

Maritime Law
Association

Committee on
Practice & Procedure
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**Amendments to the Limitation of Liability Act
46 U.S.C. § § 30501, *et seq.***



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Background on Amendment

- **CONCEPTION casualty September 2, 2019**
- Loss of thirty-three passengers and one crewmember in vessel fire

Background on Amendment

- **Small Passenger Vessel Liability Fairness Act of 2021**
 - Senator Dianne Feinstein (D-CA) and Representative Salud Carbajal (CA-24)
 - “Coast Guard to promulgate rules that require owners or operators of small passenger vessels to provide just compensation in any claim for which they are found liable.”
 - Retroactive effect to date of CONCEPTION casualty

explores a pathway to building on today's success by enabling restitution for the families of *Conception* victims that I have worked with and gotten to know over the past three years."

Background on the Small Passenger Vessel Liability Fairness Act:

The Limitation of Liability Act of 1851 stipulates that the owner of a vessel may not be held financially liable for any losses incurred as a result of the fire – including loss of life – because the boat had no value after it was destroyed.

This meant that the families of the 34 persons killed in the 2019 *Conception* boat fire could not seek damages from the boat owner in the aftermath of the incident.

[In September 2021, Carbajal and Feinstein introduced the Small Passenger Vessel Liability Fairness Act](#) to reform the 1851 law. The measure was drafted in consultation with the Coast Guard and the Justice Department and with the support of Representative Julia Brownley (D-CA) from Ventura County.

"We must ensure passengers and their families can recover just compensation for wrongful deaths and injuries that result from vessel owner negligence. I appreciate the good work that Senator Feinstein and Congressman Carbajal have done to advance the Small Passenger Vessel Liability Fairness Act, and I am so pleased to see this important legislation signed into law by President Biden," **said Congresswoman Brownley.**

Background on Amendment

- **Claimed Basis for Small Passenger Vessel Liability Fairness Act of 2021**
- Representative Salud Carbajal (CA-24)

Background on Amendment

- Representative Salud Carbajal's December 23, 2023 Press Release on Amendment
- <https://carbajal.house.gov/news/documentsingle.aspx?DocumentID=1318>



The screenshot shows the official website of U.S. Congressman Salud Carbajal, who represents California's 24th District. The website has a blue header with the congressman's name and a navigation menu including 'HOME', 'FARM BILL', 'ABOUT', and 'SE'. Below the header is a large image of the U.S. Capitol building with the text 'PRESS RELEASES' overlaid. The main content area features a press release titled 'BIDEN SIGNS CARBAJAL'S MARITIME LIABILITY REFORMS INSPIRED BY CONCEPTION BOAT FIRE'. The release text states that President Joe Biden signed legislation updating maritime liability laws, inspired by the 2019 Conception boat fire. It mentions that the law, the Small Passenger Vessel Liability Fairness Act, changes an 1851 law to help victims of boating disasters. The release also notes that the new law requires owners of small passenger vessels to be held legally responsible for damages in future boating accidents and incidents, regardless of the value of the boat, and that the period of time during which victims can file a claim is increased from 6 months to 2 years.

U.S. CONGRESSMAN
SALUD CARBAJAL
Representing California's 24th District

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PRESS RELEASES

BIDEN SIGNS CARBAJAL'S MARITIME LIABILITY REFORMS INSPIRED BY CONCEPTION BOAT FIRE

As Chair of Coast Guard and Maritime Transportation Subcommittee, Carbajal championed changes to 1851 law in wake of 2019 boating deaths off the Central Coast of California

Washington, December 23, 2022

Today, President Joe Biden signed legislation that includes a measure authored and championed by Congressman Salud Carbajal (CA-24) that updates maritime liability laws to help victims of boating disasters, a reform inspired by the 2019 *Conception* boat fire.

The **Small Passenger Vessel Liability Fairness Act**, first proposed by Carbajal and Sen. Dianne Feinstein (D-CA), changes an 1851 law that can prevent maritime accident victims and their families from receiving compensation from those responsible for the accident.

The new law signed today requires owners of small passenger vessels to be held legally responsible for damages in future boating accidents and incidents, regardless of the value of the boat. The period of time during which victims can file a claim is also increased from 6 months to 2 years.



U.S. CONGRESSMAN

SALUD CARBAJAL

Representing California's 24th District

HOME

FARM BILL

ABOUT

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... said Congressman Carbajal. "This is an important change, inspired by the families of 34 precious lives lost on the Conception in 2019, that will ensure families of future maritime disasters do not face the same antiquated laws when seeking the support they deserve."

