Public Law 96-378
96th Congress

An Act

To amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes.

Oct. 6, 1980
[H.R. 5164]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4426 of the Revised Statutes (46 U.S.C. 404), is amended so that the first portion of the section, commencing with the words "4426. The hulls and boilers of every ferryboat," and ending with the words "after December 31, 1953: *Provided further,*" reads as follows:

Small vessels, inspection and manning.

"SEC. 4426. The hulls and boilers of every ferryboat, canal boat, yacht, or other small craft of like character propelled by steam, shall be inspected under the provisions of this title. All mechanically propelled vessels of one hundred gross tons or over, except those vessels propelled by machinery other than steam and engaged in fishing as a regular business, which carry freight or passengers for hire shall likewise be inspected under the provisions of this title. The Secretary of the department in which the Coast Guard is operating shall issue regulations as may be necessary to carry out the provisions of this section for the inspection of hulls, machinery, and equipment; for the manning of these vessels; and for the duties and qualifications of the personnel thereof. Other applicable provisions of law and the regulations issued hereunder shall be complied with before a certificate of inspection may be issued: *Provided,* That no such vessel of three hundred gross tons or over may be navigated without a licensed engineer and a licensed deck officer: *Provided further,* That, for any violation of the provisions of this title or of the regulations issued thereunder, these vessels, their masters, officers, and owners shall be subject to the provisions of sections 4496, 4497, 4498, 4499, and 4500 of this title, relating to the imposition of penalties and the enforcement of law: *Provided further,*".

Regulations.

46 USC 494-498.

(b) Title 52 of the Revised Statutes is amended by adding the following new section after section 4426:

"SEC. 4426a. (1) An offshore supply vessel is a vessel that—

Offshore supply vessel.
46 USC 404-1.

"(i) is propelled by machinery other than steam,

"(ii) is not within the description of passenger carrying vessels in section 1 of the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390),

"(iii) is of more than fifteen and less than five hundred gross tons, and

"(iv) regularly carries goods, supplies, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

"(2) An existing offshore supply vessel is one that was operating as such on or before January 1, 1979, or that, if not in service of any kind on or before that date, was contracted for on or before that date and entered service as such before the effective date of this section.

Existing offshore supply vessel.

"(3) A new offshore supply vessel is one that is not an existing offshore supply vessel.

New offshore supply vessel.

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46 USC 391; *ante*, p. 1513.

"Passenger."

"(4) In the application of section 4417 or 4426 of this title or the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g), to an offshore supply vessel, the term 'passenger' means any person carried on board the vessel other than—

"(i) the owner;

"(ii) a representative of the owner;

"(iii) the master;

"(iv) a bona fide member of the crew engaged in the business of the vessel who has contributed no consideration for carriage on board and is paid for services on board;

"(v) an employee of the owner, or of a subcontractor to the owner, employed in the business of the owner;

"(vi) a charterer of the vessel;

"(vii) a person with the same relationship to a charterer as a person in (ii) or (v) above has to an owner;

"(viii) a person employed in some phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel; or

"(ix) a bona fide guest who has contributed no consideration for carriage on board.

"Freight for hire." "Freight carrying vessel."

"(5) The terms 'freight for hire' in section 4426 of this title and 'freight carrying vessel' in the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g), have no application to an offshore supply vessel.

New offshore supply vessel, inspection.

"(6) Each new offshore supply vessel is subject to inspection as follows:

"(i) a vessel of above fifteen and less than one hundred gross tons is subject to inspection to the same extent as a freight carrying vessel as defined in the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g).

"(ii) a vessel of one hundred gross tons and less than five hundred gross tons is subject to inspection under this title to the same extent as a vessel propelled in whole or in part by steam.

In issuing regulations for the inspection of these vessels, the Secretary of the department in which the Coast Guard is operating shall take into consideration the characteristics of these vessels, their method of operations, and the service in which they are engaged.

Existing offshore supply vessel, inspection.

"(7) Each existing offshore supply vessel is likewise subject to inspection under this title or under the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g), as applicable. Such a vessel, however, shall not be subject to rules, regulations, or standards for major structural or major equipment requirements unless compliance therewith is necessary in order to remove an especially hazardous condition. Each existing offshore supply vessel that does not possess a valid certificate of inspection issued by the Secretary shall be registered by its owner with the Secretary within three months of the date of enactment of this section. The Secretary shall cause the initial inspection of each such vessel to be made within two years of its registration date. Upon registration each existing offshore supply vessel shall be held to be in compliance with all applicable vessel inspection laws pending verification by actual inspection. The Secretary shall establish a reasonable time schedule to bring vessels subject to this subsection into compliance with applicable requirements. For the interim period, between registration and initial inspection, the Secretary shall prescribe a manning level for each such vessel in accordance with applicable law. On or after January 1, 1989, each existing offshore supply vessel that is twenty years or older shall be subject to inspection under subsection (6) of this section.

