



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

November 10, 2002

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Enclosed for the consideration of Congress and referral to the appropriate committee is proposed legislation--

To complete the restatement of title 46, United States Code (Shipping), as positive law.

Title 46 of the United States Code (Shipping) is partially codified and enacted by Congress as positive law. This recodification project began in 1983, covering marine safety and maritime commercial instruments and liens, but has not been completed. Title 46 is confusing in its current state, consisting of the positive-law title and an "Appendix" containing uncodified material, with overlapping chapter designations (e.g., there are two chapter 23's).

The statutes that make up the title 46 Appendix date back to 1874 and often state their requirements in an archaic, difficult-to-understand fashion. Many contain terminology that is no longer in general use, and specify action by Federal entities that no longer exist and have been supplanted by successor organizations. Also, important maritime regulatory entities, such as the Federal Maritime Commission and the Maritime Administration (in most respects), are not established by statute but by reorganization plans dating back to the 1940's.

Most important, significant aspects of U.S. maritime law consist of a gradual amalgamation over the past century of numerous public laws that addressed specific circumstances at a point in time but which have now become extremely difficult to grasp as a whole. This is particularly true of arcane, constantly evolving concepts such as the meaning of "citizen of the United States" for entities other than individuals and of the interaction of this definition with the Nation's coastwise trade and fisheries laws. A systematic statement of the definition, with redundant and obsolete material removed, can clarify the law in this area significantly for affected parties.

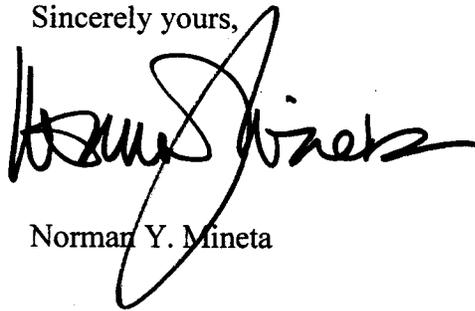
Restatement of the many laws contained in the appendix can correct out-of-date references, simplify and systematize archaic statutes, and repeal obsolete provisions across the entire subject area of shipping law.

The restated language would make no changes to substantive law. To guarantee that the language changes proposed do not in fact change substantive law, section 8(a) of the bill states unambiguously that the restatement of prior law is done "without substantive change" and, further, that the new provisions "may not be construed as making a substantive change in the laws replaced." The enactment of these statements by Congress will ensure continuity in the administration of the many maritime matters covered by the statutes being replaced.

Congress and the Administration, through electronic and other means, are making every effort to simplify the processes of the Federal Government and make them more efficient in a time of reduced resources. This proposal should make it far simpler for affected groups and individuals to understand and benefit from valuable maritime programs. I urge swift enactment of this proposal.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this proposal for the consideration of Congress.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Norman Y. Mineta". The signature is stylized with a large, sweeping loop at the end.

Norman Y. Mineta

Enclosures

A BILL

To revise, codify, and enact certain maritime laws as part of title 46, United States Code, "Shipping".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Title 46 Codification Act of 2002".

(b) Table of Contents.--The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Subtitle I of title 46.
- Sec. 3. Subtitle II of title 46.
- Sec. 4. Subtitle III of title 46.
- Sec. 5. Subtitles IV-VI of title 46.
- Sec. 6. Additional amendments to title 46.
- Sec. 7. Conforming amendments to other laws.
- Sec. 8. Legislative purpose and construction.
- Sec. 9. Repeals.

SEC. 2. SUBTITLE I OF TITLE 46.

(a) Certain general and permanent laws of the United States, related to shipping, are revised, codified, and enacted by sections 2 through 5 of this Act without substantive change as title 46, United States Code, "Shipping". Those laws may be cited as "46 U.S.C. -----".

(b) Title 46, United States Code, is amended by striking the table of subtitles at the beginning of the title and substituting the following new table of subtitles and subtitle I:

SUBTITLE

I.	GENERAL	101
II.	VESSELS AND SEAMEN	2101
III.	MARITIME LIABILITY	30101
IV.	REGULATION OF OCEAN SHIPPING	40101
V.	MERCHANT MARINE	50101
VI.	MISCELLANEOUS	70101

SUBTITLE I--GENERAL

Chapter		
1. GENERAL		101
3. FEDERAL MARITIME COMMISSION		301

CHAPTER 1-GENERAL

SUBCHAPTER I-DEFINITIONS

Sec.

