

Subsection (h) provides that the licensed operator for a towing vessel at least 26 feet long may not be required to work more than 12 of 24 hours, except in an emergency.

Subsections (i) and (j) prescribe penalties for violations of the provisions of this section and, in certain instances, entitles the seaman to discharge and payment of wages.

Editorial Notes

AMENDMENTS

2021—Subsec. (c). Pub. L. 116-283, §8505(b)(9)(A), substituted “an individual” for “a licensed individual or seaman”.

Subsec. (d). Pub. L. 116-283, §8505(b)(9)(B), substituted “An individual” for “A licensed individual or seaman”.

Subsec. (e). Pub. L. 116-283, §8505(b)(9)(C), substituted “an individual” for “a seaman” in pars. (1) and (2).

Subsec. (j). Pub. L. 116-283, §8505(b)(9)(D), substituted “individual” for “seaman”.

2014—Subsec. (d). Pub. L. 113-281, §316(1), substituted “and oilers” for “coal passers, firemen, oilers, and water tenders”.

Subsec. (g)(1). Pub. L. 113-281, §316(2), struck out “(except the coal passers, firemen, oilers, and water tenders)” after “crewmembers”.

2010—Subsec. (g). Pub. L. 111-281, §617(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (o). Pub. L. 111-281, §903(a)(1), made technical amendment to directory language of Pub. L. 109-241, §311(b). See 2006 Amendment note below.

2006—Subsec. (o). Pub. L. 109-241, as amended by Pub. L. 111-281, §903(a)(1), substituted “or less than 500 gross tons as measured under section 14502 of this title, or is less than 2,500 gross tons as measured under section 14302 of this title” for “or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” in pars. (1) and (2).

1996—Subsec. (b). Pub. L. 104-324, §728(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”.

Subsec. (c). Pub. L. 104-324, §1114(a), struck out “or permitted” after “required” and inserted “or permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period” after “day”.

Subsec. (d). Pub. L. 104-324, §728(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 “100 gross tons” and after “5,000 gross tons”.

Subsec. (e). Pub. L. 104-324, §1114(b), substituted “subsection (d)” for “subsections (c) and (d)” in introductory provisions.

Subsec. (g). Pub. L. 104-324, §1114(c), struck out “(except a vessel to which subsection (c) of this section applies)” after “On a towing vessel”.

Subsec. (l)(1). Pub. L. 104-324, §728(3), 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. (m)(1). Pub. L. 104-324, §728(4), 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. (o)(1). Pub. L. 104-324, §728(5), 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 “500 gross tons”.

Subsec. (o)(2). Pub. L. 104-324, §728(6), 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 “500 gross tons”.

Subsec. (p). Pub. L. 104-324, §1104(c), amended subsec. (p) generally. Prior to amendment, subsec. (p) read as follows: “On a vessel used only to respond to a discharge of oil or a hazardous substance, the licensed individuals and crewmembers may be divided into at least two watches when the vessel is engaged in an operation less than 12 hours in duration.”

1993—Subsec. (g). Pub. L. 103-206, §322(a)(1), struck out “a vessel used only to respond to a discharge of oil or a hazardous substance,” after “an offshore supply vessel.”

Subsec. (p). Pub. L. 103-206, §322(a)(2), added subsec. (p).

1992—Subsec. (g). Pub. L. 102-587, §5212(1), inserted “a vessel used only to respond to a discharge of oil or a hazardous substance,” after “an offshore supply vessel.”

Subsecs. (n), (o). Pub. L. 102-587, §5212(2), redesignated subsec. (n), relating to fish tender vessels of not more than 500 gross tons engaged in Aleutian trade, as (o).

1990—Subsecs. (i), (j). Pub. L. 101-380, §4302(f), substituted “\$10,000” for “\$100” in subsec. (i) and for “\$500” in subsec. (j).

Subsec. (n). Pub. L. 101-595 added subsec. (n) relating to fish tender vessels of not more than 500 gross tons engaged in Aleutian trade.

Pub. L. 101-380, §4114(b), added subsec. (n) relating to tankers.

1986—Subsec. (k). Pub. L. 99-307 substituted “watchers” for “watchers”.

1984—Subsec. (b). Pub. L. 98-364, §402(11)(A), substituted “100 gross tons (except a fishing, fish processing, or fish tender vessel)” for “100 gross tons”.

Subsec. (c). Pub. L. 98-364, §402(11)(B), substituted “fishing, fish processing, fish tender,” for “fishing”.

