

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;

“(6) a buoyant apparatus, if the vessel is of a type required by regulations prescribed by the Secretary to be equipped with that apparatus;

“(7) alerting and locating equipment, including emergency position indicating radio beacons, on vessels that operate on the high seas; and

“(8) a placard as required by regulations prescribed under section 10603(b) of this title.

Regulations.

“(b) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations for documented vessels to which this chapter applies that operate beyond the Boundary Line or that operate with more than 16 individuals on board, for the installation, maintenance, and use of—

“(1) alerting and locating equipment, including emergency position indicating radio beacons;

“(2) lifeboats or liferafts sufficient to accommodate all individuals on board;

“(3) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

“(4) radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

“(5) navigation equipment, including compasses, radar reflectors, nautical charts, and anchors;

“(6) first aid equipment, including medicine chests; and

“(7) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.

“(c) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing minimum safety standards for vessels to which this chapter applies that were built after December 31, 1988, or that undergo a major conversion completed after that date, and that operate with more than 16 individuals on board, including standards relating to—

“(1) navigation equipment, including radars and fathometers;

“(2) life saving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;

“(3) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;

“(4) use and installation of insulation material;

“(5) storage methods for flammable or combustible material; and

“(6) fuel, ventilation, and electrical systems.

Regulations.

“(d)(1) The Secretary shall prescribe regulations for the operating stability of a vessel to which this chapter applies—

“(A) that was built after December 31, 1989; or

“(B) the physical characteristics of which are substantially altered after December 31, 1989, in a manner that affects the vessel's operating stability.

“(2) The Secretary may accept, as evidence of compliance with this subsection, a certification of compliance issued by the person providing insurance for the vessel or by another qualified person approved by the Secretary.

“(e) In prescribing regulations under this chapter, the Secretary—

“(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.

“(f) 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.

46 USC 4507.

“§ 4507. Penalties

“(a) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel to which this chapter applies which is operated in violation of this chapter or a regulation prescribed under this chapter may each be assessed a civil penalty by the Secretary of not more than \$5,000. Any vessel with respect to which a penalty is assessed under this subsection is liable in rem for the penalty.

“(b) A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined not more than \$5,000, imprisoned for not more than one year, or both.

46 USC 4508.
Establishment.**“§ 4508. Commercial Fishing Industry Vessel Advisory Committee**

“(a) The Secretary shall establish a Commercial Fishing Industry Vessel Advisory Committee. The Committee—

“(1) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to the safe operation of vessels to which this chapter applies, including navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualifications and training;

“(2) may review proposed regulations under this chapter;

“(3) may make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary; and

“(4) shall meet at the call of the Secretary, who shall call such a meeting at least once during each calendar year.

“(b)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

“(A) ten members from the commercial fishing industry who—

“(i) reflect a regional and representational balance; and

“(ii) have experience in the operation of vessels to which this chapter applies or as a crew member or processing line worker on an uninspected fish processing vessel;

“(B) three members from the general public, including, whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing owners of vessels to which this chapter applies and persons representing the marine insurance industry;

“(C) one member representing each of—

“(i) naval architects or marine surveyors;

“(ii) manufacturers of equipment for vessels to which this chapter applies;

“(iii) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications; and

“(iv) underwriters that insure vessels to which this chapter applies.

“(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee, and, after timely notice is published, appoint the members of

Federal
Register,
publication.

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.

Termination
date.

“(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.—

46 USC 4508
note.

(1) **TERMS OF INITIAL APPOINTMENTS.**—Of the members first appointed to the Commercial Fishing Industry Advisory Committee under section 4508 of title 46, United States Code (as amended by this Act)—

(A) one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee; and

(B) terms may be adjusted to coincide with the Government's fiscal year.

(2) **COMPLETION OF INITIAL APPOINTMENTS.**—The Secretary shall complete appointment of members pursuant to this subsection not later than 90 days after the date of the enactment of this Act.

(c) **REPEAL.**—Subsection (e) of section 4102 of title 46, United States Code, is repealed.

46 USC 7101
note.

SEC. 3. PLAN FOR LICENSING OPERATORS OF FISHING INDUSTRY VESSELS.