- 101. Agency.
- 102. Barge.
- 103. Boundary Line.
- 104. Citizen of the United States.
- 105. Consular officer.
- 106. Documented vessel.
- 107. Exclusive economic zone.
- 108. Fisheries.
- 109. Foreign commerce.
- 110. Foreign vessel.
- 111. Numbered vessel.
- 112. State.
- 113. Undocumented.
- 114. United States.
- 115. Vessel.
- 116. Vessel of the United States.

SUBCHAPTER II-OTHER PROVISIONS

- 171. Entities qualifying as citizens.
- 172. Application to receivers, trustees, successors, and assigns.
- 173. Cargo exempt from forfeiture.
- 174. Notice of seizure.
- 175. Relation to other laws and treaties.
- 176. Waiver of navigation and vessel-inspection laws.
- 177. Remissions.

SUBCHAPTER I-DEFINITIONS

Sec. 101. Agency

In this title, "agency" means a department, agency, or instrumentality of the United States Government.

Sec. 102. Barge

In this title, "barge" means a non-self-propelled vessel.

Sec. 103. Boundary Line

In this title, "Boundary Line" means a line established under section 2(b) of the Act of February 19, 1895 (33 U.S.C. 151).

Sec. 104. Citizen of the United States

In this title, "citizen of the United States" means--

(1) an individual who is a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));
or

(2) an entity qualifying as a citizen of the United States under section 171 of this title.

Sec. 105. Consular officer

In this title, "consular officer" means an officer or employee of the United States Government designated under regulations to issue visas.

Sec. 106. Documented vessel

In this title, "documented vessel" means a vessel for which a certificate of documentation has been issued under chapter 121 of this title.

Sec. 107. Exclusive economic zone

In this title, "exclusive economic zone" means the zone established by Presidential Proclamation 5030 (March 10, 1983, 48 Fed. Reg. 10605).

Sec. 108. Fisheries

In this title, "fisheries" includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

Sec. 109. Foreign commerce

(a) In General.--In this title, "foreign commerce" means commerce between a place in the United States and a place in a foreign country.

(b) Construction-Differential Subsidies and Capital Construction Funds.--Subject to regulations prescribed by the Secretary of Transportation, "foreign commerce" also includes, in the context of construction-differential subsidies under chapter 535 of this title, and in the context of capital construction funds under chapter 553 of this title, the transportation of liquid or dry cargo in bulk between foreign ports, conducted--

(1) in accordance with normal commercial bulk shipping practices; and

(2) in a manner that will allow bulk vessels of the United States to compete freely with bulk vessels of a foreign country in their operation or competition for charters.

Sec. 110. Foreign vessel

In this title, "foreign vessel" means a vessel of foreign registry or operated under the authority of a foreign country.

Sec. 111. Numbered vessel

In this title, "numbered vessel" means a vessel for which a number has been issued under chapter 123 of this title.

Sec. 112. State

In this title, "State" means a State of the United States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

Sec. 113. Undocumented

In this title, "undocumented" means not having and not required to have a certificate of documentation issued under chapter 121 of this title.

Sec. 114. United States

In this title, "United States", when used in a geographic sense, means the States of the United States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

Sec. 115. Vessel

In this title, "vessel" has the same meaning given that term in section 3 of title 1.

Sec. 116. Vessel of the United States

In this title, "vessel of the United States" means a vessel documented under chapter 121 of this title, numbered under chapter 123 of this title, or titled under the law of a State.

SUBCHAPTER II-OTHER PROVISIONS

Sec. 171. Entities qualifying as citizens

(a) In General.--In this title, the following entities are deemed to be citizens of the United States:

(1) A trust if each trustee and each beneficiary is a citizen of the United States.

(2) A partnership if--

(A) each general partner is a citizen of the United States; and

(B) for purposes other than documentation of vessels under section 12103 of this title, the controlling interest in the partnership is owned by citizens of the United States.

(3) A corporation if--

(A) it is incorporated under the laws of the United States or a State;

(B) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States;

(C) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum; and

(D) for purposes other than documentation of vessels under section 12103 of this title, the controlling interest in the corporation is owned by citizens of the United States.

(4) The United States Government.

(5) The government of a State.

(6) Any other entity if--

(A) each member of the entity is a citizen of the United States; and

(B) for purposes other than documentation of vessels under section 12103 of this title, the controlling interest in the entity is owned by citizens of the United States.

