



Sector San Diego

Marine Safety Information Bulletin

Commander
United States Coast Guard
Sector San Diego
2710 North Harbor Drive
San Diego, CA 92101

MSIB Number: 01-19
Date: January 17, 2019
Contact: LT Miguel Maldonado
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PASSENGER FOR HIRE OPERATIONS

The purpose of this bulletin is to provide clarity and a greater understanding for passenger vessel owners and operators who transport Passengers for Hire, or are interested in participating in this type of operation. Federal Laws and Regulations must be followed to ensure the safety of the passengers, crew, vessel, and the marine environment.

Please note that a "**Passenger for Hire**" is defined as "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." *See Title 46, United States Code (USC), Section 2101 (21a)*

The term "**Consideration**" is defined as "payment given to an individual, person, or entity but does not include a voluntary sharing of actual expenses of the trip by monetary contribution or donation of food, fuel, beverage, or other supplies."

Depending on the specific nature of the operation and agreement, the Coast Guard may need to be involved in the inspection of these vessels and/or the license of their operators. Further, all entities participating in the transaction should be fully aware of the U.S. laws and Coast Guard safety regulations that apply. Since each case may vary slightly, anyone considering renting out (i.e. chartering) their vessel, or operating their vessel with passengers for hire, should contact the Coast Guard to discuss the specific operating parameters and to determine what regulations may apply.

The following is designed to provide a general outline of the various thresholds and requirements to consider when deciding whether to begin a commercial venture with a privately owned vessel.

Inspected Passenger Vessels

- Inspected under Title 46, Code of Federal Regulations (CFR), Subchapters "T" and "K".
- Generally, if a vessel is carrying more than six passengers (with at least one for hire); chartered with a crew and carrying more than six passengers; or chartered with no crew (bareboat charter) and carrying more than 12 passengers, the vessel is required to be inspected by the Coast Guard.
- Inspected vessels can't operate without a Coast Guard Certificate of Inspection (COI) that accounts for stability, approved routes, navigation systems, lifesaving equipment, fire protection, pollution prevention, and required crew complement.

Uninspected Passenger Vessels (UPV)

- These vessels are subject to Coast Guard rules and regulations pertaining to licensing and safety inspections under *46 USC 3301*. The UPV safety exam and decal program is voluntary but highly recommended. To conduct this operation in accordance with federal statute, and for the vessel to remain as an UPV (does not receive a COI), the owner/operator/agent can:

(1) Carry no more than six passengers (referred to as "Six-Pack"), including at least one passenger for hire, or

(2) Chartered with the crew provided by the owner or owner's representative, if vessel is less than 100 Gross Registered Tons (up to 6 passengers); or if vessel is greater than 100 Gross Registered Tons but less than 300 Gross Registered Tons (up to 12 passengers). *See 46 USC 2101 (42)(B)*



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Bareboat Charter


- These vessels are chartered, leased, or rented to an individual through a written agreement. The charterer assumes responsibility for vessel operations within the maritime laws and regulations for the duration of the charter. The charterer also has complete command, control, and possession of the vessel as if it were their own. The owner does not provide the crew; the charterer selects and pays the crew. A licensed Master is not required to operate the vessel. The owner can recommend a list of Masters for the charterer to hire, but cannot stipulate that the owner make a selection solely from the list provided. The owner can require the charterer to hire a crew with a preset level of qualifications (e.g. Coast Guard issued Merchant Mariner Credential). The charterer may discharge for cause, the Master or any crewmember. Any provision that shows the owner retaining control of the vessel, such as the owner being onboard during the charter of the vessel, contradicts the claim that a valid bareboat charter exists.
- All food, fuel, and stores are provided by the charterer in addition to port charges and pilotage fees, if any.
- Insurance is obtained by the charterer, at least to the extent of covering liability not included in the owner's insurance and the vessel must be surveyed upon its delivery and return.

Operator Licensing

- Every vessel carrying passengers for hire, inspected or uninspected, must be under direction and control of an individual with a Coast Guard issued Merchant Mariner Credential. The original Coast Guard Merchant Mariner Credential must be suitable for the vessel's route and service, kept on board, and made available for immediate presentation to Coast Guard officials whenever passengers are being carried for hire. *See 46 CFR 15.605.*
- For inspected vessels, the specific Merchant Mariner Credential endorsement for the master and crew are based on their assigned position, the vessel's tonnage, and route. For six-pack uninspected vessels, the operator must possess, at a minimum, an Operator of Uninspected Passenger Vessel (OUPV) endorsement. For 12-pack uninspected vessels of 100 Gross Registered Tons or more must be under the direction and control of a credentialed master, pilot, or mate as appropriate.
- Information regarding licensing requirements can be found on the National Maritime Center's website: https://www.dco.uscg.mil/national_maritime_center/ or at 1-888-427-5662.

It is **critical** that anyone considering using a privately-owned vessel for commercial purposes contact the Coast Guard to determine the applicable laws and regulations. Failure to comply with the above laws and regulations while operating with Passengers for Hire may result in the **termination of the voyage, a Captain of the Port Order, a civil penalty up to \$167,000 and/or a criminal conviction** issued against the owner, operator, and/or the person in charge of the vessel. Furthermore, passengers that participate in an illegal charter that mislead Federal Law Enforcement Officers by providing a materially false, fictitious, or fraudulent statement is considered a **crime** under 18 USC 1001.

Questions regarding this MSIB can be directed to the Investigations Division at (619) 572-2904 or SDIO@uscg.mil.


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