"We originally drafted language to update maritime liability rules in the wake of the Conception boat fire because current law is fundamentally unfair to victims of maritime tragedies," **Senator Feinstein said**. "Basing current maritime liability rules on a law written in 1851 is ridiculous. Owners of small passenger vessels who are found to be legally responsible for damages should be required to make those payments, and that's what our bill does."

The measure was included in the final Fiscal Year 2023 defense policy bill, which passed the House and Senate in an overwhelmingly bipartisan vote over the past few weeks.

Due to changes made to the bill prior to initial passage out of the House in March, the new law only applies to future liability claims.

"Unfortunately, in the course of bipartisan negotiations earlier this year on our bill, there were some that felt that making this change retroactive for all past maritime accidents, as I had proposed, would go too far," **said Rep. Carbajal**. "[As I have made clear since March](#), I completely disagree with that line of thinking, especially when it comes to getting justice for victim's families—but I believe fixing our laws for the future will be the best case for proving them wrong. I am actively exploring the pathway to building on today's success by enabling restitution for the families of Conception victims that I have worked with and gotten to know over the past three years."

Source of Amendment

- **James M. Inhofe National Defense Authorization Act for Fiscal Year 2023**
 - (11) Division K - “Don Young Coast Guard Authorization Act of 2022” Title CXV – Maritime, Subtitle A- Vessel Safety
 - Sec. 11503. Exoneration and limitation of liability for small passenger vessels
- **Signed by President Biden on December 23, 2022**

Former Section Number	Topic	Amended?	New Section Number
Subchapter I – General Provisions			
30501	Definitions	Substantive Changes	
30502	Application	Substantive Changes	
Subchapter II – Exoneration and Limitation of Liability			
30503	Declaration of nature and value of goods	No change	30521
30504	Loss by fire	No change	30522
30505	General limit of liability	No substantive change	30523
30506	Limit of liability for personal injury or death	No substantive change	30524
30507	Apportionment of losses	No substantive change	30525
30508	Provisions requiring notice of claim or limiting time for bringing action	Substantive changes	30526
30509	Provisions limiting liability for personal injury or death	No change	30527
30510	Vicarious liability for medical malpractice with regard to crew	No change	30528
30511	Action by owner for limitation	No change	30529
30512	Liability as master, officer, or seaman not affected	No change	30530

First Major Change - “Covered Small Passenger Vessel”

46 U.S.C. § 30501

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

~~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 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.

Definition of “Covered Small Passenger Vessel”

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

(ii) not a wing-in-ground-craft; **and**

(ii)**carrying—**

(I) ~~not more than~~ 49 [or less] passengers on an overnight domestic voyage; and

(II) ~~not more than~~ 150 [or less] 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.

Other Applicable Section

46 U.S.C. § 2101

(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.

Second Major Change – Statute Excludes Covered Small Passenger Vessels Except in Limited Circumstances

46 U.S.C. § 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.~~

§ 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.

Limits on Contract Terms

46 U.S.C. § 30526 (formerly § 30508)

~~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”.

Limits on Contract Terms

46 U.S.C. § 30526 (formerly § 30508)

- Amendment now adds “covered small passenger vessels.”
- Passengers aboard covered small passenger vessels must have no less than two years to provide notice or bring an action after injury or death.
- The amendment does not reference or address its impact or relationship to 46 U.S.C. § 30106, and its three-year time limit for bringing maritime tort claims for injury or death.

Identifying a “Covered Small Passenger Vessel”

- Vessel under 100 tons
- Carrying more than 6 passengers, including 1 for hire
- Chartered with crew provided by owner, more than 6 passengers
- Chartered with no crew, provided or specified with more than 12 passengers
- Submersible with at least 1 for hire
- Ferry with more than 6 passengers

Identifying a “Covered Small Passenger Vessel”



OSV

Ferry

Crew boat

Charter
fishing boats

Recreational

Questions and Unknowns

- Role of Rule F?
- Right to concursus but not limitation?
- No mention of exoneration?
- Flotilla doctrine?
- Limitation as an affirmative defense in state court?
- Role of “carrying” passengers in application or exclusion from law
- Return of contract damage limitations under § 30527 (formerly 30509)?
- Procedural versus substantive amendment?

Insurance Coverage

- How does the lack of Limitation Act protections impact insurance coverage for owner/operators of “covered small passenger vessels?”
- Potential loss of concursus procedure?

Where do we go from here?

- File Limitation Actions and make the claimants deal with this
- Slippery slope for Limitation Act
- Adoption of the International Convention on Limitation