(b) When Operating in Coastwise Trade.--Notwithstanding subsection (a), for purposes of operating a vessel in coastwise trade, as specified by chapter 561 of this title, a partnership, corporation, or other non-governmental entity is deemed to be a citizen of the United States only if--

(1) the requirements of subsection (a) are satisfied; and

(2) at least 75 percent of the interest in the partnership, corporation, or other entity, determined under subsection (e), is owned by citizens of the United States.

(c) When Qualifying for a Fisheries Endorsement.--(1) Notwithstanding subsection (a), for purposes of eligibility of a vessel for a fisheries endorsement under section 12114 of this title, the entity that owns the vessel, if not an individual, is deemed to be a citizen of the United States only if--

(A) the requirements of subsection (a) are satisfied; and

(B) at least 75 percent of the interest in the entity, determined under subsection (e), is owned by citizens of the United States, at each tier of ownership of the entity and in the aggregate, is owned and controlled by citizens of the United States. Until April 2, 2003, however, the Secretary of Transportation, in determining whether a vessel owner complies with the requirements of this subsection, shall not consider the citizenship status of a lender in its capacity as a lender with respect to the vessel owner.

(2) For purposes of this subsection and of applying the restrictions on controlling interest under subsection (e), the terms 'control' or 'controlled'--

(A) include--

(i) the right to direct the business of the entity;

(ii) the right to limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity; or

(iii) the right to direct the transfer, operation or manning of a vessel with a fishery endorsement; but

(B) do not include the right to simply participate in the activities under subparagraph (A), or the exercise of rights under loan or mortgage covenants by a

mortgagee eligible to be a preferred mortgagee under section 31322(a) of this title, provided that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a vessel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking or berthing changes.

(3) The requirements of this subsection do not apply to a vessel when it is engaged in fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(a)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone of the United States or when it is engaged in fishing under the South Pacific Regional Fisheries Treaty, as long as the owner of the vessel complies with the eligibility requirements for a fishery endorsement under the federal law that was in effect on October 1, 1998.

(d) Ownership of Controlling Corporate Interest.--The controlling interest in a corporation is owned by citizens of the United States under this section only if--

(1) title to the majority of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

(2) the majority of the voting power in the corporation is vested in citizens of the United States;

(3) there is no contract or understanding by which the majority of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

(4) there is no other means by which control of the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

(e) Ownership of 75 Percent Corporate Interest.--At least 75 percent of the interest in a corporation is owned by citizens of the United States under this section only if--

(1) title to at least 75 percent of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

(2) at least 75 percent of the voting power in the corporation is vested in citizens of the United States;

(3) there is no contract or understanding by which more than 25 percent of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

(4) there is no other means by which control of more than 25 percent of an interest in the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

Sec. 172. Application to receivers, trustees, successors, and assigns

Sections 171, 44101-44106, 57102-57107, 59503, and 70101 of this title apply to receivers, trustees, successors, and assigns of any person to which the section itself applies.

Sec. 173. Cargo exempt from forfeiture

Cargo on a vessel is exempt from forfeiture under this title if--

- (1) the cargo is owned in good faith by a person not the owner, master, or crewmember of the vessel; and
- (2) the customs duties on the cargo have been paid or secured for payment as provided by law.

Sec. 174. Notice of seizure

When a forfeiture of a vessel or cargo accrues, the official of the United States Government required to give notice of the seizure of the vessel or cargo shall include in the notice, if they are known to that official, the name and the place of residence of the owner or consignee at the time of the seizure.

Sec. 175. Relation to other laws and treaties

This title does not affect a right or privilege of a foreign country relating to tonnage taxes or other duties on vessels under a law or treaty of the United States.

Sec. 176. Waiver of navigation and vessel-inspection laws

(a) On Request of Secretary of Defense.--On request of the Secretary of Defense, the head of an agency responsible for the administration of the navigation or vessel-inspection laws shall waive compliance with those laws to the extent the Secretary considers necessary in the interest of national defense.

(b) By Head of Agency.-When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the head may waive compliance with those laws to the extent, in the manner, and on terms the head prescribes.

(c) End of Waiver.--The authority to grant a waiver under this section shall terminate at such time as the Congress by concurrent resolution or the President may designate.

Sec. 177. Remissions

The Secretary may refund or remit a civil penalty collected under this title if--

(1) application has been made for refund or remission of the penalty within one year from the date of the payment; and

(2) the Secretary finds that the penalty was unlawfully, improperly, or excessively imposed.

CHAPTER 3--FEDERAL MARITIME COMMISSION

Sec.

