(1) FALSIFYING MATERIAL FACT.—If a corporation knowingly falsifies a material fact in a certificate filed under subsection (a), the vessel (or its value) documented or operated under this section shall be forfeited.

(2) TRANSPORTING MERCHANDISE.—If a vessel transports merchandise for hire in violation of this section, the merchandise shall be forfeited to the United States Government.

(3) TRANSPORTING PASSENGERS.—If a vessel transports passengers for hire in violation of this section, the vessel is liable for a penalty of $200 for each passenger so transported.

(4) REMISSION OR MITIGATION.—A penalty or forfeiture incurred under this subsection may be remitted or mitigated under section 2107(b) of this title.

(Pub. L. 109–304, § 5, Oct. 6, 2006, 120 Stat. 1500.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
12118(a)(1) ..	46 App.:883–1 (1st par. words through cl. (e) less citizenship, 4th par. 1st sentence).	June 5, 1920, ch. 250, § 27A, as added Pub. L. 85–902, Sept. 2, 1958, 72 Stat. 1736; Pub. L. 104–88, title III, § 321(2), Dec. 29, 1995, 109 Stat. 950; Pub. L. 104–324, title VII, § 706, Oct. 19, 1996, 110 Stat. 3934.
12118(a)(2), (3).	46 App.:883–1 (2d par., 4th par. 2d sentence).	
12118(b)	46 App.:883–1 (1st par. related to citizenship).	
12118(c)	46 App.:883–1 (3d par. words before 5th comma).	
12118(d)(1) ..	46 App.:883–1 (3d par. words after 5th comma).	
12118(d)(2) ..	46 App.:883–1 (1st par. words after cl. (e)).	
12118(e)	46 App.:883–1 (last par.).	
12118(f)	46 App.:883–1 (4th par. 3d–6th sentences).	

In this section, the word ''Secretary'' is substituted for ''Secretary of the Treasury'', thereby incorporating the definition of ''Secretary'' in section 2101 of title 46. The functions of the Secretary of the Treasury relating to the Coast Guard previously were transferred to the Secretary of Transportation by section 6(b) of the Department of Transportation Act (Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 938). The Coast Guard and the functions of the Secretary of Transportation relating to the Coast Guard were again transferred to the Department of Homeland Security by section 888(b) of the Homeland Security Act of 2002 (Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2135).

In subsection (a)(1), the words ''seeking hereunder to document a vessel under the laws of the United States or to operate a vessel exempt from documentation under the laws of the United States'' are omitted as unnecessary because of the reorganization of the section.

Subsection (d)(1)(B) is substituted for ''together with their owners or masters, shall be entitled to all the other benefits and privileges and shall be subject to the same requirements, penalties, and forfeitures as may be applicable in the case of vessels built in the United States and otherwise documented or exempt from documentation under the laws of the United States'' to eliminate unnecessary words.

In subsection (d)(2), the words before subparagraph (A) are substituted for ''no vessel owned by any such corporation shall engage in the fisheries or in the transportation of merchandise or passengers for hire between points in the United States, including Territories, Districts, and possessions thereof, embraced within the coastwise laws, except'' to eliminate unnecessary words. See the definition of ''United States'' in chapter 1 of the revised title.

PRIOR PROVISIONS

A prior section 12118, Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 589, originally derived from section 65r of former Title 46, Shipping, related to registration of funnel marks and house flags, prior to being repealed by Pub. L. 100–710, title I, §§ 106(b)(5), 107(a), Nov. 23, 1988, 102 Stat. 4752, effective Jan. 1, 1989.

§ 12119. Owners engaged primarily in leasing or financing transactions

(a) DEFINITIONS.—In this section:

(1) AFFILIATE.—The term ''affiliate'' means, with respect to any person, any other person that is—

(i) directly or indirectly controlled by, under common control with, or controlling that person; or

(ii) named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

(2) CARGO.—The term ''cargo'' does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of subsection (c)(3).

(3) OIL.—The term ''oil'' has the meaning given that term in section 2101(20) of this title.

