injury Claimants claims sounding in tort—claims that provide an independent basis for granting a jury trial within this proceeding. *See Ghotra* 113 F.3d at 1054–56 (“[N]egligence . . . [is an] in personam maritime claim[] that could have been brought ‘at common law.’”).

The Court now must determine whether “the requirements of diversity of citizenship and amount in controversy are met.” *Ghotra by Ghotra*, 113 F.3d at 1054. The Court finds they are. “Consolidated cases do not lose their separate identity, and thus diversity is evaluated in terms of each individual case.” *Aetna Cas. and Sur. Co. v. Aniero Concrete Co., Inc.*, 404 F.3d 566, 569 (2d Cir. 2005) (internal citation omitted). The parties agree that Petitioner is a foreign entity and that all Claimants meet the amount in controversy threshold. *See* ECF Nos. 1, 486, 499. On January 23, 2023, the Court ordered the Claimants to submit sworn evidence attesting to the facts they contend support diversity jurisdiction. *See* ECF No. 444.⁴ The remaining Claimants submitted declarations, drivers’ licenses, and/or United States tax returns attesting to their U.S. citizenship and domicile. *See* ECF Nos 449–97. Military personnel are presumed to retain their domicile upon entry into the military and assignment to another state or country absent “clear and

⁴ Three Claimants subsequently dismissed their claims upon stipulation of all the parties. *See* ECF No. 458.

unequivocal evidence” demonstrating an intent to abandon their original domicile and adopt one abroad. *In re Ski Train Fire In Kaprun, Austria on Nov. 11, 2000*, 257 F. Supp. 2d 717, 725–26 (S.D.N.Y. 2003). The Personal Injury Claimants have thus properly evoked the Court’s diversity jurisdiction pursuant to 28 U.S.C. § 1332 and timely demanded a jury trial. This invocation places their claims squarely within the protections of the “saving to suitors” clause and preserves their jury rights.

Allowing the Personal Injury Claimants to proceed to a jury trial is also consistent with the policy underlying the “saving to suitors” clause. After all, “[t]he limitation device was not intended to be an offensive weapon for vessel owners,” and denying the Personal Injury Claimants a jury trial in Phase II would allow Petitioner to use the limitation proceeding “to strip the claimants of a jury trial” to which they “would otherwise be entitled under the saving to suitors clause.” *Complaint of Great Lakes Dredge & Dock Co.*, 895 F. Supp. 604, 612 (S.D.N.Y. 1995). The Court in Phase I “ensure[d] that [Petitioner] will not face liability in excess of the limitation fund” and thus must now “take all steps necessary to assure that claimants are allowed to pursue their common law remedies in accordance with the ‘saving to suitors’ clause.” *Dammers*, 836 F.2d at 759. These steps include allowing the Personal Injury Claimants to try their claims before a jury during Phase II.⁵

⁵ The Court rejects that the only option is to dismiss the action and allow the Personal Injury Claimants the opportunity to refile elsewhere. *See In re Wood’s Petition*, 230 F.2d 197, 199 n.10 (2d Cir. 1956) (noting district court’s continuing, but not exclusive, jurisdiction in admiralty after denying limitation). The Court already determined that the proper course is to try liability and damages in bifurcated proceedings. *See* ECF No. 240. Nor is a separate suit necessary to invoke the “saving to suitors” clause in a limitation proceeding. Jury trials have been allowed within the same case, *see Great Lakes Dredge & Dock Co.*, 895 F. Supp. at 614–15, and even within the limitation proceeding itself, *see Red Star Towing & Transp. Co., Inc. v. “MING GIANT”*, 552 F. Supp. 367, 374 (S.D.N.Y. 1982).

Arguing for the propriety of a bench trial, Petitioner suggests the Court has discretion and should balance three factors: “(1) the admiralty tradition disfavoring the use of a jury in limitation proceedings; (2) the preservation of the claimants’ rights under the savings to suitors clause; and (3) judicial economy.” Pet’r’s Br. 17, ECF No. 395 (citing *In re Petition of Atlantis Fishing Fleet Corp.*, No. CV-01-8263(SJF)(ASC) 2004 WL 3704912, at *3–4 (Mar. 22, 2004, E.D.N.Y.)). The Court notes that this three-factor test was initially used to determine whether a court could exercise supplemental jurisdiction and send non-diverse claims to a jury, *see Great Lakes*, 895 F. Supp. at 612–13; *Poling*, 776 F. Supp. at 785–86, unlike here where the Personal Injury Claimants properly invoked diversity. Even assuming, however, that this is the correct analytical framework, the Court disagrees that the balance tips in favor of a bench trial.

