

(2) completion of the residual repairs after departing a shipyard located outside of the United States; or

(3) technical in-voyage repairs, in excess of any repairs that can be performed by the vessel's crew, in order to advance the vessel's useful life without having to actually enter a shipyard.

(c) WORKDAY LIMIT.—

(1) IN GENERAL.—The maximum number of days in any calendar year that the owner or operator of a vessel to which subsection (a) applies may employ on board riding gang members who are neither United States citizens nor aliens lawfully admitted to the United States for permanent residence for work on board that vessel is 60 days. If the vessel is at sea on the 60th day, each riding gang member shall be discharged from the vessel at the next port of call reached by the vessel after the date on which the 60-workday limit is reached.

(2) CALCULATION.—For the purpose of calculating the 60-workday limit under this subsection, each day worked by a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence shall be counted against the limitation.

(d) EXCEPTIONS FOR WARRANTY WORK.—

(1) IN GENERAL.—Subsections (b), (c), (e), and (f) do not apply to a riding gang member employed exclusively to perform, and who performs only, work that is—

(A) customarily performed by original equipment manufacturers' technical representatives;

(B) required by a manufacturer's warranty on specific machinery and equipment; or

(C) required by a contractual guarantee or warranty on actual repairs performed in a shipyard located outside of the United States.

(2) CITIZENSHIP REQUIREMENT.—Subsection (a)(1)(A) applies only to a riding gang member described in paragraph (1) who is on the vessel when it calls at a United States port.

(e) RECORDKEEPING.—In addition to the requirements of subsection (a), the owner or managing operator of a vessel to which subsection (a) applies shall ensure that all information necessary to ensure compliance with this section, as determined by the Secretary, is entered into the vessel's official logbook required by chapter 113.

(f) FAILURE TO EMPLOY QUALIFIED AVAILABLE U.S. CITIZENS OR RESIDENTS.—

(1) IN GENERAL.—The owner or operator of a vessel to which subsection (a) applies may not employ a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence to perform work described in subsection (b) unless the owner or operator determines, in accordance with procedures established by the Secretary to carry out section 8103(b)(3)(C), that there is not a sufficient number of United States citizens or individuals lawfully admitted to the United States for permanent residence who are qualified and

available for the work for which the riding gang member is to be employed.

(2) CIVIL PENALTY.—A violation of paragraph (1) is punishable by a civil penalty of not more than \$10,000 for each day during which the violation continues.

(3) CONTINUING VIOLATIONS.—The maximum amount of a civil penalty for a violation under this subsection shall not exceed—

(A) \$50,000 if the violation occurs in fiscal year 2006;

(B) \$75,000 if the violation occurs in fiscal year 2007; and

(C) \$100,000 if the violation occurs after fiscal year 2007.

(4) DETERMINATION OF AMOUNT.—In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, the history of prior offenses, the ability to pay, and such other matters as justice may require.

(5) COMPROMISE, MODIFICATION, AND REMITTAL.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

(Added Pub. L. 109-241, title III, §312(a), July 11, 2006, 120 Stat. 530.)

INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA

For International Conventions for the Safety of Life at Sea to which the United States has been a party, see section 1602 of Title 33, Navigation and Navigable Waters, and notes thereunder.

§ 8107. Use of force against piracy

(a) LIMITATION ON LIABILITY.—An owner, operator, time charterer, master, mariner, or individual who uses force or authorizes the use of force to defend a vessel of the United States against an act of piracy shall not be liable for monetary damages for any injury or death caused by such force to any person engaging in an act of piracy if such force was in accordance with standard rules for the use of force in self-defense of vessels prescribed by the Secretary.

(b) PROMOTION OF COORDINATED ACTION.—To carry out the purpose of this section, the Secretary of the department in which the Coast Guard is operating shall work through the International Maritime Organization to establish agreements to promote coordinated action among flag- and port-states to deter, protect against, and rapidly respond to piracy against the vessels of, and in the waters under the jurisdiction of, those nations, and to ensure limitations on liability similar to those established by subsection (a).

(c) DEFINITION.—For the purpose of this section, the term "act of piracy" means any act of aggression, search, restraint, depredation, or seizure attempted against a vessel of the United States by an individual not authorized by the United States, a foreign government, or an international organization recognized by the United States to enforce law on the high seas.

