

U.S. Department of
Homeland Security

United States
Coast Guard



Captain of the Port
United States Coast Guard
Sector San Francisco

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MARINE SAFETY INFORMATION BULLETIN

These bulletins are purely informational for the maritime community within this Captain of the Port zone. They advise you of emerging information and situations that may impact our Marine Transportation System. We hope they help to manage expectations and facilitate cooperation regarding actions that we may be taking and/or that you may need to employ in the interest of safety/security. Increased vigilance in our maritime world hinges significantly upon proactive engagement & information sharing with the private sector, which has the primary responsibility for security and safety at their waterfront facilities and vessels.

BULLETIN NO: 01-18

Date: August 30, 2018

SUBJECT: ILLEGAL CHARTER OPERATIONS AWARENESS

U.S. Coast Guard Sector San Francisco has experienced an increase of reports involving the alleged violation of federal passenger carriage regulations. In preparation for the 2018 San Francisco Fleet Week, the Captain of the Port is releasing this bulletin to further educate the public on the risks and dangers of illegal passenger for hire charter operations throughout the San Francisco Bay Area and Lake Tahoe regions.

A vessel carrying "passengers for hire" (i.e. someone who contributes any economic benefit, monetary contribution, or a donation as a condition of carriage) requires a U.S. Coast Guard licensed or credentialed operator. In addition, if carrying more than six passengers, the vessel must have a valid Certificate of Inspection issued by the U.S. Coast Guard. These requirements provide proof that the U.S. Coast Guard has verified both the operator and vessel meet specific minimum federal safety standards. As demonstrated above, operations that do not meet these standards threaten public and environmental safety, and are a major concern for the U.S. Coast Guard.

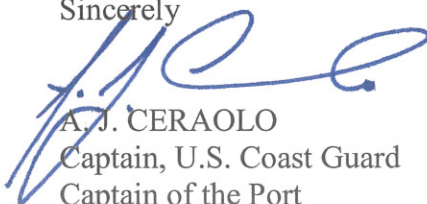
With the recent advent of online boat rental services, it is easier than ever to rent a vessel for personal use. However, this also provides more opportunity for owners to knowingly or unknowingly conduct a commercial operation without meeting the established charter vessel requirements. When reserving trips, online or otherwise, prospective passengers are encouraged to ask the operator in advance for proof the vessel is compliant with U.S. Coast Guard requirements. They may also request for a vessel's captain to show his or her valid U.S. Coast Guard issued merchant mariner credential. If passengers wish to verify a captain's credential or the inspected status of a commercial passenger vessel, report an illegal charter operation, or if a vessel operator desires more information on how to meet federal requirements, please contact U.S. Coast Guard Sector San Francisco using the contact information below.

As always, the U.S. Coast Guard maintains its presence on navigable waterways in order to ensure compliance with all federal requirements. This includes partnering with local law enforcement agencies to promote safe and legal charter operations being conducted on federal waterways. Operators found to be in violation of these requirements are subject to voyage

termination and/or civil penalty action. As the 2018 Fleet Week festivities approach, we encourage the public to get out and enjoy the experience a day on the water offers. However, U.S. Coast Guard Sector San Francisco also urges boat owners and potential passengers to be cognizant of legal boating practices, allowing for continued safe enjoyment of our waterways.

Included with this bulletin is a copy of a U.S. Coast Guard informational packet containing further details regarding different charter vessel operation types. For further information on how to apply for an appropriate license or credential, visit <http://www.uscg.mil/nmc>. For additional information regarding this bulletin, please contact the U.S. Sector San Francisco Investigations Division at SectorSF.Investigations@uscg.mil / (510) 813-9636 or the Domestic Vessel Inspections Branch at SectorSF.Domestic.Insp@uscg.mil / (510)-207-1495.

Sincerely

A handwritten signature in blue ink, appearing to read 'A. J. Ceraolo', with a stylized flourish at the end.