(4) PASSIVE INVESTMENT.—The term ''passive investment'' means an investment in which neither the investor nor any affiliate of the investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

(5) QUALIFIED PROPRIETARY CARGO.—The term ''qualified proprietary cargo'' means—

(A) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that submits to the Secretary an application or annual certification under subsection (c)(3), or by an affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on a vessel owned by that person;

(B) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person that submits to the Secretary an application or an annual certification under subsection (c)(3), or by an affiliate of that person, but which is carried in coastwise trade by a vessel owned by that person and which is part of an arrangement in which vessels owned by that person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by that person, or by an affiliate of that person, is carried in coastwise trade on one or more other vessels, not owned by that person, or by an affiliate of that person, if the other vessel or vessels are also part of the same arrangement;

(C) in the case of a towing vessel associated with a non-self-propelled tank vessel where both vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that owns both the towing vessel and the non-self-propelled tank vessel, or any United States affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on either of those vessels; or

(D) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—

(i) was delivered by the builder of the vessel to the owner of the vessel after December 31, 1999; and

(ii) was purchased by a person for the purpose, and with the reasonable expectation, of transporting on the vessel liquefied natural gas or unrefined petroleum beneficially owned by the owner of the vessel, or an affiliate of the owner, from Alaska to the continental United States.

(6) UNITED STATES AFFILIATE.—The term ''United States affiliate'' means, with respect to any person, an affiliate the principal place of business of which is located in the United States.

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

(1) the vessel satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

(2) the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) meets the requirements of subsection (c);

(3) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States under section 50501 of this title for engaging in the coastwise trade; and

(4) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary.

(c) OWNERSHIP CERTIFICATION.—

(1) IN GENERAL.—A person meets the requirements of this subsection if the person transmits to the Secretary each year the certification required by paragraph (2) or (3) with respect to a vessel.

(2) INVESTMENT CERTIFICATION.—To meet the certification requirement of this paragraph, a person shall certify that it—

(A) is a leasing company, bank, or financial institution;

(B) owns, or holds the beneficial interest in, the vessel solely as a passive investment;

(C) does not operate any vessel for hire and is not an affiliate of any person that operates any vessel for hire; and

(D) is independent from, and not an affiliate of, any charterer of the vessel or any other person that has the right, directly or indirectly, to control or direct the movement or use of the vessel.

(3) CERTAIN TANK VESSELS.—

(A) IN GENERAL.—To meet the certification requirement of this paragraph, a person shall certify that—

(i) the aggregate book value of the vessels owned by the person and United States affiliates of the person does not exceed 10 percent of the aggregate book value of all assets owned by the person and its United States affiliates;

(ii) not more than 10 percent of the aggregate revenues of the person and its United States affiliates is derived from the ownership, operation, or management of vessels;

(iii) at least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement is qualified proprietary cargo;

(iv) any cargo other than qualified proprietary cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement consists of oil, petroleum products, petrochemicals, or liquified natural gas;

(v) no vessel owned by the person or any of its United States affiliates and documented with a coastwise endorsement carries molten sulphur; and

(vi) the person owned one or more vessels documented under this section as of August 9, 2004.

(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may make a certification under this paragraph only with respect to—

(i) a tank vessel having a tonnage of at least 6,000 gross tons, as measured under section 14502 of this title (or an alternative tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title); or

(ii) a towing vessel associated with a non-self-propelled tank vessel that meets the requirements of clause (i), where both vessels function as a single self-propelled vessel.

(d) FILING OF DEMISE CHARTER.—The demise charter and any amendments to the charter shall be filed with the certification required by subsection (b)(3) or within 10 days after filing an amendment to the charter. The charter and amendments shall be made available to the public.

(e) CONTINUATION OF ENDORSEMENT AFTER TERMINATION OF CHARTER.—When a charter required by subsection (b)(3) is terminated for default by the charterer, the Secretary may continue the coastwise endorsement for not more than 6 months on terms and conditions the Secretary may prescribe.

(f) DEEMED OWNED BY CITIZENS.—A vessel satisfying the requirements of this section is deemed to be owned only by citizens of the United States under sections 12103 and 50501 of this title.

(Pub. L. 109–304, § 5, Oct. 6, 2006, 120 Stat. 1501.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
12119(a)	46:12106(f)(4).	
12119(b)	46:12106(e)(1).	
12119(c)	46:12106(f)(1)–(3).	
12119(d)	46:12106(e)(2).	
12119(e)	46:12106(e)(3).	
12119(f)	46:12106(e)(4).	

In subsection (b), in paragraph (1), the words ''satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section'' are substituted for ''otherwise eligible for documentation under this section'' in 46 U.S.C. 12106(e)(1)(E) for clarity. Subparagraph (A) of 46 U.S.C. 12106(e)(1) is omitted as redundant to the general requirements in revised section 12112 on coastwise endorsements.

In subsection (c)(3), the words ''documented with a coastwise endorsement'' are substituted for ''documented under this section'' because former section 12106 is being divided into multiple sections.

