

APPENDIX
J
Commercial Fishing Industry Vessel Safety
Act of 1988

PUBLIC LAW 100-424

PUBLIC LAW 100-424—SEPT. 9, 1988

102 STAT. 1585

Public Law 100-424
100th Congress

An Act

To provide for the establishment of additional safety requirements for fishing industry vessels, and for other purposes

Sept. 9, 1988
(H. R. 1841)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Commercial
Fishing Industry
Vessel Safety
Act of 1988
46 USC 2101
note

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Fishing Industry Vessel Safety Act of 1988".

SEC. 2. UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSEL SAFETY REQUIREMENTS.

(a) IN GENERAL.—Chapter 45 of title 46, United States Code, is amended to read as follows:

"CHAPTER 45—UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

"Sec.

"4501. Application.

"4502. Safety standards.

"4503. Fish processing vessel certification.

"4504. Prohibited acts.

"4505. Termination of unsafe operations.

"4506. Exemptions.

"4507. Penalties.

"4508. Commercial Fishing Industry Vessel Advisory Committee.

"§ 4501. Application

46 USC 4501.

"(a) This chapter applies to an uninspected vessel which is a fishing vessel, fish processing vessel, or fish tender vessel.

"(b) This chapter does not apply to the carriage of bulk dangerous cargoes regulated under chapter 37 of this title.

"§ 4502. Safety standards

46 USC 4502.
Regulations.

"(a) The Secretary shall prescribe regulations which require that each vessel to which this chapter applies shall be equipped with—

"(1) readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire;

"(2) at least one readily accessible life preserver or other lifesaving device for each individual on board;

"(3) an efficient flame arrestor, backfire trap, or other similar device on the carburetors of each inboard engine which uses gasoline as fuel;

"(4) the means to properly and efficiently ventilate enclosed spaces, including engine and fuel tank compartments, so as to remove explosive or flammable gases;

"(5) visual distress signals:

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"(1) shall consider the specialized nature and economics of the operations and the character, design, and construction of the vessel; and

"(2) may not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulation.

"(D) The Secretary shall examine a fish processing vessel at least once every two years to ensure that the vessel complies with the requirements of this chapter.

"§ 4503. Fish processing vessel certification

46 USC 4503

"(a) A fish processing vessel to which this section applies may not be operated unless the vessel—

"(1) meets all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified organization approved by the Secretary; and

"(2) has on board a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with this subsection.

"(b) This section applies to a fish processing vessel to which this chapter applies that—

"(1) is built after July 27, 1990; or

"(2) undergoes a major conversion completed after that date.

"§ 4504. Prohibited acts

46 USC 4504

"A person may not operate a vessel in violation of this chapter or a regulation prescribed under this chapter.

"§ 4505. Termination of unsafe operations

46 USC 4505

"An official authorized to enforce this chapter—

"(1) may direct the individual in charge of a vessel to which this chapter applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended; and

"(2) may order the individual in charge of an uninspected fish processing vessel that does not have on board the certificate required under section 4503(1) of this title to return the vessel to a mooring and to remain there until the vessel is in compliance with that section.

"§ 4506. Exemptions

46 USC 4506

"(a) The Secretary may exempt a vessel from any part of this chapter if, under regulations prescribed by the Secretary (including regulations on special operating conditions), the Secretary finds that—

"(1) good cause exists for granting an exemption; and

"(2) the safety of the vessel and those on board will not be adversely affected.

"(b) A vessel to which this chapter applies is exempt from section 4502(b)(2) of this title if it—

"(1) is less than 36 feet in length; and

"(2) is not operating on the high seas

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the Committee. An individual may be appointed to a term as a member of the Committee more than once.

"(3)(A) A member of the Committee shall serve a term of three years.

"(B) If a vacancy occurs in the membership of the Committee, the Secretary shall appoint a member to fill the remainder of the vacated term.

"(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

"(5) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to vessels to which this chapter applies which are under the jurisdiction of their respective agencies. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C.).

"(c)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to the safe operation of vessels to which this chapter applies.

"(2) The Secretary shall consider the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding the safe operation of vessels to which this chapter applies.

"(d)(1) A member of the Committee who is not an officer or employee of the United States or a member of the Armed Forces, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

"(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5 including travel time; and

"(B) travel or transportation expenses under section 5703 of title 5.

"(2) Payments under this section do not render a member of the Committee an officer or employee of the United States or a member of the Armed Forces for any purpose.

"(3) A member of the Committee who is an officer or employee of the United States or a member of the Armed Forces may not receive additional pay based on the member's service to the Committee.

