

§ 12112. Coastwise endorsement

(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

(1) satisfies the requirements of section 12103 of this title;

(2)(A) was built in the United States; or
(B) if not built in the United States—

(i) was captured in war by citizens of the United States and lawfully condemned as prize;

(ii) was adjudged to be forfeited for a breach of the laws of the United States; or

(iii) qualifies as a wrecked vessel under section 12107 of this title; and

(3) otherwise qualifies under the laws of the United States to engage in the coastwise trade.

(b) AUTHORIZED ACTIVITY.—Subject to the laws of the United States regulating the coastwise trade, a vessel for which a coastwise endorsement is issued may engage in the coastwise trade.

(Pub. L. 109-304, §5, Oct. 6, 2006, 120 Stat. 1495.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
12112(a)	46:12106(a).	
12112(b)	46:12106(b).	

In subsection (b), the word “only” is omitted because section 12102(a), as revised by the bill, contains a general requirement for appropriate documentation to engage in any trade.

PRIOR PROVISIONS

A prior section 12112, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 588; Pub. L. 100-710, title I, §104(a)(4), Nov. 23, 1988, 102 Stat. 4750; Pub. L. 101-225, title III, §301(a)(11), Dec. 12, 1989, 103 Stat. 1922, originally derived from section 65p of former Title 46, Shipping, related to vessels procured outside the United States, prior to the general amendment of this chapter by Pub. L. 109-304. See section 12115 of this title.

CERTAIN VESSELS ENGAGED IN ALASKA COASTWISE TRADE

Pub. L. 108-293, title VI, §608(b), Aug. 9, 2004, 118 Stat. 1056, provided that:

“(1) IN GENERAL.—Notwithstanding any other provision of law, a person shall be treated as a citizen of the United States under section 12102(a) [now section 12103(a), (b)] of title 46, United States Code, section 2 of the Shipping Act, 1916 ([former] 46 U.S.C. App. 802) [see 46 U.S.C. 50501], and section 27 of the Merchant Marine Act, 1920 ([former] 46 U.S.C. App. 883) [see Disposition Table preceding section 101 of this title], for purposes of issuance of a coastwise endorsement under section 12106(e) of title 46, United States Code (as that section was in effect on the day before the date of enactment of this Act [Aug. 9, 2004]), for a vessel owned by the person on the date of enactment of this Act, or any replacement vessel of a similar size and function, if the person—

“(A) owned a vessel before January 1, 2001, that had a coastwise endorsement under [former] section 12106(e) of title 46, United States Code; and

“(B) as of the date of the enactment of this Act [Aug. 9, 2004], derives substantially all of its revenue from leasing vessels engaged in the transportation or distribution of petroleum products and other cargo in Alaska.

“(2) LIMITATION ON COASTWISE TRADE.—A vessel owned by a person described in paragraph (1) for which a

coastwise endorsement is issued under [former] section 12106(e) of title 46, United States Code, may be employed in the coastwise trade only within Alaska and in the coastwise trade to and from Alaska.

“(3) TERMINATION.—The application of this subsection to a person described in paragraph (1) shall terminate if all of that person’s vessels described in paragraph (1) are sold to a person eligible to document vessels under section 12106(a) [now section 12112(a)] of title 46, United States Code.”

§ 12113. Fishery endorsement

(a) REQUIREMENTS.—A fishery endorsement may be issued for a vessel that—

(1) satisfies the requirements of section 12103 of this title and, if owned by an entity, the entity satisfies the ownership requirements in subsection (c);

(2) was built in the United States;

(3) if rebuilt, was rebuilt in the United States;

(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and

(5) otherwise qualifies under the laws of the United States to engage in the fisheries.

(b) AUTHORIZED ACTIVITY.—

(1) IN GENERAL.—Subject to the laws of the United States regulating the fisheries, a vessel for which a fishery endorsement is issued may engage in the fisheries.

(2) USE BY PROHIBITED PERSONS.—A fishery endorsement is invalid immediately if the vessel for which it is issued is used as a fishing vessel while it is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement.

(c) OWNERSHIP REQUIREMENTS FOR ENTITIES.—

(1) IN GENERAL.—A vessel owned by an entity is eligible for a fishery endorsement only if at least 75 percent of the interest in the entity, at each tier of ownership and in the aggregate, is owned and controlled by citizens of the United States.

(2) DETERMINING 75 PERCENT INTEREST.—In determining whether at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1), the Secretary shall apply section 50501(d) of this title, except that for this purpose the terms “control” or “controlled”—

(A) include the right to—

(i) direct the business of the entity;

(ii) limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity; or

(iii) direct the transfer, operation, or manning of a vessel with a fishery endorsement; but

(B) do not include the right to simply participate in the activities under subparagraph (A), or the exercise of rights under loan or mortgage covenants by a mortgagee eligible to be a preferred mortgagee under section 31322(a) of this title, except that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a