

not more than \$25,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

(e) A person that knowingly violates this section or a regulation prescribed under this section commits a class D felony.

(Added Pub. L. 98-557, §29(f)(3)(A), Oct. 30, 1984, 98 Stat. 2874; amended Pub. L. 101-380, title IV, §4302(h), Aug. 18, 1990, 104 Stat. 539; Pub. L. 105-383, title III, §301(b)(8), Nov. 13, 1998, 112 Stat. 3417.)

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-383 added par. (2) and struck out former par. (2) which read as follows: “operating on the navigable waters of the United States.”

1990—Subsec. (e). Pub. L. 101-380 substituted “commits a class D felony” for “shall be fined not more than \$50,000, imprisoned for not more than five years, or both”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

CHAPTER 87—UNLICENSED PERSONNEL

- Sec.
- 8701. Merchant mariners’ documents required.
- 8702. Certain crew requirements.
- 8703. Tankermen on tank vessels.
- 8704. Alien deemed to be employed in the United States.

HISTORICAL AND REVISION NOTES

Chapter 87 prescribes certain requirements for unlicensed personnel on vessels of at least 100 gross tons and on certain tank vessels.

AMENDMENTS

1988—Pub. L. 100-239, §5(f)(2), Jan. 11, 1988, 101 Stat. 1781, added item 8704.

§ 8701. Merchant mariners’ documents required

(a) This section applies to a merchant vessel of at least 100 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 except—

- (1) a vessel operating only on rivers and lakes (except the Great Lakes);
- (2) a barge (except a seagoing barge or a barge to which chapter 37 of this title applies);
- (3) a fishing, fish tender, or whaling vessel or a yacht;
- (4) a sailing school vessel with respect to sailing school instructors and sailing school students;
- (5) an oceanographic research vessel with respect to scientific personnel;
- (6) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 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 or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products;

(7) a fish processing vessel (except a vessel to which clause (6) of this subsection applies) with respect to individuals on board primarily employed in the preparation of fish or fish products or in a support position not related to navigation;

(8) a mobile offshore drilling unit with respect to individuals, other than crew members required by the certificate of inspection, engaged on board the unit for the sole purpose of carrying out the industrial business or function of the unit;

(9) a passenger vessel not engaged in a foreign voyage with respect to individuals on board employed for a period of not more than 30 service days within a 12 month period as entertainment personnel, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; and

(10) the Secretary may prescribe the individuals required to hold a merchant mariner’s document serving onboard an oil spill response vessel.

(b) A person may not engage or employ an individual, and an individual may not serve, on board a vessel to which this section applies if the individual does not have a merchant mariner’s document issued to the individual under section 7302 of this title. Except for an individual required to be licensed or registered under this part, the document must authorize service in the capacity for which the holder of the document is engaged or employed.

(c) On a vessel to which section 10306 or 10503 of this title does not apply, an individual required by this section to hold a merchant mariner’s document must exhibit it to the master of the vessel before the individual may be employed.

(d) A person (including an individual) violating this section is liable to the United States Government for a civil penalty of \$500.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 554; Pub. L. 98-364, title IV, §402(12)(A), July 17, 1984, 98 Stat. 449; Pub. L. 99-640, §11(c), Nov. 10, 1986, 100 Stat. 3550; Pub. L. 104-324, title VII, §731, title XI, §1104(e), Oct. 19, 1996, 110 Stat. 3940, 3967; Pub. L. 107-295, title III, §324(b), Nov. 25, 2002, 116 Stat. 2104.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
8701	46:444 46:643 46:643a 46:672

Section 8701 requires an individual to have a merchant mariner’s document before that individual can be engaged or employed on certain vessels.

Subsection (a) makes this documentation requirement applicable to United States merchant vessels of at least 100 gross tons except for certain inland vessels and barges, fishing or whaling vessels, yachts, and, in certain circumstances, to sailing school vessels or oceanographic research vessels.

Subsection (b) prohibits the engagement or employment of an individual required to have a document pre-

scribed under section 7302 if the individual does not have one. Except for licensed or registered individuals, the document must specify the capacity in which the individual is engaged or employed.