For one, there are weaker admiralty interests at play in Phase II. Although there is a tradition of bench trials in limitation proceedings, the Court has already honored that tradition by bifurcating proceedings, holding a bench trial, and denying Petitioner limitation in Phase I. *See generally* Phase I Opinion, 2022 WL 2159786. What remains in Phase II is a determination of the Personal Injury Claimants’ damages and “courts are demonstrably more willing to circumscribe the admiralty tradition of non-jury trials where parties seek to put claims based on . . . personal injury before a jury.” *Great Lakes*, 895 F. Supp. at 614. To the extent Petitioner alleges that *Singapore* substantive law favors a bench trial, as previously stated, federal law determines the availability of jury trials, *see McGuire*, 1 F.3d at 1314, and here, it favors sending personal injury claims to a jury.

Second, the preservation of the Personal Injury Claimants right to a jury trial favors a jury trial. That the Personal Injury Claimants may have failed to invoke the “saving to suitors” clause in their initial pleadings is of no importance. Petitioner cites no case law for the proposition that

a party must assert a “saving to suitors” defense, and courts applying the provision analyze whether claimants have adequately pled diversity jurisdiction and a jury trial demand—which the Personal Injury Claimants have—not a right under “saving to suitors.” *See, e.g., Great Lakes.*, 895 F. Supp. at 610–11.

Finally, judicial economy also favors trying the claims before a jury. Although this case presents unique challenges, courts adjudicating mass tort actions consistently favor the use of juries. *See, e.g., In re Agent Orange Prod. Liab. Litig.*, 597 F. Supp. 740, 752 (E.D.N.Y. 1984) (preparing to conduct a jury trial of ten plaintiffs with “typical injuries . . . characteristic of those of the class”); *McMillan v. City of New York*, Nos. 03-CV-6049, 08-CV-2887, 2008 WL 4287573 at *1 (E.D.N.Y. Sept. 17, 2008) (trying some non-diverse personal injury claims in mass tort litigation arising from crash of New York City ferryboat in admiralty before advisory jury). Petitioner also expresses concern about the possibility of inconsistent results if Phase II proceeds to a jury. Pet’r’s Br. 18. While this concern is not unfounded, some inconsistent results are likely inevitable, given the number, complexity, and particularized nature of the claims. However, litigating the issue of liability only once—as the Court did here in Phase I—can help “avoid the danger of inconsistent verdicts.” *See In re Agent Orange*, 597 F. Supp. at 842.

Finally, Petitioner alleges that an American jury is ill-equipped to determine damages under Singapore law. Pet.’r’s Reply Br. 3. This is a proper inquiry for dismissal under *forum non conveniens*, *see Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 260 (1981), not a jury trial right. Petitioner suggests that *Karim v. Finch Shipping Co. Ltd.*, 94 F. Supp. 2d 727 (E.D. La. 2000), *aff’d*, 265 F.3d 258 (5th Cir. 2001), highlights the difficulties of applying foreign law on damages in a bifurcated limitation action. However, the district court in *Karim* made no express determination that a bench trial was more appropriate than a jury trial; indeed, there is no indication

that the seaman in *Karim* ever requested a jury trial or would have been entitled to one. To the extent that *Karim* represents the potential difficulties of applying foreign law to a damages trial being litigated in a United States court, it is widely accepted that “jurors are well suited to decide” issues of damages. *Complaint of Berkley Curtis Bay Co.*, 569 F. Supp. 1491, 1494 (S.D.N.Y. 1983), *judgment aff’d*, *B.C. Bay Co. v. Am. Dredging Co.*, 742 F.2d 1431 (2d Cir. 1983). The Court is not willing to preemptively deprive the Personal Injury Claimants of their rights based on an assumption about jury capabilities—especially when Singapore courts follow the doctrine of *stare decisis* and consider admiralty and tort precedent from common law countries like the United States and United Kingdom as persuasive authority. *See* Goh Yihan & Paul Tan, *An Empirical Study on the Development of Singapore Law*, 23 SING ACAD. OF L. J. 176, 181, 209–11 (2011).

