

§ 2113. Authority to exempt certain vessels

If the Secretary decides that the application of a provision of part B, C, F, or G of this subtitle is not necessary in performing the mission of the vessel engaged in excursions or an oceanographic research vessel, or not necessary for the safe operation of certain vessels carrying passengers, the Secretary by regulation may—

(1) for a vessel, issue a special permit specifying the conditions of operation and equipment;

(2) exempt an oceanographic research vessel from that provision under conditions the Secretary may specify;

(3) establish different operating and equipment requirements for vessels defined in section 2101(42)(A) of this title;

(4) establish different structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title carrying not more than 150 passengers on domestic voyages if the owner of the vessel—

(A) makes application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act; and

(5) establish different structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, carrying not more than 150 passengers on domestic voyages, if the owner of the vessel—

(A) makes application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act.

(Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 508; Pub. L. 103–206, title V, §511(a), Dec. 20, 1993, 107 Stat. 2441; Pub. L. 104–324, title VII, §710, Oct. 19, 1996, 110 Stat. 3935.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
2113 .....	46:445 46:453

Section 2113 provides the Secretary with the authority to exempt certain vessels from the inspection and manning requirements of law when vessels are engaged in excursions or oceanographic research. This is the authority of the issuance of excursion permits when special circumstances justify the waiver of certain mari-

time safety and seamen’s welfare laws for a short period of time. It also contains flexible exemption authority for regulation of oceanographic research vessels.

REFERENCES IN TEXT

The date of enactment of the Passenger Vessel Safety Act of 1993, referred to in pars. (4) and (5), is the date of the enactment of Pub. L. 103–206, which was approved Dec. 20, 1993.

AMENDMENTS

1996—Par. (4). Pub. L. 104–324, §710(1), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “less than 300 gross tons”.

Par. (5). Pub. L. 104–324, §710(2), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “less than 500 gross tons”.

1993—Pub. L. 103–206 amended section catchline and text generally. Prior to amendment, text read as follows: “If the Secretary decides that the application of a provision of part B or F of this subtitle is not necessary in performing the mission of a vessel engaged in excursions or an oceanographic research vessel, the Secretary by regulation may—

“(1) for an excursion vessel, issue a special permit specifying the conditions of operation and equipment; and

“(2) exempt the oceanographic research vessel from that provision under conditions the Secretary may specify.”

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 2114. Protection of seamen against discrimination

(a)(1) A person may not discharge or in any manner discriminate against a seaman because—

(A) the seaman in good faith has reported or is about to report to the Coast Guard or other appropriate Federal agency or department that the seaman believes that a violation of a maritime safety law or regulation prescribed under that law or regulation has occurred;

(B) the seaman has refused to perform duties ordered by the seaman’s employer because the seaman has a reasonable apprehension or expectation that performing such duties would result in serious injury to the seaman, other seamen, or the public;

(C) the seaman testified in a proceeding brought to enforce a maritime safety law or regulation prescribed under that law;

(D) the seaman notified, or attempted to notify, the vessel owner or the Secretary of a work-related personal injury or work-related illness of a seaman;

(E) the seaman cooperated with a safety investigation by the Secretary or the National Transportation Safety Board;

(F) the seaman furnished information to the Secretary, the National Transportation Safety

Board, or any other public official as to the facts relating to any marine casualty resulting in injury or death to an individual or damage to property occurring in connection with vessel transportation; or

(G) the seaman accurately reported hours of duty under this part.

(2) The circumstances causing a seaman's apprehension of serious injury under paragraph (1)(B) must be of such a nature that a reasonable person, under similar circumstances, would conclude that there is a real danger of an injury or serious impairment of health resulting from the performance of duties as ordered by the seaman's employer.

(3) To qualify for protection against the seaman's employer under paragraph (1)(B), the employee must have sought from the employer, and been unable to obtain, correction of the unsafe condition.