Subsection (c) requires an individual to exhibit the required document to the master, if not otherwise required to do so in some other manner before that individual may be employed.

Subsection (d) prescribes the penalty for violation of this section.

AMENDMENTS

2002—Subsec. (a)(9), (10). Pub. L. 107-295 added par. (9) and redesignated former par. (9) as (10).

1996—Subsec. (a). Pub. L. 104-324, § 731(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 “100 gross tons” in introductory provisions.

Subsec. (a)(6). Pub. L. 104-324, § 731(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 “1,600 gross tons”.

Subsec. (a)(9). Pub. L. 104-324, § 1104(e), added par. (9). 1986—Subsec. (a)(8). Pub. L. 99-640 added par. (8).

1984—Subsec. (a)(3). Pub. L. 98-364, § 402(12)(A)(i), substituted “fishing, fish tender, or whaling” for “fishing or whaling”.

Subsec. (a)(6), (7). Pub. L. 98-364, § 402(12)(A)(ii)-(iv), added pars. (6) and (7).

§ 8702. Certain crew requirements

(a) This section applies to a vessel of at least 100 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 except—

- (1) a vessel operating only on rivers and lakes (except the Great Lakes);
- (2) a barge (except a seagoing barge or a barge to which chapter 37 of this title applies);
- (3) a fishing, fish tender, or whaling vessel (except a fish tender vessel engaged in the Aleutian trade) or a yacht;
- (4) a sailing school vessel with respect to sailing school instructors and sailing school students;
- (5) an oceanographic research vessel with respect to scientific personnel;
- (6) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 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 or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products; and
- (7) a fish processing vessel (except a vessel to which clause (6) of this subsection applies) with respect to individuals on board primarily employed in the preparation of fish or fish products or in a support position not related to navigation.

(b) A vessel may operate only if at least—

- (1) 75 percent of the crew in each department on board is able to understand any order spoken by the officers, and
- (2) 65 percent of the deck crew (excluding licensed individuals) have merchant mariners’

documents endorsed for a rating of at least able seaman, except that this percentage may be reduced to 50 percent—

- (i) on a vessel permitted under section 8104 of this title to maintain a 2-watch system; or
- (ii) on a fish tender vessel engaged in the Aleutian trade.

(c) An able seaman is not required on a towing vessel operating on bays and sounds connected directly with the seas.

(d) An individual having a rating of less than able seaman may not 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.

(e) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of \$10,000.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 554; Pub. L. 98-364, title IV, § 402(12)(B), July 17, 1984, 98 Stat. 449; Pub. L. 100-239, § 5(e), Jan. 11, 1988, 101 Stat. 1781; Pub. L. 101-380, title IV, § 4302(i), Aug. 18, 1990, 104 Stat. 539; Pub. L. 101-595, title VI, § 602(e)(2), Nov. 16, 1990, 104 Stat. 2992; Pub. L. 104-324, title VII, § 732, Oct. 19, 1996, 110 Stat. 3941.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
8702	46:643 46:672

Section 8702 specifies certain crew requirements. Subsection (a) applies this section to the same vessels to which section 8701 applies.

Subsection (b) requires that 75 percent of the crew in each department on board a vessel understand any order spoken by the officers and that 65 percent of the deck crew be at least able seamen, except for the licensed officers. For 2-watch system vessels under section 8104, the 65-percent deck crew requirement may be reduced to 50 percent.

Subsection (c) exempts certain inland towing vessels from the able seaman requirement.

Subsection (d) prohibits anyone having a rating of less than able seamen from serving as a helmsman in congested vessel traffic or under hazardous conditions.

Subsection (e) prescribes the penalty for violation of this section.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-324, § 732(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 “100 gross tons” in introductory provisions.

Subsec. (a)(6). Pub. L. 104-324, § 732(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 “1,600 gross tons”.

1990—Subsec. (a)(3). Pub. L. 101-595, § 602(e)(2)(A), substituted “vessel (except a fish tender vessel engaged in the Aleutian trade)” for “vessel”.

Subsec. (b)(2). Pub. L. 101-595, § 602(e)(2)(B), inserted provisions authorizing reduction to 50 percent of the deck crew in the case of a fish tender vessel engaged in the Aleutian trade.