II. THE WRONGFUL DEATH CLAIMANTS’ CLAIMS WILL ALSO BE TRIED TO A JURY

The Court also concludes that the Wrongful Death Claimants’ Phase II proceedings should occur before a jury as well. They also assert a jury right pursuant to diversity jurisdiction; however, unlike the Personal Injury Claimants, the Wrongful Death Claimants pled wrongful death and survival actions. Petitioner maintains that the Death on the High Seas Act (“DOHSA”), 46 U.S.C. §§ 30301 *et seq.*, therefore applies and mandates a bench trial. Pet’r’s Br. 11–13 (“[P]rocedurally, the wrongful death claimants’ claims fall under § 30306 of DOHSA.”); *see* 1 Schoenbaum, *Admiralty and Mar. Law* § 8:2 (6th Ed.) (“A DOHSA action is in admiralty jurisdiction, and there is no right to trial by jury.”).

The Court agrees that the Wrongful Death Claims are governed procedurally by DOHSA. Congress designed DOHSA to “provide a uniform and effective wrongful death remedy for survivors of persons killed on the high seas.” *Offshore Logistics, Inc. v. Tallentire*, 477 U.S. 207, 214 (1986); *see also Dooley v. Korean Air Lines Co., Ltd.*, 524 U.S. 116, 118–19 (1998) (describing DOHSA as

the “exclusive source of recoverable damages”). Section 30306 of DOHSA expressly permits U.S. courts to apply substantive foreign law “in respect to the amount for which recovery is authorized, any statute of the United States to the contrary notwithstanding,” 46 U.S.C. § 30306, although American procedural law applies. *See Fernandez v. Linea Aeropostal Venezolana*, 156 F. Supp. 94 (S.D.N.Y. 1957).⁶ DOHSA does not carry a right to a jury trial, unless there is a “wholly independent jurisdictional predicate *as well as* an independent cause of action.” *Friedman v. Mitsubishi Aircraft Intern, Inc.*, 678 F. Supp. 1064, 1066 n.5 (S.D.N.Y. 1988) (quoting *In re Air Crash Disaster in the Ionian Sea on Sept. 8, 1974*, Nos. 229, M-21-16, 1979 WL 2973 at *2 (S.D.N.Y. Apr. 10, 1979) (emphasis in original)). The Wrongful Death Claimants have not alleged any independent causes of action that would otherwise entitle them to a jury. *Cf. In re Korean Air Lines Disaster of Sept. 1, 1983*, 704 F. Supp. 1135 at 1152 (D.D.C. 1988) *rev’d on other grounds*, 932 F.2d 1475 (D.C. Cir. 1991) (trying plaintiffs’ claims before a jury because they pled both DOHSA causes of action and causes of action under Warsaw Convention, which carried right to jury trial). The Wrongful Death Claimants therefore are not independently entitled to a jury trial on their claims.

The Court is ultimately persuaded, however, that the Wrongful Death Claimants’ claims should nevertheless be tried before a jury. While a DOHSA action is a “civil action in admiralty,”

⁶ In *In re Air Crash Off Long Island, New York, on July 17, 1996*, the Second Circuit declined to rule on “the difficult question” of whether DOHSA applies in foreign territorial waters but acknowledged that several courts have held that it does. 209 F.3d 200, 211–12 (2d Cir. 2000). The Court does not interpret the Second Circuit’s restraint as nullifying Section 30306 or prohibiting a court from applying foreign law vis-à-vis Section 30306 to a wrongful death claim under DOHSA. The Court is further persuaded by the logic of *In re Air Crash Disaster Near Bombay, India on Jan. 1, 1978*, cited by the Second Circuit, which held that choice-of-law maritime principles counseled that Indian law under DOHSA applied to wrongful death actions arising from a plane crash in the territorial waters of India. 531 F. Supp. 1175 (W.D. Wash. 1982); *see also Park v. Korean Air Lines Co., Ltd.*, No. 83-Civ.-7900 (PNL), 1992 WL 331092 at *8 n. 17 (S.D.N.Y. Oct. 30, 1992).