"(4) The provisions of this section relating to an officer or employee of the United States or a member of the Armed Forces do not apply to a member of a reserve component of the Armed Forces unless that member is in an active status.

"(e)(1) The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) applies to the Committee, except that the Committee terminates on September 30, 1992.

"(2) Two years prior to the termination date referred to in paragraph (1) of this subsection, the Committee shall submit to Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date."

(b) INITIAL APPOINTMENTS TO COMMERCIAL FISHING INDUSTRY ADVISORY COMMITTEE.—

Termination
date.

46 USC 4508
note.

"(b) A person failing to comply with section 6104 of this title or a regulation prescribed under that section is liable to the Government for a civil penalty of not more than \$5,000."

(c) CONFORMING AMENDMENT.—The analysis for chapter 61 of title 46, United States Code, is amended by adding at the end the following:

"6104 Commercial fishing industry vessel casualty statistics".

SEC. 5. STUDIES.

(a) FISHING INDUSTRY VESSEL INSPECTION STUDY.—The Secretary of Transportation, utilizing the National Academy of Engineering and in consultation with the National Transportation Safety Board, the Commercial Fishing Industry Vessel Advisory Committee, and the fishing industry, shall—

(1) conduct a study of the safety problems on fishing industry vessels;

(2) make recommendations regarding whether a vessel inspection program should be implemented for fishing vessels, fish tender vessels, and fish processing vessels, including recommendations on the nature and scope of that inspection; and

(3) submit the study and recommendations to Congress before January 1, 1990.

(b) UNCLASSIFIED FISH PROCESSING VESSEL STUDY.—The Secretary of the department in which the Coast Guard is operating, in consultation with the Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of title 46, United States Code (as amended by this Act), and with representatives of persons operating fish processing vessels—

(1) shall conduct a study of fish processing vessels that are not surveyed and classed by an organization approved by the Secretary;

(2) shall make recommendations regarding what hull and machinery requirements should apply to vessels described in paragraph (1) to ensure that those vessels are operated and maintained in a condition in which they are safe to operate at sea; and

(3) shall submit the study and recommendations to Congress before July 28, 1991.

SEC. 6. FISHING VOYAGE REQUIREMENTS.

(a) ENACTMENT OF NEW CHAPTER IN TITLE 46.—Title 46, United States Code, is amended by inserting after chapter 105 the following:

"CHAPTER 106—FISHING VOYAGES

"Sec.

"10601 Fishing agreements

"10602 Recovery of wages and shares of fish under agreement

"10603 Seaman's duty to notify employer regarding illness, disability, and injury

"§ 10601. Fishing agreements

"(a) Before proceeding on a voyage, the master or individual in charge of a fishing vessel, fish processing vessel, or fish tender vessel shall make a fishing agreement in writing with each seaman employed on board if the vessel is—

"(1) at least 20 gross tons; and

"(2) on a voyage from a port in the United States.

"(b) The agreement shall be signed also by the owner of the vessel

46 USC 4502
note

46 USC 10601

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(1) **REQUIREMENT.**—Section 3102 of title 46, United States Code, is amended by striking “exposure” each place it appears and inserting in lieu thereof “immersion”.

(2) **SECTION HEADING.**—The section heading for section 3102 of that title is amended by striking “Exposure” and inserting in lieu thereof “Immersion”.

(3) **ANALYSIS.**—The chapter analysis for chapter 31 of that title is amended by striking “Exposure” and inserting in lieu thereof “Immersion”.

(b) **OTHER UNINSPECTED VESSEL REQUIREMENTS.**—Section 4101 of title 46, United States Code, is amended by inserting “not subject to chapter 45 of this title” after “uninspected vessel”.

(c) **MAJOR CONVERSION DEFINED.**—

(1) **DEFINITION.**—Section 2101 of title 46, United States Code, is amended by inserting after paragraph (14) the following:

“(14a) ‘major conversion’ means a conversion of a vessel that—

“(A) substantially changes the dimensions or carrying capacity of the vessel;

“(B) changes the type of the vessel;

“(C) substantially prolongs the life of the vessel; or

“(D) otherwise so changes the vessel that it is essentially a new vessel, as decided by the Secretary.”

(2) **REPEAL.**—Section 3701(2) of title 46, United States Code, is repealed.

Approved September 9, 1988.

LEGISLATIVE HISTORY—H.R. 1841:

HOUSE REPORTS: No. 100-729 (Comm. on Merchant Marine and Fisheries).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 27, considered and passed House.

Aug. 11, considered and passed Senate.