



Passenger For Hire & Charter Vessel Operations

U.S. Flagged Vessels can:

- 1) Operate as a Recreational vessel (no consideration), limited to the number of passengers in accordance with the manufacture;
- 2) Operate as a Charter Vessel with no crew provided, limited to 12 passengers as long as the vessel is rated by the manufacturer to carry that many passengers, written contract required (bareboat contract)
- 3) Carry up to 6 passengers as an Uninspected Passenger Vessel (UPV) as long as the vessel is less than 100 Gross Registered Tons (GRT); vessels greater than 100 GRT can carry up to 12 passengers. Vessel must be operated by a Master who holds an OUPV Merchant Mariner Credential. *

*Note: If the vessel is over 5 net tons, it requires a Certificate of Documentation (COD), endorsed for Coastwise service.

Charter 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 charter may include:

- 1) The charterer must have the option of selecting 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, even when moored at the pier; and
- 7) The vessel is surveyed upon return to the owner.

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-inground craft, regardless of tonnage, carrying at least 1 passenger for hire; or
- (E) that is a ferry carrying more than 6 passengers.

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 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 12 passengers; or



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DEFINITIONS cont.

- (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.

Water Jet Devices (WJD) (Jetpacks, Jetlevs, Flyboards, etc)

A water jet device is a hydro-powered apparatus above the surface of the water while connected to a personal watercraft (PWC) or other power source that supplies thrust to 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 hold a Coast Guard-issued Merchant Mariner Credential, endorsed at a minimum as Operator, Uninspected Passenger Vessel (OUPV) or a Operator, Uninspected Passenger Vessel-Restricted (OUPV-Restricted) for Mission Bay.

Exceptions to passenger for hire operations:

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



What are the most common charter vessel errors?

- 1) A charter vessel may NOT carry more than 12 passengers without a Certificate of Inspection (COI).
- 2) A charter contract may not provide or dictate a crew. The charter must be able to select a crew and have the ability to discharge the crew.
- 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 charter 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 Boat Bed and Breakfast.
- 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. Any foreign flagged vessels cannot carry passengers for hire and must charter and / or operate as a recreational vessel.



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. The people staying onboard are passengers for hire.

These vessels are subject to Coast Guard rules and regulations for licensing and inspections. To conduct this operation in accordance with Federal Statute, and for the vessel to remain as a recreational vessel, the owner/operator/agent can:

- (1) Operate as a Charter Vessel no crew provided, limited to 12 passengers, written contract required (bareboat contract);
- (2) 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 potential Coast Guard safety inspections maybe required.

Failure to comply with these requirements constitutes as an illegal operation and the owner/operator/agent are subject to civil penalties up to \$35,000 per operation.