Subsec. (d). Pub. L. 98-364, §402(11)(C), substituted “a fishing, fish tender, or whaling vessel, a fish processing vessel of not more than 5,000 gross tons” for “a fishing or whaling vessel”.

Subsec. (k). Pub. L. 98-557 substituted “shall” for “may”.

Pub. L. 98-364, §402(11)(D), added subsec. (k).

Subsec. (l). Pub. L. 98-557 substituted “shall” for “may” in provisions preceding par. (1).

Pub. L. 98-364, §402(11)(D), added subsec. (l).

Subsec. (m). Pub. L. 98-364, §402(11)(D), added subsec. (m).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-281, title IX, §903(a), Oct. 15, 2010, 124 Stat. 3010, provided that the amendment by section 903(a)(1) is effective with enactment of Pub. L. 109-241.

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.

§ 8105. Fishing vessel exemption

Notwithstanding any other provision of law, neither the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, nor any amendment to such convention, shall apply to a fishing vessel, including a fishing vessel used as a fish tender vessel.

(Added Pub. L. 104-324, title XI, §1146(a), Oct. 19, 1996, 110 Stat. 3992.)

Editorial Notes

PRIOR PROVISIONS

A prior section 8105, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 550, authorized Secretary to prescribe regulations

to carry out this part prior to repeal by Pub. L. 101-595, title VI, § 603(7)(A), Nov. 16, 1990, 104 Stat. 2993.

§ 8106. Riding gangs

(a) IN GENERAL.—The owner or managing operator of a freight vessel of the United States on voyages covered by the International Convention for Safety of Life at Sea, 1974 (32 UST 47m) shall—

(1) ensure that—

(A) subject to subsection (d), each riding gang member on the vessel—

(i) is a United States citizen or an alien lawfully admitted to the United States for permanent residence; or

(ii) possesses a United States non-immigrant visa for individuals desiring to enter the United States temporarily for business, employment-related and personal identifying information, and any other documentation required by the Secretary;

(B) all required documentation for such member is kept on the vessel and available for inspection by the Secretary; and

(C) each riding gang member is identified on the vessel's crew list;

(2) ensure that—

(A) the owner or managing operator attests in a certificate that the background of each riding gang member has been examined and found to be free of any credible information indicating a material risk to the security of the vessel, the vessel's cargo, the ports the vessel visits, or other individuals onboard the vessel;

(B) the background check consisted of a search of all information reasonably available to the owner or managing operator in the riding gang member's country of citizenship and any other country in which the riding gang member works, receives employment referrals, or resides;

(C) the certificate required under subparagraph (A) is kept on the vessel and available for inspection by the Secretary; and

(D) the information derived from any such background check is made available to the Secretary upon request;

(3) ensure that each riding gang member, while on board the vessel, is subject to the same random chemical testing and reporting regimes as crew members;

(4) ensure that each such riding gang member receives basic safety familiarization and basic safety training approved by the Coast Guard as satisfying the requirements for such training under the International Convention of Training, Certification, and Watchkeeping for Seafarers, 1978;

(5) prevent from boarding the vessel, or cause the removal from the vessel at the first available port, and disqualify from future service on board any other vessel owned or operated by that owner or operator, any riding gang member—

(A) who has been convicted in any jurisdiction of an offense described in paragraph (2) or (3) of section 7703;

(B) whose license, certificate of registry, or merchant mariner's document has been suspended or revoked under section 7704; or

(C) who otherwise constitutes a threat to the safety of the vessel;

(6) ensure and certify to the Secretary that the sum of—

(A) the number of riding gang members on board a freight vessel, and

(B) the number of individuals in addition to crew permitted under section 3304,

does not exceed 12;

(7) ensure that every riding gang member is employed on board the vessel under conditions that meet or exceed the minimum international standards of all applicable international labor conventions to which the United States is a party, including all of the merchant seamen protection and relief provided under United States law; and

(8) ensure that each riding gang member—

(A) is supervised by an individual who holds a license issued under chapter 71; and

(B) only performs work in conjunction with individuals who hold merchant mariners documents issued under chapter 73 and who are part of the vessel's crew.

(b) PERMITTED WORK.—Subject to subsection (f), a riding gang member on board a vessel to which subsection (a) applies who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence may not perform any work on board the vessel other than—

(1) work in preparation of a vessel entering a shipyard located outside of the United States;

(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;