(b) A seaman alleging discharge or discrimination in violation of subsection (a) of this section, or another person at the seaman's request, may file a complaint with respect to such allegation in the same manner as a complaint may be filed under subsection (b) of section 31105 of title 49. Such complaint shall be subject to the procedures, requirements, and rights described in that section, including with respect to the right to file an objection, the right of a person to file for a petition for review under subsection (c) of that section, and the requirement to bring a civil action under subsection (d) of that section.

(Added Pub. L. 98-557, §13(a), Oct. 30, 1984, 98 Stat. 2863; amended Pub. L. 107-295, title IV, §428, Nov. 25, 2002, 116 Stat. 2127; Pub. L. 111-281, title VI, §611(a), Oct. 15, 2010, 124 Stat. 2969.)

#### AMENDMENTS

2010—Subsec. (a)(1)(C) to (G). Pub. L. 111-281, §611(a)(1)–(3), added subpars. (C) to (G).

Subsec. (b). Pub. L. 111-281, §611(a)(4), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “A seaman discharged or otherwise discriminated against in violation of this section may bring an action in an appropriate district court of the United States. In that action, the court may order any appropriate relief, including—

“(1) restraining violations of this section;  
“(2) reinstatement to the seaman's former position with back pay;

“(3) an award of costs and reasonable attorney's fees to a prevailing plaintiff not exceeding \$1,000; and

“(4) an award of costs and reasonable attorney's fees to a prevailing employer not exceeding \$1,000 if the court finds that a complaint filed under this section is frivolous or has been brought in bad faith.”

2002—Subsec. (a). Pub. L. 107-295, §428(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “An owner, charterer, managing operator, agent, master, or individual in charge of a vessel may not discharge or in any manner discriminate against a seaman because the seaman in good faith has reported or is about to report to the Coast Guard that the seaman believes that a violation of this subtitle, or a regulation issued under this subtitle, has occurred.”

Subsec. (b)(3), (4). Pub. L. 107-295, §428(b), added pars. (3) and (4).

#### SAVINGS PROVISION

Pub. L. 111-281, title VI, §611(b), Oct. 15, 2010, 124 Stat. 2970, provided that: “This section [amending this section] shall not affect the application of section 2114(b)

of title 46, United States Code, as in effect before the date of enactment of this Act [Oct. 15, 2010], to an action filed under that section before that date.”

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### § 2115. Civil penalty to enforce alcohol and dangerous drug testing

Any person who fails to implement or conduct, or who otherwise fails to comply with the requirements prescribed by the Secretary for, chemical testing for dangerous drugs or for evidence of alcohol use, as prescribed under this subtitle or a regulation prescribed by the Secretary to carry out the provisions of this subtitle, is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation. Each day of a continuing violation shall constitute a separate violation.

(Added Pub. L. 104-324, title III, §303(a), Oct. 19, 1996, 110 Stat. 3917; amended Pub. L. 105-383, title III, §304(b), Nov. 13, 1998, 112 Stat. 3419.)

#### AMENDMENTS

1998—Pub. L. 105-383 substituted “\$5,000” for “\$1,000”.

#### § 2116. Marine safety strategy, goals, and performance assessments

(a) LONG-TERM STRATEGY AND GOALS.—In conjunction with existing federally required strategic planning efforts, the Secretary shall develop a long-term strategy for improving vessel safety and the safety of individuals on vessels. The strategy shall include the issuance each year of an annual plan and schedule for achieving the following goals:

(1) Reducing the number and rates of marine casualties.

(2) Improving the consistency and effectiveness of vessel and operator enforcement and compliance programs.

(3) Identifying and targeting enforcement efforts at high-risk vessels and operators.

(4) Improving research efforts to enhance and promote vessel and operator safety and performance.

(b) CONTENTS OF STRATEGY AND ANNUAL PLANS.—

(1) MEASURABLE GOALS.—The strategy and annual plans shall include specific numeric or measurable goals designed to achieve the goals set forth in subsection (a). The purposes of the numeric or measurable goals are the following:

(A) To increase the number of safety examinations on all high-risk vessels.

(B) To eliminate the backlog of marine safety-related rulemakings.

(C) To improve the quality and effectiveness of marine safety information databases by ensuring that all Coast Guard personnel accurately and effectively report all safety, casualty, and injury information.