The Secretary of the department in which the Coast Guard is operating shall, within two years after the date of enactment of this Act, and in close consultation with the Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of title 46, United States Code (as amended by this Act), prepare and submit to the Congress a plan for the licensing of operators of documented fishing, fish processing, and fish tender vessels. The plan shall take into consideration the nature and variety of the different United States fisheries and of the vessels engaged in those fisheries, the need to license all operators or only those working in certain types of fisheries or vessels, and other relevant factors.

SEC. 4. ACCIDENT DATA STATISTICS.

(a) **COMPILATION AND SUBMISSION OF DATA.**—Chapter 61 of title 46, United States Code, is amended by adding at the end the following new section:

Records.
Insurance.
46 USC 6104.

“§ 6104. Commercial fishing industry vessel casualty statistics

“(a) The Secretary shall compile statistics concerning marine casualties from data compiled from insurers of fishing vessels, fish processing vessels, and fish tender vessels.

“(b) A person underwriting primary insurance for a fishing vessel, fish processing vessel, or fish tender vessel shall submit periodically to the Secretary data concerning marine casualties that is required by regulations prescribed by the Secretary.

Regulations.

“(c) After consulting with the insurance industry, the Secretary shall prescribe regulations under this section to gather a statistical base for analyzing vessel risks.

“(d) The Secretary may delegate to a qualified person that has knowledge and experience in the collection of statistical insurance data the authority of the Secretary under this section to compile statistics from insurers.”

(b) **PENALTY.**—Section 6103 of title 46, United States Code, is amended as follows:

(1) before “An” insert “(a)”; and

(2) add the following new subsection:

“(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.

46 USC 4502
note.

(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

46 USC 10601.

“(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.

“(c) The agreement shall—

“(1) state the period of effectiveness of the agreement;

Wages.

“(2) include the terms of any wage, share, or other compensation arrangement peculiar to the fishery in which the vessel will be engaged during the period of the agreement; and

“(3) include other agreed terms.

46 USC 10602.

“§ 10602. Recovery of wages and shares of fish under agreement

“(a) When fish caught under an agreement under section 10601 of this title are delivered to the owner of the vessel for processing and are sold, the vessel is liable in rem for the wages and shares of the proceeds of the seamen. An action under this section must be brought within six months after the sale of the fish.

“(b)(1) In an action under this section, the owner shall produce an accounting of the sale and division of proceeds under the agreement. If the owner fails to produce the accounting, the vessel is liable for the highest value alleged for the shares.

“(2) The owner may offset the value of general supplies provided for the voyage and other supplies provided the seaman bringing the action.

“(c) This section does not affect a common law right of a seaman to bring an action to recover the seaman’s share of the fish or proceeds.

46 USC 10603.

“§ 10603. Seaman’s duty to notify employer regarding illness, disability, and injury

“(a) A seaman on a fishing vessel, fish processing vessel, or fish tender vessel shall notify the master or individual in charge of the vessel or other agent of the employer regarding any illness, disability, or injury suffered by the seaman when in service to the vessel not later than seven days after the date on which the illness, disability, or injury arose.

Regulations.

“(b) The Secretary shall prescribe regulations requiring that each fishing vessel, fish processing vessel, and fish tender vessel shall have on board a placard displayed in a prominent location accessible to the crew describing the seaman’s duty under subsection (a) of this section.”

(b) CONFORMING AMENDMENT.—The table of contents at the beginning of title 46, United States Code, is amended by inserting after the item relating to chapter 105 the following:

“106. Fishing voyages.....10601.”

(c) REPEALS.—Sections 4391, 4392, 4393, and 4394 of the Revised Statutes of the United States (46 App. U.S.C. 531-534) are repealed.

46 USC 4501 note.

SEC. 7. TRANSITIONAL PROVISION.

Until July 28, 1990, a foreign built fish processing vessel subject to chapter 45 of title 46, United States Code, is deemed to comply with the requirements of that chapter if—

(1) it has an unexpired certificate of inspection issued by a foreign country that is a party to an International Convention for Safety of Life at Sea to which the United States Government is a party; and

(2) it is in compliance with the safety requirements of that foreign country that apply to that vessel.

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IMMERSION SUITS.—

(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, 28, considered and passed House.

Aug. 11, considered and passed Senate.