

**THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES
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*THE AMERICAN SHIPOWNERS' LIMITATION OF
LIABILITY STATUTES, AS NEWLY AMENDED.*

UNITED STATES CODE (1926), TITLE 46, CHAPTER 8.
UNITED STATES REVISED STATUTES (1873), TITLE 48, CHAPTER 6.

NOTE: Additions introduced in 1935 by the 74th Congress,
1st Session, are in *italics*.

46 U. S. C., § 181. LIABILITY OF MASTERS AS CARRIERS.

R. S. 4287. Originally enacted 1851. Unamended since 1871.

If any shipper of platina, gold, gold dust, silver, bullion, or other precious metals; coins; jewelry; bills of any bank or public body; diamonds or other precious stones; or any gold or silver in a manufactured or unmanufactured state; watches, clocks, or timepieces of any description; trinkets; orders, notes, or securities for payment of money, stamps, maps, writings, title deeds, printings, engravings, pictures; gold or silver plate or plated articles; glass; china; silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with any other material, furs, or lace, or any of them, contained in any parcel, or package, or trunk, shall lade the same as freight or baggage on any vessel, without at the time of such lading giving to the master, clerk, agent, or owner of such vessel receiving the same a written notice of the true character and value thereof, and having the same entered on the bill of lading therefor, the master and owner of such vessel shall not be liable as carriers thereof in any form or manner; nor shall any such master or owner be liable for any such goods beyond the value and according to the character thereof so notified and entered.

46 U. S. C., §182. LOSS BY FIRE.

R. S. 1282. Originally enacted 1851. Unamended since 1874.

No owner of any vessel shall be liable to answer for or make good to any person any loss or damage which may happen to any merchandise whatsoever which shall be shipped, taken in, or put on board any such vessel, by reason or by means of any fire happening to or on board the vessel, unless such fire is caused by the design or neglect of such owner.

46 U. S. C., § 183. LIABILITY OF OWNER NOT TO EXCEED INTEREST—EXCEPT THAT FOR LOSS OF LIFE OR PERSONAL INJURY TOTAL LIABILITY SHALL BE NOT LESS THAN \$60 PER TON.

R. S. 1283. Originally enacted 1851. Last amended in 1873.

The liability of the owner of any vessel, for any embezzlement, loss, or destruction, by any person, of any property, goods, or merchandise, shipped or put on board of such vessel, or for any loss, damage, or injury by collision, or for any act, matter, or thing, loss, damage, or forfeiture, done, occasioned, or incurred without the privity or knowledge of such owner or owners, shall in no case exceed the amount or value of the interest of such owner in such vessel and her freight then pending.

Provided, That the total liability of the owner or owners of any sea-going sailing, steam, or motor vessel, whether American or foreign, other than tugs, barges, fishing vessels and their tenders, for the entire loss of life or personal injuries caused without the fault or privity of such owner or owners to any person, shall be in an amount not less than an amount equal to \$60 for each ton of the tonnage of such vessel or vessels, or the amount or value of the interest of such owner in such vessel and her freight then pending, if the latter be the greater amount. The tonnage of a steam or motor vessel shall be her gross tonnage without deduction on account of engine room, and the tonnage of a sailing vessel shall be her registered tonnage, provided that there shall not be included in such tonnage any space occupied by seamen or apprentices and appropriated to their use. The owner of every sea-going vessel or share therein shall be

liable in respect of every such loss of life or personal injury arising on distinct occasions to the same extent as if no other loss or injury had arisen.

In respect of loss of life or bodily injury, the actual privity or knowledge of the master of a sea-going vessel (other than tugs, barges, fishing vessels and their tenders), or of the superintendent or managing agent of the owner thereof, at or prior to the commencement of each voyage, shall be deemed conclusively the privity or knowledge of the owner of such vessel.

SEC. 4283A. STIPULATIONS LIMITING TIME FOR FILING CLAIMS AND COMMENCING SUIT.—(a) *It shall be unlawful for the manager, agent, master, or owner of any sea-going vessel (other than tugs, barges, fishing vessels and their tenders) transporting passengers or merchandise or property from or between ports of the United States and foreign ports to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of, or filing claims for loss of life or bodily injury, than six months, and for the institution of suits on such claims, than one year, such period for institution of suits to be computed from the day when the death or injury occurred.*

(b) *Failure to give such notice, where lawfully prescribed in such contract, shall not bar any such claim—*

(1) *If the owner or master of the vessel or his agent had knowledge of the injury, damage, or loss and the court determines that the owner has not been prejudiced by the failure to give such notice; nor*

(2) *If the court excuses such failure on the ground that for some satisfactory reason such notice could not be given; nor*

(3) *Unless objection to such failure is raised by the owner.*

(c) *If a person who is entitled to recover on any such claim is mentally incompetent or a minor, or if the action is one for wrongful death, any lawful limitation of time prescribed in such contract shall not be applicable so long as no legal representative has been appointed for such incompetent, minor, or decedent's estate, but shall be applicable from the date of the appointment of such legal representative:*

Provided, however, That such appointment be made within three years after the date of such death or injury.