46 U.S.C. § 30306, there is no statutory or constitutional barrier to a jury trial in admiralty proceedings.⁷ *See Fitzgerald*, 374 U.S. at 20. Nor is there a provision of DOHSA that *prohibits* a jury trial. *See Peace v. Fidalgo Island Packing Co.*, 419 F.2d 371, 372 (9th Cir. 1969); *Red Star Towing & Transp. Co., Inc. v. “MING GIANT”*, 552 F. Supp. 367, 374–75 (S.D.N.Y. 1982). Particularly given the longstanding tradition of allowing juries to determine damages, *see Complaint of Berkley Curtis Bay Co.*, 569 F. Supp. at 1494, the Court will exercise its discretion and permit the Wrongful Death Claims to be tried before a jury.

As determined above, the Personal Injury Claimants have an independent basis under diversity jurisdiction for trying their claims before a jury. Both the Wrongful Death and Personal Injury claims arise out of the same issues of fact—a single collision between the M/V ALNIC and the U.S.S. JOHN S. MCCAIN. Further bifurcating Phase II between bench and jury trials would be “unduly complicate[d] and confus[ing]. . .and [could] easily result in too much or too little recovery.” *Fitzgerald*, 374 U.S. at 19. These problems are especially present here given the numerosity and complexity of the claims and are particularly “acute in determining the amount of damages.” *See id.*

The nature of Phase II—where dozens of damages claims will be litigated in a yet-to-be-determined fashion—specifically counsels in favor of a jury trial for all Claimants. When a DOHSA claim is joined with a claim otherwise carrying a jury trial right and the claims involve the same issue of fact, the court may send both claims to the jury. *See MING Giant*, 552 F. Supp.

⁷ Indeed, the problematic interplay between a lack of jury trials in admiralty is not a new phenomenon. At the very founding of this country, the Declaration of Independence denounced the English Crown’s deprivation of the “benefit of trial by jury” in an enumerated grievance directly responding to the Crown’s expansion of admiralty court jurisdiction in a blatant attempt to limit jury trials. *See United States v. Chin*, No. 14-10363-RGS, 2017 WL 5557626, at *3 (D. Mass Nov. 17, 2017) *rev’d on other grounds*, 931 F.3d 251 (1st Cir. 2019) (*quoting* THE DECLARATION OF INDEPENDENCE ¶ 20 (U.S. 1776)).


at 374–75 (sending DOHSA and other issues, including limitation, to the jury). The Court sees little reason to separate the ten or so Wrongful Death Claims from the dozens of Personal Injury claims when both sets of damages arise out of the same factual circumstances, particularly if the Court ultimately determines that judicial economy favors trying some combination of Wrongful Death and Personal Injury claims within the same trial.⁸

Petitioner alleges that the logic of *MING GIANT* is inapplicable because the Wrongful Death Claimants *themselves* have not asserted any additional claims carrying a right to a jury trial. As noted above, the Court agrees that this, by itself, does not provide the Wrongful Death Claimants with a jury trial *right*. Courts, however, allow multiple claimants to bring various maritime claims before a jury, even where one claimant asserted a claim with a jury trial right and the other asserted a claim cognizable only in admiralty. *See e.g., Berkley*, 569 F. Supp. at 1493–94 (permitting one claimant’s Jones Act and another’s non-diverse personal injury claim to both go to a jury); 2 Schoenbaum, *Admiralty and Mar. Law* § 21:15 (6th Ed.) (“In a multiparty, consolidated case, where one or more parties have a right to a jury trial, the claims of all parties must be submitted to the jury to avoid violating a party’s Seventh Amendment right.”). Thus, the Court will exercise its discretion and try all claims before a jury.

It is hereby **ORDERED** that the Phase II proceedings will be tried before a jury for all claims and Claimants.

Dated: New York, New York
February 28, 2023

SO ORDERED



HONORABLE PAUL A. CROTTY
United States District Judge

⁸ The Court continues to reserve judgment on the more detailed structure of the Phase II proceedings.



HON. JOHN G. INGRAM

*Justice, Supreme Court of the State of New York, Kings County (Ret.)
Maritime*

The Honorable John G. Ingram has had a long and remarkable legal career, both as a judge and a litigator practicing admiralty law. As one of the nation's foremost authorities on maritime matters, Judge Ingram has successfully litigated hundreds of cases representing container ship companies, cruise ship owners, terminal operators, passenger and harbor workers, seafarers, docking pilots, a major towing company and the Port of Albany. Additionally, he represented a foreign government in cargo cases. As a Commissioner of Pilots, Judge Ingram oversaw and conducted investigations concerning pilots involved in marine casualties. He also represented seafarers in United States Coast Guard investigations. He also served as an attorney for parties in charter and salvage arbitrations.