(Added Pub. L. 111-281, title IX, §912(a), Oct. 15, 2010, 124 Stat. 3016.)

STANDARD RULES FOR THE USE OF FORCE FOR SELF-
DEFENSE OF VESSELS OF THE UNITED STATES

Pub. L. 111-281, title IX, §912(c), Oct. 15, 2010, 124 Stat. 3017, provided that: “Not later than 180 days after the date of enactment of this act [Oct. 15, 2010], the secretary [sic] of the department in which the coast guard [sic] is operating, in consultation with representatives of industry and labor, shall develop standard rules for the use of force for self-defense of vessels of the United States.”

§ 8108. Merchant Marine Personnel Advisory Committee

(a) ESTABLISHMENT.—The Secretary shall establish a Merchant Marine Personnel Advisory Committee (in this section referred to as “the Committee”). The Committee—

(1) shall act solely in an advisory capacity to the Secretary through the Commandant of the Coast Guard on matters relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards, and other matters as assigned by the Commandant;

(2) shall review and comment on proposed Coast Guard regulations and policies relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards;

(3) may be given special assignments by the Secretary and may conduct studies, inquiries, workshops, and fact finding in consultation with individuals and groups in the private sector and with State or local governments;

(4) shall advise, consult with, and make recommendations reflecting its independent judgment to the Secretary;

(5) shall meet not less than twice each year; and

(6) may make available to Congress recommendations that the Committee makes to the Secretary.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall consist of not more than 19 members who are appointed by and serve terms of a duration determined by the Secretary. Before filling a position on the Committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Committee.

(2) REQUIRED MEMBERS.—Subject to paragraph (3), the Secretary shall appoint as members of the Committee—

(A) 9 United States citizens with active licenses or certificates issued under chapter 71 or merchant mariner documents issued under chapter 73, including—

(i) 3 deck officers who represent the viewpoint of merchant marine deck officers, of whom—

(I) 2 shall be licensed for oceans any gross tons;

(II) 1 shall be licensed for inland river route with a limited or unlimited tonnage;

(III) 2 shall have a master’s license or a master of towing vessels license;

(IV) 1 shall have significant tanker experience; and

(V) to the extent practicable—

(aa) 1 shall represent the viewpoint of labor; and

(bb) another shall represent a management perspective;

(ii) 3 engineering officers who represent the viewpoint of merchant marine engineering officers, of whom—

(I) 2 shall be licensed as chief engineer any horsepower;

(II) 1 shall be licensed as either a limited chief engineer or a designated duty engineer; and

(III) to the extent practicable—

(aa) 1 shall represent a labor viewpoint; and

(bb) another shall represent a management perspective;

(iii) 2 unlicensed seamen, of whom—

(I) 1 shall represent the viewpoint of able-bodied seamen; and

(II) another shall represent the viewpoint of qualified members of the engine department; and

(iv) 1 pilot who represents the viewpoint of merchant marine pilots;

(B) 6 marine educators, including—

(i) 3 marine educators who represent the viewpoint of maritime academies, including—

(I) 2 who represent the viewpoint of State maritime academies and are jointly recommended by such State maritime academies; and

(II) 1 who represents either the viewpoint of the State maritime academies or the United States Merchant Marine Academy; and

(ii) 3 marine educators who represent the viewpoint of other maritime training institutions, 1 of whom shall represent the viewpoint of the small vessel industry;

(C) 2 individuals who represent the viewpoint of shipping companies employed in ship operation management; and

(D) 2 members who are appointed from the general public.

(3) CONSULTATION.—The Secretary shall consult with the Secretary of Transportation in making an appointment under paragraph (2)(B)(i)(II).

(c) CHAIRMAN AND VICE CHAIRMAN.—The Secretary shall designate one member of the Committee as the Chairman and one member of the Committee as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

(d) SUBCOMMITTEES.—The Committee may establish and disestablish subcommittees and working groups for any purpose consistent with this section, subject to conditions imposed by the Committee. Members of the Committee and additional persons drawn from the general public may be assigned to such subcommittees and working groups. Only Committee members may chair subcommittee or working groups.