Amendment approved, August 29, 1935.

46 U. S. C., § 184. APPORTIONMENT OF COMPENSATION.

R. S. 4284. Originally enacted 1851. Unamended since 1877.

Whenever any such embezzlement, loss, or destruction is suffered by several freighters or owners of goods, wares, merchandise, or any property whatever, on the same voyage, and the whole value of the vessel, and her freight for the voyage, is not sufficient to make compensation to each of them, they shall receive compensation from the owner of the vessel in proportion to their respective losses; and for that purpose the freighters and owners of the property, and the owner or owners of the vessel, or any of them, may take the appropriate proceedings in any court, for the purpose of apportioning the sum for which the owner of the vessel may be liable among the parties entitled thereto.

46 U. S. C., § 185. TRANSFER OF INTEREST OF OWNER TO TRUSTEE.

R. S. 4285. Originally enacted 1851. Unamended since 1873.

It shall be deemed a sufficient compliance on the part of such owner with the requirements of this chapter relating to his liability for any embezzlement, loss or destruction, of any property, goods or merchandise, if he shall transfer his interest in such vessel and freight, for the benefit of such claimants, to a trustee, to be appointed by any court of competent jurisdiction, to act as such trustee for the person who may prove to be legally entitled thereto; from and after which transfer all claims and proceedings against the owner shall cease.

46 U. S. C., § 186. CHARTERER MAY BE DEEMED OWNER.

R. S. 4286. Enacted in 1851. Unamended.

The charterer of any vessel, in case he shall man, victual, and navigate such vessel at his own expense, or by his own procurement, shall be deemed the owner of such vessel within the meaning of the provisions of this chapter relating to the limitation of

the liability of the owners of vessels; and such vessel, when so chartered, shall be liable in the same manner as if navigated by the owner thereof.

46 U. S. C., § 187. REMEDIES RESERVED.

R. S. 4287. Enacted in 1851. Unamended.

Nothing herein* shall be construed to take away or affect the remedy to which any party may be entitled, against the master, officers, or seamen, for or on account of any embezzlement, injury, loss, or destruction of merchandise, or property, put on board any vessel, or on account of any negligence, fraud, or other malversation of such master, officers, or seamen, respectively, nor to lessen or take away any responsibility to which any master or seaman of any vessel may by law be liable, notwithstanding such master or seaman may be an owner or part owner of the vessel.

46 U. S. C., § 188. LIMITATION OF LIABILITY OF OWNERS
APPLIED TO ALL VESSELS.

R. S. 4289. Enacted in 1851. Amended in 1886.

The provisions of the seven preceding sections and of § 18 of an Act approved June 26, 1884, shall apply to all sea-going vessels and also to all vessels used on lakes or rivers or in inland navigation, including canal boats, barges and lighters.

46 U. S. C., § 189. LIMITATION OF LIABILITY OF OWNERS OF
VESSELS FOR DEBTS.

23 Stat. 57. Act of June 26, 1884, Sec. 18.

The individual liability of a shipowner shall be limited to the proportion of any or all debts and liabilities that his individual share of the vessel bears to the whole; and the aggregate liabilities of all the owners of a vessel on account of the same shall not exceed the value of such vessels and freight pending; *Provided*, That this provision shall not prevent any claimant from joining all the owners in one action; nor shall the same apply to wages due to persons employed by said shipowners.

* Originally: "In the five preceding sections."

NOTE: A full account of the legislative and judicial history of the foregoing sections will be found in Document No. 196 (January, 1935). The development of the 1935 amendments is traced in Documents Nos. 197, 199, 200, 202, 205, 207, 210, 212, 213, 214 and 215.

46 U. S. C., § 190. STIPULATIONS RELIEVING FROM LIABILITY FOR NEGLIGENCE.

Harter Act, February 13, 1893, Sec. 1. 27 Stat. 445.