A. J. CERAOLO
Captain, U.S. Coast Guard
Captain of the Port
Sector San Francisco

DEFINITIONS

Title 46 United States Code (USC) 2101,

46 Code of Federal Regulations (CFR) 175.400, 46 CFR 24.10

Small Passenger Vessel:

Means a vessel of less than 100 GRTs as measured under Section 14502 of 46 USC, or an alternate tonnage measured under Section 14302 of 46 USC as prescribed by the Secretary under section 14104 of 46 USC:

- (A) carrying more than 6 passengers, including at least 1 passenger for hire;
- (B) that is chartered with 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's representative and carrying more than 12 passengers;
- (D) that is a submersible or wing-in-ground craft, regardless of tonnage, carrying at least 1 passenger for hire; or
- (E) that is a ferry carrying more than 6 passengers.

A Small Passenger Vessel is actively inspected by the USCG on a regular basis.

Uninspected Passenger Vessel:

Means an uninspected vessel:

- (A) of at least 100 gross tons as measured under section 14502 of 46 USC, or an alternate tonnage measured under section 14302 of 46 USC as prescribed by the Secretary under section 14104 of 46 USC - (i) carrying not more than 12 passengers, including at least one passenger for hire; or (ii) that is chartered with crew provided or specified by the owner or the owner's representative and carrying not more than 12 passengers; or

- (B) of **less than 100 gross tons** as measured under section 14502 of 46 USC, or an alternate tonnage measured under section 14302 of 46 USC as prescribed by the Secretary under section 14104 of 46 USC - (i) carrying not more than 6 passengers, including at least 1 passenger for hire; or (ii) that is chartered with crew provided or specified by the owner or the owner's representative and carrying not more than 6 passengers.

Passenger: Means an individual carried on a vessel, except:

- (1) 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;
- (2) The Master; or
- (3) 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.

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.

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 food, fuel, beverage, or other supplies.

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.

GRT: Gross Registered Tonnage

Vessel Info & Requirements, rev.2017

goto: www.uscg.mil/pvs

This pamphlet is intended solely as a general guide to assist the public in avoiding illegal passenger carriage and only applies on federal navigable waters. Always consult a USCG marine safety representative or admiralty lawyer for your unique circumstances. For sole state waters, contact your State boating law administrator

CONTACT:

U.S. Coast Guard

Sector Humboldt Bay * (707) 269-2563

Sector San Francisco * (415) 399-2040

Sector Los Angeles Long Beach * (310) 521-3777

Marine Safety Det. Santa Barbara * (805) 962-7430



United States
Coast Guard

Department of Homeland Security



Passenger For Hire & Charter Vessel Operations

U.S. Flagged Vessels can:

- 1) Operate as a Recreational vessel (no paying passengers), limited to the number of passengers in accordance with the manufacture;
- 2) Operate as a chartered vessel with no crew provided, limited to 12 passengers + written (bareboat) charter contract (e.g. houseboats); or meeting recreational vessel requirements; or
- 3) Carry up to 6 passengers for hire as an Uninspected Passenger Vessel (UPV) if less than 100 Gross Registered Tons (GRT); vessels greater than 100 GRT can carry up to 12 passengers. Motorized UPVs must be operated by a Master who minimally holds an Operator Uninspected Passenger Vessel (OUPV) license. Vessel must be U.S. built, if not it must have a MARAD waiver.

Charter (bareboat) Operation: A valid (bareboat) charter is an agreement where the charterer has use of the vessel for a period of time and is considered the owner. A charterer takes on the legal obligations, is responsible for the crew, passengers carried, and others.

Elements of a valid bareboat charter may include:

- 1) The charterer must have the option of selecting & paying crew, although the owner may require general levels of proficiency for the crew that is retained based on federal statutes;
- 2) The master/crew are paid by the charterer;
- 3) All food, fuel and stores are provided by the charterer;
- 4) Insurance is obtained by the charterer;
- 5) The charterer is responsible for the safe navigation of the vessel;
- 6) A platform for events that does not involve consideration, even when moored at the pier; and
- 7) The vessel is surveyed upon return to the owner.