- 301. General organization.
- 302. Secretary of the Commission.
- 303. Quorum.
- 304. Delegation of authority.
- 305. Regulations.
- 306. Annual report.
- 307. Authorization of appropriations

Sec. 301. General organization

(a) Organization.--The Federal Maritime Commission is an independent establishment of the United States Government.

(b) Members.--

(1) Composition.--The Commission is composed of 5 members, appointed by the President by and with the advice and consent of the Senate. Not more than 3 members may be appointed from the same political party.

(2) Terms.--The term of each member of the Commission is 5 years, with each term beginning one year apart. An individual appointed to fill a vacancy is appointed only for the unexpired term of the individual being succeeded. A vacancy shall be filled in the same manner as the original appointment. When the term of a member ends, the member may continue to serve until a successor is appointed and qualified.

(3) Removal.--The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(c) Chairman.--

(1) Designation.--The President shall designate one of the members of the Commission as Chairman.

(2) General authority.--The Chairman is the chief executive and administrative officer of the Commission. In carrying out the duties and powers of the Commission, the Chairman is subject to the policies, regulatory decisions, findings, and determinations of the Commission.

(3) Particular duties.--

(A) In general.--The Chairman shall--

(i) appoint and supervise officers and employees of the Commission;

(ii) appoint the heads of major administrative units, but only after consultation with the other members of the Commission;

(iii) distribute the business of the Commission among personnel and administrative units;

(iv) supervise the expenditure of money for administrative purposes; and

(v) assign Commission personnel, including Commission members, to perform duties and powers delegated by the Commission under section 304 of this title.

(B) Nonapplication.--Subparagraph (A) (other than clause (v)) does not apply to personnel employed regularly and full-time in the offices of members of the Commission other than the Chairman.

(4) Delegation.--The Chairman may designate officers and employees under the Chairman's jurisdiction to perform duties and powers of the Chairman, subject to the Chairman's supervision and direction.

(d) Seal.--The Commission shall have a seal which shall be judicially recognized.

Sec. 302. Secretary of the Commission

The Federal Maritime Commission, through its secretary, shall keep a record of its meetings and the votes taken on any action, order, contract, or financial transaction of the Commission.

Sec. 303. Quorum

A vacancy or vacancies in the membership of the Federal Maritime Commission shall not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the members serving on the Commission is required to dispose of any matter before the Commission.

Sec. 304. Delegation of authority

(a) Delegation.--The Federal Maritime Commission, by published order or regulation, may delegate to a division of the Commission, an individual Commissioner, an employee board, or an officer or employee of the Commission, any of its duties or powers, including those relating to hearing, determining, ordering, certifying, reporting, or otherwise acting on any matter. This subsection does not affect section 556(b) of title 5.

(b) Review.--The Commission may review any action taken under a delegation of authority under subsection (a). The review may be taken on the Commission's own initiative or on the petition of a party to or an intervenor in the action, within the time and in the manner prescribed by the Commission. The vote of a majority of the Commission, less one member, is sufficient to bring an action before the Commission for review.

(c) Deemed Action of Commission.--If the Commission declines review, or if review is not sought, within the time prescribed under subsection (b), the action taken under the delegation of authority is deemed to be the action of the Commission.

Sec. 305. Regulations

The Federal Maritime Commission may prescribe regulations to carry out its duties and powers under this title.

Sec. 306. Annual report

(a) General.--Not later than April 1 of each year, the Federal Maritime Commission shall submit a report to Congress. The report shall include the results of investigations by the Commission, a summary of its transactions, any recommendations for legislation the Commission may have, and the purposes for which each of its expenditures was made.

(b) Report on Foreign Laws and Practices.--The Commission shall include in its annual report to Congress--

(1) a list of the 20 foreign countries that generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;

(2) an analysis of conditions described in section 42501 of this title being investigated or found to exist in foreign countries;

- (3) any action being taken by the Commission to offset those conditions;
- (4) any recommendations for additional legislation to offset those conditions; and
- (5) a list of petitions filed under section 42901(c) of this title concerning chapter 425 of this title that the Commission rejected and the reasons for each rejection.

Sec. 307. Authorization of appropriations

The Federal Maritime Commission may make expenditures from appropriated funds to carry out its responsibilities under this part, and further appropriations are hereby authorized.

SEC. 3. SUBTITLE II OF TITLE 46.

(a) Chapter 121 of title 46, United States Code, is amended to read as follows:

CHAPTER 121--DOCUMENTATION OF VESSELS

SUBCHAPTER I--GENERAL

Sec.