Manning level.

"(8) No offshore supply vessel may be navigated without a licensed deck officer and, if over two hundred gross tons, without a licensed engineer.

"(9) No offshore supply vessel operating on January 1, 1979, under a certificate of inspection issued by the Secretary shall be subjected to any higher standards or new inspection requirements as a result of the enactment of this section.

"(10) No offshore supply vessel may carry passengers except in an emergency. An offshore supply vessel that takes aboard one or more passengers in an emergency does not alter its character as an offshore supply vessel under this section.".

SEC. 2. Section 4438 of the Revised Statutes (46 U.S.C. 224), is amended to read as follows:

Officers, licensing and classification.

"SEC. 4438. The Secretary of the department in which the Coast Guard is operating shall license and classify the masters, chief mates, and second and third mates, engineers and pilots of all vessels subject to the vessel inspection or manning laws of the United States. In classifying licensed officers under this section, the Secretary shall, where possible, establish suitable career patterns, and service and other qualifying requirements, appropriate to the particular service or industry in which the officers are engaged. It shall be unlawful to employ any person or for any person to serve as a master, mate, engineer, or pilot of any such vessel, when required to be licensed by the laws of the United States, or the regulations issued in implementation thereof, who is not licensed by the Secretary. Anyone violating this section is liable to a civil penalty of not more than $500 for each offense. Each day of a continuing violation shall constitute a separate offense.".

Violation; penalty.

SEC. 3. The Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390-390g), is amended as follows:

46 USC 390.

(1) Section 1(a) is amended by striking the words "passenger-carrying".

(2) Section 1(b) is amended to read as follows:

"Passenger-carrying vessel."

"(b) The term 'passenger-carrying vessel' means any vessel which carries more than six passengers, and which is (1) propelled in whole or in part by steam or by any form of mechanical or electrical power and is of less than one hundred gross tons; (2) propelled by sail and is of seven hundred gross tons or less; or (3) non-self-propelled and is of one hundred gross tons or less; except any public vessel of the United States or of any foreign state, or any lifeboat forming part of a vessel's lifesaving equipment. The term includes (1) a domestic vessel operating on the navigable waters of the United States, or on the high seas outside of those waters and within the normal operating range of the vessel, and (2) a foreign vessel departing from a port of the United States.".

(3) Section 1 is amended by adding a new subsection as follows:

"Freight-carrying vessel."

"(e) The term 'freight-carrying vessel' means a vessel which carries freight for hire, is propelled by machinery, and is above fifteen gross tons and less than one hundred gross tons. The term does not include (1) vessels propelled by machinery other than steam and engaged in fishing as a regular business, or (2) vessels of foreign registry.".

46 USC 390a.

(4) Section 2(a) is amended by striking the words "passenger-carrying vessel," and inserting in lieu thereof the words "passenger-carrying vessel and each freight-carrying vessel,".

46 USC 390b.

(5) Section 3 is amended by striking the words "passenger-carrying vessels" and inserting in lieu thereof the words "passenger-carrying vessels and freight-carrying vessels".

46 USC 390c, 390d.

(6) Sections 4 and 5 are amended by striking in four places the words "passenger-carrying vessel" and inserting in lieu thereof the words "passenger-carrying vessel or freight-carrying vessel".

SEC. 4. Section 13 of the Act of March 4, 1915 (38 Stat. 1169), as amended (46 U.S.C. 672), is amended to read as follows:

One-hundred-gross-ton vessels, exemptions.

"SEC. 13. (a) All vessels of one hundred gross tons or over shall meet the requirements of this section and the regulations issued hereunder by the Secretary of the department in which the Coast Guard is operating, hereinafter referred to as 'Secretary', except—

"(1) vessels navigating exclusively on the rivers and smaller inland lakes of the United States; and

"(2) non-self-propelled vessels, other than barges subject to section 10 of the Act of May 28, 1908 (35 Stat. 428), as amended (46 U.S.C. 395), or section 4417(a) of the Revised Statutes (46 U.S.C. 391a).

Able seaman, eligibility requirements.

"(b) Every person may be rated an able seaman and qualified to serve as such who is eighteen years of age or older; meets the regulatory requirements with respect to sight, hearing, and physical condition; meets the applicable professional knowledge examination or educational requirements; and meets the following applicable service requirements:

Definitions.