Water Jet Devices (WJD) Hydroflight Devices

(Jetpacks, Jetlevs™, Flyboards™, etc)

A water jet device is a hydro-powered apparatus operated above the surface of the water while connected to a personal watercraft (PWC) or other power source that supplies thrust to the WJD through a hose connecting the two devices.

A commercial passenger for hire involves 1 passenger riding the levitation portion who controls the directional movements and/or an operator controlling the thrust from the PWC or remotely via wireless control. The passenger riding the levitation device has provided economic benefit (consideration) to ride the device and is a passenger for hire as defined by 46 USC 2101.

Per 46 CFR 15.605 the operator of the PWC must minimally hold a Coast Guard-issued Operator, Uninspected Passenger Vessel (OUPV) license. Some OUPV license are "restricted" to a specific water body such as OUPV-Restricted for Mission Bay, San Diego CA.

Exceptions to passenger for hire operations:

- (1) WJD is leased, rented or chartered to an individual for non-commercial, sole personal use (bareboat charter);
- (2) WJD is operated by the owner for their personal non-commercial recreational use;
- (3) WJD is used by the owner for demonstration purposes.



Common Bareboat Charter Vessel Errors

- 1) A chartered vessel may NOT carry more than 12 passengers without a Certificate of Inspection (COI).
- 2) A chartered vessel may NOT carry more than 12 passengers while moored. A charter vessel is considered to be carrying "passengers" whether moored or underway. This includes a Boat Bed and Breakfast.
- 3) The owner of the vessel may NOT be the vessel master or part of the crew. The vessel owner is not allowed on board during a charter.
- 4) A bareboat charter contract may not provide or dictate a crew. The charterer must be able to select a crew and have the ability to discharge the crew.
- 5) The charterer is not considered a passenger, and there can only be one charterer, even though the vessel may be chartered by several individuals. In this case, one person would be considered the charterer and the rest would be counted as passengers.
- 6) Both U.S. flag and foreign vessels may be chartered. However, foreign flagged vessel cannot carry passengers for hire between U.S. ports and must be chartered and /or operate as a recreational vessel (per coastwise trade laws enforced by CBP). Foreign built vessels (including U.S. state numbered vessels) owned by U.S. citizens must meet coastwise trade rules before carrying passengers for hire (except if vessel is moored with passengers; refer to CPB and the MARAD small passenger vessel waiver program).



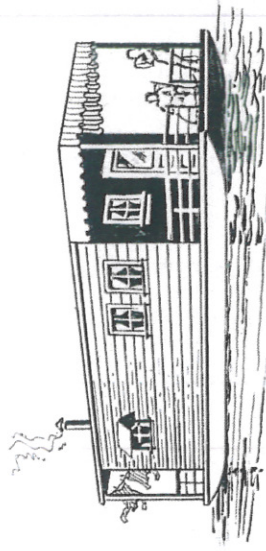
Boat Bed and Breakfast

Using a recreational vessel as a bed and breakfast in which the owner/operator/agent receives consideration for people to remain overnight onboard the vessel is a commercial operation.

These vessels are subject to Coast Guard rules and regulations. To conduct this operation in accordance with Federal statute, the owner/operator/agent can:

Operate as a Charter Vessel with no crew provided, limited to 12 passengers, written contract required (bareboat contract);

Operate as an Uninspected Passenger Vessel: less than 100 GRT (up to 6 passengers); greater than 100 GRT (up to 12 passengers). Vessel must be operated by a Master who holds an OUPV Merchant Mariner Credential and Coast Guard safety inspections may be required.



FINES - Failure to comply with Federal passenger vessel requirements constituting an illegal operation against the owner/operator/agent is subject to civil penalties up to \$42,750 per operation per day.

46 USC 8906 / 46 USC 3318(j)(1)