In 2003, Judge Ingram left private practice and began a distinguished 17-year judicial career when Governor George Pataki appointed him Judge of the New York State Court of Claims. Shortly thereafter, he was assigned to the Supreme Court, Bronx County Narcotics and Trial Part and then reassigned to the Supreme Court, Kings County, Trial Part, in the criminal division, where he served with distinction for nine years. During that time, Judge Ingram presided over more than 200 felony trials to verdict. In 2017, he was appointed Acting Surrogate Judge, Kings County, where he oversaw more than three hundred estate cases and settled multiple contested estate matters. Two years later, Justice Ingram was reassigned to the Supreme Court, Kings County. While serving on the Kings County bench, he was also assigned to Queens Supreme Court (Civil) to oversee a voter recount of the Democratic primary election for Queens District Attorney. He also sat as Acting Surrogate Judge of Richmond County overseeing estate matters. He remained Justice of the Supreme Court, Kings County, until his retirement in December 2019.

Justice Ingram has served as an arbitrator in the United State District Court for the Eastern District of New York and Civil Court of the City of New York. Additionally, he has served as a commercial arbitrator for many commercial cases throughout New York. An avid supporter of alternative dispute resolution (ADR), Judge Ingram's experience on the bench, combined with the time spent as a maritime litigator in private practice, gives him the ability to approach matters in an unbiased manner and guide parties and counsel to a fair and impartial resolution.

Captain Ingram's interest and deep understanding of maritime law stems back to his undergraduate studies at the State University of New York Maritime College, where he graduated with a Bachelor of Science in Marine Transportation. After graduation, he joined the United States Naval Reserve and sailed on his license aboard U.S. flag freighters, containerships and passenger liners as a Third and Second Mate. In the 31 years with the U.S. Naval Reserve, Judge Ingram served on board two aircraft carriers, a landing platform helicopter ship (LPH), an oiler (tanker) and a destroyer escort. He served as commanding officer of five reserve units including Military Sealift Command Northern United Kingdom. He holds a third mate's license for Continuity issued by the U.S. Coast Guard.

Additionally, Judge Ingram served as a Member of the Boards of Maritime College Foundation at Fort Schuyler, the Alumni Association of the New York State Maritime College, The Cathedral Club of Brooklyn and Vice President and board member of the Brooklyn Benevolent Society. He is a member of the Association of the U.S. Navy, the BAYFORTS, NYS Association of Fire Chiefs and The Marine Society of the City of New York. He is also an Honorary Usher at St. Patrick's Cathedral in Manhattan.

Judge Ingram is a native New Yorker, born in Manhattan, raised in Queens, educated in Brooklyn and the Bronx. He is an active member of the New York State Fire Chiefs, a volunteer firefighter and member of the Point Breeze Volunteer Fire Department since 1958 and was appointed to the Advisory Board of the FDNY Fire Family Transport Foundation, LTD. He is also an Honorary Battalion Chief in the Fire Department of New York.

Justice Ingram is available to hear Maritime Law cases throughout the United States.

AREAS of EXPERIENCE

- Cargo Damage
- Charter Party Disputes
- Collision Litigation
- Cruise Ship Passenger Claims
- Groundings
- Jones Act / Unseaworthiness Claims
- Longshore Harbor Workers Personal Injury
- Personal Injury
- Pollution
- Surrogate Matters