- 12101. Definition and related terms in other laws.
- 12102. Vessels requiring documentation.
- 12103. General eligibility requirements.
- 12104. Applications for documentation.
- 12105. Issuance of documentation.
- 12106. Surrender of title and number.
- 12107. Wrecked vessels.

SUBCHAPTER II--TYPES OF ENDORSEMENTS

- 12111. Registry endorsement.
- 12112. Coastwise endorsement.
- 12113. Coastwise endorsement for oil spill response vessels.
- 12114. Fishery endorsement.
- 12115. Recreational endorsement.
- 12116. Temporary endorsement for vessels procured outside the United States.
- 12117. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands.
- 12118. Documentation during national emergencies.

SUBCHAPTER III--MISCELLANEOUS

- 12131. Command of documented vessels.
- 12132. Loss of coastwise trade privileges.
- 12133. Certificate of documentation to be carried on vessel and be available for examination.
- 12134. Evidentiary uses of documentation.
- 12135. Invalidation of certificates of documentation.
- 12136. Surrender of certificates of documentation.
- 12137. Recording of vessels built in the United States.
- 12138. List of documented vessels.
- 12139. Reports.

SUBCHAPTER IV--PENALTIES

- 12151. Penalties.
- 12152. Denial or revocation of endorsement for non-payment of civil penalty.

SUBCHAPTER I--GENERAL

Sec. 12101. Definition and related terms in other laws

(a) Definition.--In this chapter, a vessel is "rebuilt in the United States" only if the entire rebuilding, including the rebuilding of any major component of the hull or superstructure, is done in the United States (not including the Trust Territory of the Pacific Islands).

(b) Related Terms in Other Laws.--When the following terms are used in a law, regulation, document, ruling, or other official act referring to the documentation of a vessel, the following definitions apply:

(1) The terms "certificate of registry", "register", and "registry" mean a certificate of documentation with a registry endorsement issued under this chapter.

(2) The terms "license", "enrollment and license", "license for the coastwise (or coasting) trade", and "enrollment and license for the coastwise (or coasting) trade" mean a certificate of documentation with a coastwise endorsement issued under this chapter.

(3) The term "yacht" means a recreational vessel even if not documented.

Sec. 12102. Vessels requiring documentation

(a) In General.--Except as otherwise provided, a vessel may engage in the coastwise trade, as specified by chapter 561 of this title, or the fisheries only if the vessel has been issued a certificate of documentation with an appropriate endorsement under this chapter.

(b) Vessels Less Than 5 Net Tons.--A vessel of less than 5 net tons may engage in a trade without being documented if the vessel otherwise satisfies the requirements (except for its tonnage) for documentation for the type of trade in which engaged.

(c) Barges.--A barge qualified to engage in the coastwise trade may engage in coastwise trade, without being documented, on rivers, harbors, lakes, canals, and inland waters.

Sec. 12103. General eligibility requirements

(a) Requirements.--A certificate of documentation for a vessel may be issued under this chapter only if the vessel is--

- (1) at least 5 net tons, as measured under part J of this subtitle;
- (2) owned only by citizens of the United States; and
- (3) not documented under the laws of a foreign country.

(b) Temporary Certificates.--Notwithstanding subsection (a)(1), the Secretary of Transportation may provide by regulation for the issuance of a temporary certificate of documentation for a vessel before it is measured.

(c) Registry Endorsement Exception.--Notwithstanding subsection (a)(2), a certificate of documentation with only a registry endorsement may be issued under section 12111(c) of this title for a vessel owned by a trust in which each beneficiary of the trust is not a citizen of the United States.

(d) Coastwise Endorsement Exception.--Notwithstanding subsection (a)(2), a certificate of documentation with a coastwise endorsement may be issued under section 12112(c) of this title for a vessel owned by a person primarily engaged in leasing or other financing transactions that is not a citizen of the United States.

(e) Exception for Vessels Owned by Certain Corporations.--(1) Notwithstanding subsection (a)(2), a certificate of documentation and appropriate endorsement may be issued for a vessel that--

- (A) satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this subsection;

(B) is owned by a corporation qualifying as a citizen of the United States under paragraph (5) of this subsection; and

(C) if self-propelled, is 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.

(2) Except as restricted by this subsection, a vessel that satisfies subsection (e)(1) is entitled to documentation under this chapter, to engage in the coastwise trade and, together with its owners or masters, to all benefits and privileges, as well as requirements, penalties, and forfeitures, as apply in the case of vessels otherwise documented under this chapter.