It shall not be lawful for the manager, agent, master, or owner of any vessel transporting merchandise or property from or between ports of the United States and foreign ports to insert in any bill of lading or shipping document any clause, covenant, or agreement whereby it, he, or they shall be relieved from liability for loss or damage to property arising from negligence, fault, or failure in proper loading, stowage, custody, care, or proper delivery of any and all lawful merchandise or property committed to its or their charge. Any and all words or clauses of such import inserted in bills of lading or shipping receipts shall be null and void and of no effect.

46 U. S. C., § 191. STIPULATIONS RELIEVING FROM EXERCISE OF DUE DILIGENCE IN EQUIPPING VESSELS.

Harter Act, February 13, 1893, Sec. 2.

It shall not be lawful for any vessel transporting merchandise or property from or between ports of the United States of America and foreign ports, her owner, master, agent, or manager, to insert in any bill of lading or shipping document any covenant or agreement whereby the obligations of the owner or owners of said vessel to exercise due diligence to properly equip, man, provision, and outfit said vessel, and to make said vessel seaworthy and capable of performing her intended voyage, or whereby the obligations of the master, officers, agents, or servants to carefully handle and stow her cargo and to care for and properly deliver same, shall in anywise be lessened, weakened, or avoided.

46 U. S. C., § 192. LIMITATION OF LIABILITY FOR ERRORS OF NAVIGATION, DANGERS OF THE SEA, AND ACTS OF GOD.

Harter Act, February 13, 1893, Sec. 3.

If the owner of any vessel transporting merchandise or property to or from any port in the United States of America shall exercise due diligence to make the said vessel in all respects seaworthy and properly manned, equipped, and supplied, neither the vessel, her owner or owners, agent, or charterers, shall become or be held responsible for damage or loss resulting from faults or errors in navigation or in the management of said vessel, nor shall the vessel, her owner or owners, charterers, agent, or master be held liable for losses arising from dangers of the sea or other navigable waters, acts of God, or public enemies, or the inherent defect, quality, or vice of the thing carried, or from insufficiency of package, or seizure under legal process, or for loss resulting from any act or omission of the shipper or owner of the goods, his agent or representative, or from saving or attempting to save life or property at sea, or from any deviation in rendering such service.

46 U. S. C., § 193. BILLS OF LADING TO BE ISSUED; CONTENTS.

Harter Act, February 13, 1893, Sec. 4.

It shall be the duty of the owner or owners, masters, or agent of any vessel transporting merchandise or property from or between ports of the United States and foreign ports to issue to shippers of any lawful merchandise a bill of lading, or shipping document, stating, among other things, the marks necessary for identification, number of packages, or quantity, stating whether it be carrier's or shipper's weight, and apparent order or condition of such merchandise or property delivered to and received by the owner, master, or agent of the vessel for transportation, and such document shall be prima facie evidence of the receipt of the merchandise therein described.

46 U. S. C., § 194. PENALTIES; LIEN; RECOVERY.

Harter Act, February 13, 1893, Sec. 5.

For a violation of any of the provisions of the four preceding sections, the agent, owner, or master of the vessel guilty

of such violation, and who refuses to issue on demand the bill of lading provided for, shall be liable to a fine not exceeding \$2,000. The amount of the fine and costs for such violation shall be a lien upon the vessel, whose agent, owner, or master is guilty of such violation, and such vessel may be libeled therefor in any district court of the United States, within whose jurisdiction the vessel may be found. One-half of such penalty shall go to the party injured by such violation and the remainder to the Government of the United States.

SAVING CLAUSE.

Harter Act, February 13, 1893, Sec. 6.

This act shall not be held to modify or repeal Sections 4281, 4282 and 4283 of the Revised Statutes of the United States, or any other statute defining the liability of vessels, their owners or representatives.

46 U. S. C., § 195. CERTAIN PROVISIONS INAPPLICABLE TO
TRANSPORTATION OF LIVE ANIMALS.

Harter Act, February 13, 1893, Sec. 7.

Sections 1 and 4 of this act shall not apply to the transportation of live animals.

NOTE: The White Bill, which would enact the Brussels Bill of Lading Convention (Hague Rules) and supplant the Harter Act in relation to carriage of goods by sea, passed the Senate on August 16, 1925, and was sent to the House, where it was referred to the Committee on Merchant Marine and is unfinished business of the session, pending reassembling of Congress in January, 1936.

Meanwhile the Convention, whose ratification as a treaty was approved by the Senate on April 1, 1935, remains with the President.

For complete statement and texts, see Document No. 211.