Subsection (e) is substituted for ''(3) Upon termination by a demise charterer required under paragraph (1)(C), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charter for a period not to exceed 6 months on such terms and conditions as the Secretary may prescribe'' for clarity and to eliminate unnecessary words.

PRIOR PROVISIONS

A prior section 12119, Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 589; Pub. L. 100–710, title I, § 104(a)(4), Nov. 23, 1988, 102 Stat. 4750, originally derived from sections 65s and 881 of former Title 46, Shipping, related to list of documented vessels, prior to the general amendment of this chapter by Pub. L. 109–304. See section 12138 of this title.

APPLICATION TO CERTAIN CERTIFICATES

Pub. L. 108–293, title VI, § 608(c), Aug. 9, 2004, 118 Stat. 1057, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending provisions from which this section was derived], and any regulations published after February 4, 2004, with respect to coastwise endorsements, shall not apply to a certificate of documentation, or renewal thereof, endorsed with a coastwise endorsement for a vessel under section 12106(e) [now section 12119(b), (d)–(f)] of title 46, United States Code, or a replacement vessel of a similar size and function, that was issued prior to the date of enactment of this Act [Aug. 9, 2004] as long as the vessel is owned by the person named therein, or by a subsidiary or affiliate of that person, and the controlling interest in such owner has not been transferred to a person that was not an affiliate of such owner as of the date of enactment of this Act. Notwithstanding the preceding sentence, however, the amendments made by this section shall apply, beginning 3 years after the date of enactment of this Act, with respect to offshore supply vessels (as defined in section 2101(19) of title 46, United States Code, as that section was in effect on the date of enactment of this Act) with a certificate of documentation endorsed with a coastwise endorsement as of the date of enactment of this Act, and the Secretary of the Department in which the Coast Guard is operating shall revoke any such certificate if the vessel does not by then meet the requirements of section 12106(e) of title 46, United States Code, as amended by this section.

''(2) REPLACEMENT VESSEL.—For the purposes of this subsection, 'replacement vessel' means—

''(A) a temporary replacement vessel for a period of not to exceed 180 days if the vessel described in paragraph (1) is unavailable due to an act of God or a marine casualty; or

''(B) a permanent replacement vessel if—

''(i) the vessel described in paragraph (1) is unavailable for more than 180 days due to an act of God or a marine casualty; or

''(ii) a contract to purchase or construct such replacement vessel is executed not later than December 31, 2004.''

WAIVER OF QUALIFIED PROPRIETARY CARGO REQUIREMENT

Pub. L. 108–293, title VI, § 608(d), Aug. 9, 2004, 118 Stat. 1057, provided that: ''The Secretary of Transportation shall waive or reduce the qualified proprietary cargo requirement of section 12106(f)(3)(A)(iii) [now section 12119(c)(3)(A)(iii)] of title 46, United States Code, for a vessel if the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) notifies the Secretary that circumstances beyond the direct control of such person or its affiliates prevent, or reasonably threaten to prevent, such person from satisfying such requirement, and the Secretary does not, with good cause, determine otherwise. The waiver or reduction shall apply during the period of time that such circumstances exist.''

§ 12120. Liquified gas tankers

Notwithstanding any agreement with the United States Government, the Secretary may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquified natural gas or liquified petroleum gas to Puerto Rico from other ports in the United States, if the vessel—

(1) is a foreign built vessel that was built before October 19, 1996; or

(2) was documented under this chapter before that date, even if the vessel is placed under a foreign registry and subsequently redocumented under this chapter for operation under this section.

(Pub. L. 109–304, § 5, Oct. 6, 2006, 120 Stat. 1504.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
12120	46 App.:883 note.	Pub. L. 104–324, title VII, § 1120(f), Oct. 19, 1996, 110 Stat. 3978.

The words ''Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156)'' are omitted as unnecessary. The words ''the Commonwealth of'' are omitted as unnecessary and for consistency in the revised title.

PRIOR PROVISIONS

A prior section 12120, Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 589; Pub. L. 100–710, title I, § 104(a)(4), Nov. 23, 1988, 102 Stat. 4750; Pub. L. 108–293, title IV, § 401, Aug. 9, 2004, 118 Stat. 1042; Pub. L. 109–241, title III, § 308, July 11, 2006, 120 Stat. 528, originally derived from section 65t of former Title 46, Shipping, related to reports, prior to the general amendment of this chapter by Pub. L. 109–304. See section 12139 of this title.

§ 12121. Small passenger vessels and uninspected passenger vessels

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE VESSEL.—The term ''eligible vessel'' means a vessel that—

(A) was not built in the United States and is at least 3 years old; or