(3) A vessel documented under this subsection may provide transportation of goods or passengers for hire only--

(A) as a service for a parent or subsidiary of the corporation owning the vessel; or

(B) when under a demise charter, at prevailing rates for use not in domestic noncontiguous commerce, from the corporation owning the vessel to a carrier that--

(i) is subject to jurisdiction under subchapter II of chapter 135 of title 49;

(ii) otherwise qualifies as a citizen of the United States under section 171 of this title; and

(iii) is not owned or controlled by the corporation owning the vessel.

(4) A certificate filed, as set forth under paragraph (5) of this subsection, by a corporation remains valid only as long as the corporation continues to satisfy the conditions required of the corporation by this subsection. When a corporation no longer satisfies those conditions, the corporation loses its status under this subsection and immediately shall surrender to the Secretary any documents issued to it based on that status.

(5) In this subsection, the following definitions apply:

(A) "citizen of the United States" means a corporation that has filed a certificate under oath with the Secretary of Transportation, in the form and at the times prescribed by the Secretary, establishing that--

(i) the corporation is incorporated under the laws of the United States or a State;

(ii) a majority of the officers and directors of the corporation are individuals who are citizens of the United States;

(iii) at least 90 percent of the employees of the corporation are residents of the United States;

(iv) the corporation is engaged primarily in a manufacturing or mineral industry in the United States;

(v) the total book value of the vessels owned by the corporation is not more than 10 percent of the total book value of the assets of the corporation; and

(vi) the corporation buys or produces in the United States at least 75 percent of the raw materials used or sold in its operations.

(B) "parent" means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation--

(i) is incorporated under the laws of the United States or a State;
and

(ii) controls at least 50 percent of the voting stock of a corporation qualifying as a citizen of the United States under clause (A).

(C) "subsidiary" means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation--

(i) is incorporated under the laws of the United States or a State;
and

(ii) has at least 50 percent of its voting stock controlled by a corporation qualifying as a citizen of the United States under clause (A) or by the latter corporation's parent.

Sec. 12104. Applications for documentation

(a) In General.--An application for a certificate of documentation or endorsement under this chapter must be filed by the owner of the vessel. The application must be filed in the manner, be in the form, and contain the information prescribed by the Secretary of Transportation.

(b) Applicant's Identifying Information.--The Secretary shall require the applicant to provide--

(1) if the applicant is an individual, the individual's social security account number; or

(2) if the applicant is an entity--

(A) the entity's taxpayer identifying number; or

(B) if the entity does not have a taxpayer identifying number, the social security account number of an individual who is a corporate officer, general partner, or individual trustee of the entity and who signs the application.

Sec. 12105. Issuance of documentation

(a) In General.--Except as provided in section 12152 of this title, the Secretary of Transportation, on receipt of a proper application, shall issue a certificate of documentation for a vessel satisfying the requirements of section 12103 of this title. The certificate shall contain each endorsement under subchapter II of this chapter for which the owner applies and the vessel is eligible. Additional endorsements may be added after the certificate is issued.

(b) Information To Be Included in Certificate.--The certificate of documentation shall-

(1) identify and describe the vessel;

(2) identify the owner of the vessel; and

(3) contain additional information prescribed by the Secretary.

(c) Procedures To Ensure Integrity and Accuracy.--The Secretary shall prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation.

Sec. 12106. Surrender of title and number

(a) In General.--A documented vessel shall not be titled by a State or required to display numbers under chapter 123 of this title, and any certificate of title issued by a State for a documented vessel shall be surrendered under regulations prescribed by the Secretary of Transportation.

(b) Mortgage Consent.--The Secretary may approve the surrender under subsection (a) of a certificate of title for a vessel covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.

Sec. 12107. Wrecked vessels

(a) Requirements.--A vessel is a wrecked vessel under this chapter if it--

(1) was wrecked on a coast of the United States or adjacent waters; and

(2) has undergone repairs in a shipyard in the United States equal to at least 3 times the appraised salvage value of the vessel.

(b) Appraisals.--The Secretary of Transportation may appoint a board of 3 appraisers to determine whether a vessel satisfies subsection (a)(2). The costs of the appraisal shall be paid by the owner of the vessel.

SUBCHAPTER II--TYPES OF ENDORSEMENTS

Sec. 12111. Registry endorsement

(a) Requirements.--A registry endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

(b) Authorized Trade.--A vessel for which a registry endorsement is issued may engage in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) Certain Vessels Owned by Trusts.--

(1) Nonapplication of beneficiary citizenship requirement.--Notwithstanding section 12103(a)(2) of this title, for a vessel owned by a trust, each beneficiary of the trust does not have to be a citizen of the United States if--

(A) a certificate of documentation with only a registry endorsement is being issued;

(B) the trust qualifies under paragraph (2); and

(C) the vessel is subject to a charter to a citizen of the United States.