"(1) 'Able seaman' qualified for unlimited service on any vessel and on any waters shall have at least three years' service on deck on vessels operating on the oceans or the Great Lakes.

"(2) 'Able seaman-limited' qualified for limited service on any vessel on any waters shall have at least eighteen months' service on deck on vessels subject to this section operating on the oceans or the navigable waters of the United States including the Great Lakes.

"(3) 'Able seaman-special' qualified for special service on any vessel on any waters shall have at least twelve months' service on deck on vessels operating on the oceans or the navigable waters of the United States including the Great Lakes. For service on a vessel of less than five hundred gross tons engaged in support of exploration, exploitation, or production of offshore mineral or energy resources, a person may be rated as able seaman-special who has at least six months' service on deck on vessels operating on the oceans or the navigable waters of the United States including the Great Lakes.

"(c) 'Service on deck' means service in the deck department in work related to the work usually performed aboard vessels by able seamen and may include service on decked fishing vessels and on public vessels of the United States. Three hundred and sixty days shall be equal to one year's service, and a day shall be equal to eight hours of labor or duty. A graduate of a school ship approved by the Secretary may be rated as able seaman upon satisfactory completion of the course of instruction. The satisfactory completion of other relevant training programs approved by the Secretary may be substituted for not more than one-third of the required service on deck in accordance with applicable regulations. These regulations may not allow substitution for time spent in these training programs for the required service on deck in a ratio greater than three to one.

"(d) No person below the rating of able seaman shall be permitted at the wheel in ports, harbors, and other waters subject to congested vessel traffic; or under conditions of reduced visibility, adverse weather, or other hazardous circumstances.

Compliance.

"(e) No vessel subject to this section may depart from any port of the United States unless the following provisions are complied with:

"(1) Not less than 75 per centum of the crew in each department are able to understand any order given by the officers of the vessel.

"(2) At least 65 per centum of the deck crew, exclusive of licensed officers, are of a rating not less than able seaman. This percentage may be reduced to 50 per centum on vessels that are permitted by the Act of March 4, 1915 (38 Stat. 1164), as amended (46 U.S.C. 673), to maintain a two watch system. Able seamen shall not be required on tugs and towboats operating on the bays and sounds connected directly with the ocean.

Able seaman, employment.

"(f) Employment of persons rated as able seaman under subsection (b) of this section shall be in accordance with the following scale:

"(1) Persons qualified as able seaman may constitute the entire complement of able seamen required on any vessel.

"(2) Persons qualified as able seaman-limited may constitute the entire complement of able seamen required on a vessel of less than one thousand six hundred gross tons or on a vessel operating on the Great Lakes and the Saint Lawrence River as far east as Sept Iles; persons qualified as able seaman-limited may constitute up to 50 per centum of the complement of able seamen required aboard other vessels.

"(3) Persons qualified as able seaman-special may constitute the entire complement of able seamen required on a vessel of five hundred gross tons or less, or on a seagoing barge, tug, or towboat and may constitute up to 50 per centum of the complement of able seamen required aboard other vessels.

"(4) In no case in which the service of able seaman-limited or able seaman-special is authorized for only a part of the required complement of able seamen aboard a vessel may the combined percentage of persons so qualified be greater than 50 per centum of the required complement.

Certificate of service.

"(g) No vessel may be navigated unless all of the complement in her engine department above the rating of coal passer or wiper and below licensed officer shall be the holders of a certificate of service, attesting to proficiency as a qualified member of the engine department. An applicant for this rating shall have six months' service at sea in a rating at least equal to that of coal passer or wiper. A graduate of a school ship approved by the Secretary may be rated as a qualified member of the engine department upon satisfactory completion of the course of instruction. The satisfactory completion of other courses of instruction approved by the Secretary may be substituted for not more than one-half of the required service at sea in accordance with applicable regulations.

"(h) It is unlawful to employ any person, or for any person to serve aboard a vessel to which this section applies, other than a licensed officer, if that person does not have a certificate of service attesting to proficiency issued by the Secretary.

Regulations.

"(i) The Secretary shall issue regulations as may be necessary to carry out the provisions of this section. These regulations shall, among other things, establish procedures for the processing, verification, examination, and retention of records and affidavits related to the issuance of certificates of service attesting to proficiency.

Violation; penalty.

"(j) Every master, person in charge, owner, or operator who violates a provision of this section or of the regulations issued hereunder, and every vessel that is navigated in violation of this section or of the regulations issued hereunder is equally and severally liable to a civil penalty of not more than $500 for each offense.".

