

Passenger and Un-inspected Vessel Issues including a Discussion of Bareboat Charter Interpretation & Enforcement under NAVIC 7-94

CDR Nicholas J. Tabori
Prevention Law Division
Office of Maritime & International Law

Executing the Mission
Delivering Legal Services



Concerns with improperly run charter vessels

- Significant hazard to life, property and environment
- Uneven playing field for legitimate operators
- Constrained resources



Passenger Vessel Safety Act of 1993

COMPLIANCE MATRIX

GROSS TONNAGE	✚ of PASSENGERS	PASSENGERS FOR HIRE	CHARTER		
			NO	W/CREW	W/O CREW
< 100	≤ 6	YES	UPV	UPV	UPV
< 100	> 6	YES	SPV	SPV	SPV
< 100	7 – 12	NO	REC	SPV	REC
< 100	> 12	NO	REC	SPV	SPV
✚ < 100	≥ 1	YES	SPV	SPV	SPV
> 100	≤ 12	YES	UPV	UPV	UPV
≥ 100	≤ 12	NO	REC	UPV	REC
≥ 100	> 12	YES	PV	PV	PV
≥ 100	> 12	NO	REC	PV	PV
✚ ≥ 100	≥ 1	YES	PV	PV	PV

UPV = Uninspected Passenger Vessel

SPV = Small Passenger Vessel

✚ Submersible Vessels only

REC = Recreational Vessel

PV = Passenger Vessel

> Greater than
< Less than

≥ Greater than or equal to
≤ Less than or equal to

Small Passenger Vessel (<100 GT) 46 U.S.C. § 2101 (45)

1. Carrying more than 6 passengers, including 1 for hire; or
2. Chartered w/ crew provided or specified by the owner or owner's representative and carrying more than 6 passengers; or
3. Chartered w/ no crew provided or by the owner or owner's representative and carrying more than 12 passengers.

Requirements:

- Certificate of Documentation (COD) for Coastwise Service
- Licensed Master with the appropriate endorsements
- Certificate of Inspection (COI), inspected under 46 CFR Subchapter T
- Chemical Testing Requirements (46 CFR 16)

Passenger Vessel (>100 GT) 46 U.S.C. § 2101 (31)

1. Carrying more than 12 passengers, including 1 for hire; or
2. Chartered and carrying more than 12 passengers.

Requirements:

- Certificate of Documentation (COD) for Coastwise Service
- Licensed Master with the appropriate endorsements
- Certificate of Inspection (COI), inspected under 46 CFR Subchapter K
- Chemical Testing Requirements (46 CFR 16)

Uninspected Passenger Vessel (UPV)

46 U.S.C. § 2101 (51)

Vessels < 100 GT:

1. Carrying not more than 6 passengers, including at least 1 for hire; or
2. Chartered w/ the crew provided/specified by the owner/representative and carrying not more than 6 passengers.

Vessels ≥ 100 GT:

1. Carrying not more than 12 passengers, including at least 1 for hire; or
2. Chartered w/ the crew provided/specified by the owner/representative and carrying not more than 12 passengers

Requirements:

- Vessels ≥ 5NT, Certificate of Documentation (COD) for Coastwise Service
- Vessels < 5NT, may be state registered
- Licensed Master with the appropriate endorsements
- Meet uninspected vessel requirements of 46 CFR Subchapter C
- Chemical Testing Requirements (46 CFR 16)

Recreational Vessel

46 U.S.C. § 2101 (35)

1. Being manufactured or operated for pleasure; or
2. Leased, rented, or chartered to another for the latter's pleasure.



A Bareboat Charter under NVIC 7-94

A valid bareboat charter exists when:

1. The charterer must have option of selecting the crew; master/crew may be furnished by owner; however, full possession and control must be vested in the charterer.
2. Master/crew paid by the charterer.
3. All food, fuel, and stores are provided by the charterer.
4. All port charges and pilotage fees are paid by the charterer.
5. Insurance is obtained by the charterer, at least to the extent of covering liability.
6. Charter may discharge for cause the master/crew without referral to the owner.
7. The vessel is to be surveyed upon delivery.

Note: Any provision that tends to show retention of possession or control of the vessel such as the owner of the vessel being aboard during the charter or payment by the guests of the charterer contradicts the claim that a valid bareboat charter exists.


Current and Future Initiatives

- Education and Outreach efforts:
 - Safety Alerts
 - Public Affairs / Relations Articles
 - Industry Outreach
- Promoting successful collaboration between marine safety, CGIS, BOs, local LE, & industry



6-PACK with an extra paid passenger






Going for a Ride? Paying Passenger?

By Law
&
For Your Safety

**Captain Must Be USCG Licensed
and
Look for USCG Vessel Inspection**



FINES: Up to \$38,175 per day or more for illegal operations
46 U.S.C. 8906 / 46 U.S.C. 3318(j)(1) / 33 U.S.C. 1232(a)
Questions or to Report Illegal Activity
Contact Your Local USCG Sector Office

Questions?



Thank you!

UNCLASSIFIED For Official Use Only

Executing the Mission
Delivering Legal Services