(2) Requirements for trust to qualify.--

(A) In general.--Subject to subparagraph (B), a trust qualifies under this subsection with respect to a vessel only if--

(i) each trustee is a citizen of the United States; and

(ii) the application for documentation of the vessel includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

(B) Authority of non-citizens.--If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this subsection unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

(C) Ownership by non-citizens.--Subparagraph (B) does not prohibit a person that is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

(3) Citizenship of person chartering vessel.--If a person chartering a vessel from a trust that qualifies under paragraph (2) is a citizen of the United States under section 171 of this title, the vessel is deemed to be owned by a citizen of the United States for purposes of section 171 and related laws, except chapter 531 of this title.

Sec. 12112. Coastwise endorsement

(a) Requirements.--A coastwise endorsement may be issued for a vessel that--

(1) satisfies the requirements of section 12103 of this title;

(2)(A) was built in the United States; or

(B) if not built in the United States--

(i) was captured in war by citizens of the United States and lawfully condemned as prize;

(ii) was adjudged to be forfeited for a breach of the laws of the United States; or

(iii) qualifies as a wrecked vessel under section 12107 of this title;
and

(3) otherwise qualifies under the laws of the United States to engage in the coastwise trade, as specified by chapter 561 of this title.

(b) Authorized Trade.--Subject to the laws of the United States regulating the coastwise trade, as specified by chapter 561 of this title, only a vessel for which a coastwise endorsement is issued may engage in the coastwise trade.

(c) Owner Engaged in Leasing or Other Financing Transactions.--

(1) In general.--A coastwise endorsement may be issued for a vessel if--

(A) the vessel satisfies the requirements of section 12103 of this title;

(B) the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is primarily engaged in leasing or other financing transactions;

(C) 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 171 of this title for operation in the coastwise trade;

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

(E) the vessel is otherwise eligible for documentation under this section.

(2) Filing of demise charter.--The demise charter and any amendments to that charter shall be filed with the certificate required by this subsection, or within 10 days after the filing of an amendment to the charter, and the charter and amendments shall be made available to the public.

(3) Continuation of endorsement after termination of charter.--On termination by a charterer of a demise charter required by 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 terms and conditions the Secretary may prescribe.

(4) Deemed owned by citizens.--For purposes of sections 171 and 12103(a)(2) of this title, a vessel satisfying the requirements of this subsection is deemed to be owned only by citizens of the United States.

Sec. 12113. Coastwise endorsement for oil spill response vessels

(a) Requirements.--A coastwise endorsement may be issued for a vessel that-

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

(2) is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative that dedicate the vessel to use by the cooperative;

(3) is at least 50 percent owned by individuals who are citizens of the United States or by entities described in section 171(a) of this title; and

(4) is to be used only for--

(i) deploying equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States or the exclusive economic zone; or

(ii) training exercises to prepare to respond to a discharge of oil into the navigable waters of the United States or the exclusive economic zone.

(b) Vessel Deemed Owned by Citizens.--A vessel satisfying subsection (a) is deemed to be owned only by citizens of the United States under sections 12103(a)(2) and 12132(1) of this title.

Sec. 12114. Fishery endorsement

(a) General Requirements.--A fishery endorsement may be issued for a vessel that--

(1) satisfies the requirements of section 12103 of this title;

(2)(A) was built in the United States; or

(B) if not built in the United States--

(i) was captured in war by citizens of the United States and lawfully condemned as prize;

(ii) was adjudged to be forfeited for a breach of the laws of the United States; or

(iii) qualifies as a wrecked vessel under section 12107 of this title;

(3) if rebuilt, was rebuilt in the United States; and

(4) is not otherwise disqualified under the laws of the United States to engage in the fisheries.

(b) Authorized Activity; Restriction.--(1) Subject to the laws of the United States regulating the fisheries, a vessel for which a fishery endorsement is issued may engage in the fisheries.

(2) A fishery endorsement for a vessel shall be invalid immediately upon use as a fishing vessel under charter or lease to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement.

(c) Ineligibility of Vessels Purchased Through Fishing Capacity Reduction Program.--A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.