LECTURES and PUBLICATIONS

- Speaker, *Maritime Law 101 and Introduction to Personal Injury and Medical Malpractice on the High Seas*, webinar presented to myLawCLE, 2021
- Speaker, Webinar: *Introduction to Admiralty Law and the Use of ADR in Resolving Maritime Disputes*, Corporate Counsel Business Journal (CCBJ), 2020
- Speaker, *Resolving Trust and Estate Issues Utilizing ADR*, presented to the New York State Academy of Trial Lawyers, 2020
- CCBJ Interview: *Maritime Matters Are at the Forefront of Alternative Dispute Resolution*, Corporate Counsel Business Journal (CCBJ), 2020
- CLE lecturer, Maritime Law Association of the United States
- Speaker, *Personal Injury and Medical Malpractice on the High Seas*, Bay Ridge Lawyers Association, 2015
- Co-author, *Admiralty law for the Maritime Professional* with Janis Schulmeisters, Esq., 2015
- Author, *The Fifth Amendment and Marine Investigations*, University of San Francisco Maritime Law Journal, Volume 5, No.2, 1993
- Adjunct Professor, St. John's University School of Law, 2011
- Adjunct Lecturer, Admiralty Law, State University of New York (SUNY) Maritime College, 2008 - Present
- Instructor/Lecturer, Intensive Trial Advocacy Program, Cardozo Law School of Yeshiva University, 1998 - 2003
- Professor, New York Law School 1977 - 1987
- CLE Lecturer, Military Law Committee of the Brooklyn Bar Association

HONORS and AWARDS

- Hon. Guy J. Mangano Distinguished Jurist Award, St. John's University School of Law, 2009
- Thomas Moore Award, The Catholic Schools, Diocese of Brooklyn, 2009
- First Annual Justice Ballard Award, Catholic Charities, 2006
- Pro Bono Award, New York County Lawyers, 2005
- Frank Carvil Award, Brehon Law Society, 2004 – Present

JUDICIAL EXPERIENCE

- Justice of the Supreme Court, Kings County, 2013 - 2019
- Acting Surrogate, Richmond County in 2019
- Acting Surrogate, Kings County, 2017 - 2019
- Acting Justice of the Supreme Court, Second Judicial District, Kings County, Trial Part, Criminal Division, 2005 - 2013
- Acting Justice of the Supreme Court, Bronx County, Narcotics Part and Trial Part, 2003 - 2005
- Judge, New York State Court of Claims, 2003 - 2013

LEGAL EXPERIENCE

- Partner, Healy & Baillie, LLP, 1996 - 2003
- Partner, Martocci & Ingram, 1995 - 1996
- Attorney, Burlingham Underwood Wright White & Lord, 1969 - 1995
 - Partner, 1976 - 1995
- Commissioner, Board of Commissioners of Pilots, State of New York, 1989 - 1995

PROFESSIONAL LICENSES and ADMISSIONS

- New York State Bar
- New Jersey State Bar
- United States Supreme Court
- U.S. Courts of Appeals for the 2nd and 3rd Circuits
- U.S. Court of Military Appeals
- Admitted to practice in the U.S. District Courts for the Southern, Eastern and Northern Districts of New York; District Courts of New Jersey, Connecticut and Southern District of Alabama

PROFESSIONAL AFFILIATIONS and ASSOCIATIONS

- Member, The Maritime Law Association of the United States
- Member, The Marine Society of the City of New York
- Member, Board of the Maritime Museum at Fort Schuyler
- Member and Former President, Alumni Association of the New York State Maritime College
- Member, The Association of the U.S. Navy
- Member, Brooklyn Bar Association
- Member, New York Academy of Trial Lawyers
- Member, Bay Ridge Lawyers Association
- Member, Brehon Law Association
- Member, Irish American Bar Association
- Member, Columbian Lawyers Association
- Advisory Board of the Fire Department of New York (FDNY) Fire Family Transport Foundation Limited, 2007 - Present

- Vice President, Brooklyn Benevolent Society, 1992 – Present
- Point Breeze Volunteer Fire Department, Breezy Point, 1958 – Present
- Member, The Cathedral Club of Brooklyn
- Member, BAYFORTS, NYS Association of Fire Chiefs
- Former Member, Board of the Maritime College Foundation, Fort Schuyler

EDUCATION

- St. John's University, J.D., 1969
- State University of New York Maritime College, B.S. in Marine Transportation, 1964

MILITARY / MARITIME

- United States Naval Reserve, served 31 years as an unrestricted Line Officer, Retiring with rank of Captain USN.
- Served in the New York Naval Militia as Deputy Commander; retired with the rank of Rear Admiral (L/H), 1966 - 2011
- Holds Third Mate license (Oceans Unlimited) for continuity issued by the U.S. Coast Guard, 2011
- Sailed as Third Mate and Second Mate aboard the U.S. flag freighters, containerships and passenger ships