46 USC 660b, 643a.

SEC. 5. The provisions of section 4 of the Act of June 25, 1936 (49 Stat. 1935), as amended (46 U.S.C. 660a), with respect to crew quarters; and section 4551 of the Revised Statutes of the United States (46 U.S.C. 643), shall not apply to non-self-propelled vessels, other than barges subject to section 10 of the Act of May 28, 1908 (35 Stat. 428), as amended (46 U.S.C. 395), or section 4417(a) of the Revised Statutes (46 U.S.C. 391a).

SEC. 6. Section 2 of the Act of May 11, 1918 (40 Stat. 549; 46 U.S.C. 223), is further amended: (1) by adding immediately before the last clause, the following: "That an offshore supply vessel, as defined in section 4426a of the Revised Statutes shall, when on a voyage of less than six hundred miles, have on board and in her service one licensed mate, but if any such vessel is engaged on a voyage of six hundred miles or more, then such vessel shall have two licensed mates."; and (2) by striking in the last clause the reference "the Act of June Ninth, Nineteen Hundred and Ten," and inserting in lieu thereof "the Act of April 25, 1940, c. 155, 54 Stat. 163,".

Ante, p. 1513.

46 USC 526-526u.

SEC. 7. Section 2 of the Act of March 4, 1915 (38 Stat. 1164), as amended (46 U.S.C. 673), is amended by deleting from the last proviso the words "tugs and barges" and inserting in lieu thereof the following: "tugs, barges, and offshore supply vessels as defined in section 4426a of the Revised Statutes,".

SEC. 8. Section 4399 of the Revised Statutes (46 U.S.C. 361), is amended to read as follows:

Steam vessel.

"SEC. 4399. Every vessel propelled in whole or in part by steam and every vessel subject to inspection propelled by machinery other than steam is a steam vessel within the meaning of this title.".

"Motorboat." 46 USC 526.

SEC. 9. Section 1 of the Act of April 25, 1940 (54 Stat. 163; 46 U.S.C. 526-526t), is amended to read as follows: "That the word 'motorboat' where used in this Act includes every vessel propelled by machinery and not more than sixty-five feet in length except tugboats and towboats propelled by steam. The length shall be measured from end to end over the deck, excluding sheer.".

Temporary license or certificate of service. 46 USC 224 note.

SEC. 10. The Secretary of the department in which the Coast Guard is operating may, for a period of two years after the effective date of this Act, issue a temporary license as master, mate, or engineer, or certificate of service as able seaman or qualified member of the engine department to any person who on or before January 1, 1979, was serving in such a capacity on board an offshore supply vessel as defined in section 4426a of the Revised Statutes. This license or certificate may be for a term no longer than three years. It may not be renewed, nor may more than one such license or certificate be issued to any person, except for replacements occasioned by loss of a license or certificate. A person holding such a license or certificate may not serve under it on any vessel other than an offshore supply vessel. To qualify for a temporary license or certificate the person must apply to the Secretary within three months of the date of enactment of this Act. The Secretary shall acknowledge receipt of that application and advise the person of those positions in which he may serve pending issuance of a temporary license or certificate. Upon receipt of that acknowledgement the person shall be deemed to be in compliance with the appropriate statutes dealing with licensing or certification of merchant marine personnel pending issuance of the temporary license or certificate. Before issuing such a license or certificate, the Secretary shall satisfy himself that the applicant has sufficient qualifications and experience as to warrant the belief that the applicant's continued service in the position for which he is being licensed or certificated will be consistent with the safety of the vessel.

Any temporary license, certificate, or acknowledgement of application issued under this subsection is subject to suspension and revocation on the same grounds and with like procedure as provided in section 4450 of the Revised Statutes.

46 USC 239.

SEC. 11. The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Repeals.

(a) the Acts of July 8, 1941, chapters 279 and 280 (55 Stat. 579), (46 U.S.C. 672-2 and 672-1, respectively);

(b) the Act of September 25, 1941 (55 Stat. 732; 46 U.S.C. 672b-1);

(c) the Act of June 16, 1938 (52 Stat. 753; 46 U.S.C. 672b, 660b, 643a, and 672c); and

(d) section 18 of the Act of April 25, 1940 (54 Stat. 166; 46 U.S.C. 526q).

Approved October 6, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1075 (Comm. on Merchant Marine and Fisheries) and No. 96-1342 (Comm. of Conference).
SENATE REPORT No. 96-886 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 30, considered and passed House.
Aug. 18, considered and passed Senate, amended.
Sept. 18, Senate agreed to conference report.
Sept. 23, House agreed to conference report.

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