(d) Ineligibility of Vessels Based on Length, Tonnage, or Horsepower.--Effective October 1, 2001, a vessel greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower is not eligible for a fishery endorsement unless--

(1)(A) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997;

(B) the vessel is not placed under foreign registry after October 21, 1998; and

(C) in the event of the invalidation of the fishery endorsement after October 21, 1998, application is made for a new fishery endorsement within 15 business days of the invalidation; or

(2) the vessel owner demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act has recommended after October 21, 1998, and the Secretary of Commerce has approved, conservation and management measures in accordance with the American Fisheries Act to allow the vessel to be used in fisheries under the council's authority.

(e) Determination of Eligibility to Own Certain Vessels With a Fishery Endorsement.--(1) The Administrator of the Maritime Administration shall apply the citizenship criteria of section 171(c) of this title with respect to eligibility for a fishery endorsement of a vessel 100 feet or greater in registered length. The owner of the vessel

shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator on an annual basis to demonstrate compliance with section 171(c).

(2) The transfer of ownership and control of a vessel subject to section 171(c) of this title and 100 feet or greater in registered length shall be rigorously scrutinized for violations of that section, with particular attention given to--

(A) leases, charters, mortgages, financing, and similar arrangements;

(B) control by persons not eligible to own a vessel with a fishery endorsement under 171(c);

(C) the management, sales, financing, or other operations of an entity; and

(D) contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

(3) The Secretary of Transportation shall establish reasonable and necessary requirements to demonstrate compliance with section 171(c) of this title with respect to vessels measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate the vessels.

(f) Revocation of Endorsements.--The Secretary of Transportation shall revoke the fishery endorsement of any vessel subject to sections 171(c) and 12114(d) of this title whose ownership does not comply with the criteria of the section.

Sec. 12115. Recreational endorsement

(a) Requirements.--A recreational endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

(b) Authorized Operations.--A vessel operating under a recreational endorsement may be operated only for pleasure.

(c) Application of Customs Laws.--A vessel for which a recreational endorsement is issued may proceed between a port of the United States and a port of a foreign country without entering or clearing with the Customs Service. However, a recreational vessel is subject to the requirements for reporting arrivals under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433), and individuals on the vessel are subject to applicable customs regulations.

Sec. 12116. Temporary endorsement for vessels procured outside the United States

(a) General Authority.--The Secretary of Transportation and the Secretary of State, acting jointly, may provide for the issuance of a certificate of documentation with

an appropriate endorsement for a vessel procured outside the United States by citizens of the United States.

(b) Authorized Trade.--Subject to limitations the Secretary of Transportation may prescribe, a vessel documented under this section may proceed to the United States and engage en route in foreign commerce or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) Application of United States Jurisdiction and Laws.--A vessel documented under this section is subject to the jurisdiction and laws of the United States. However, if the Secretary of Transportation considers it to be in the public interest, the Secretary may suspend for a period of not more than 6 months the application of a vessel inspection law carried out by the Secretary or regulations prescribed under that law.

(d) Surrender of Certificate.--On the vessel's arrival in the United States, the certificate of documentation shall be surrendered as provided by regulations prescribed by the Secretary.

Sec. 12117. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands

(a) Endorsements.--A vessel satisfying the requirements of subsection (b) may be issued--

(1) a limited coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands; or

(2) a limited fishery endorsement to engage in fishing in the territorial sea and exclusive economic zone adjacent to Guam, American Samoa, and the Northern Mariana Islands.

(b) Requirements.--An endorsement may be issued under subsection (a) for a vessel that--

(1) satisfies the requirements of section 12103 of this title;

(2) was not built or rebuilt in the United States;

(3) is less than 200 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; and

(4) otherwise qualifies under the laws of the United States to engage in coastwise trade, as specified by chapter 561 of this title, or the fisheries, as the case may be.

Sec. 12118. Documentation during national emergencies

(a) Application.--This section applies only during a period when vessels may be acquired under chapter 573 of this title. However, if a vessel documented under this section begins a voyage during that period, this section continues to apply to that vessel until the voyage is completed.

(b) General Authority.--A vessel under the control of the Secretary of Transportation may be issued a certificate of documentation with a registry endorsement or a coastwise endorsement, even though the vessel does not satisfy the requirements of section 12103 of this title or the additional requirements for a coastwise endorsement. The Secretary, by regulation or order, may impose limitations the Secretary considers appropriate for national defense.

(c) Permit To Engage in Coastwise Trade.--When a vessel documented under this section is chartered by the Secretary to another agency or a private operator under section 57307 of this title, the vessel may engage in coastwise trade, as specified by chapter 561 of this title, only under a permit issued by the Secretary. The permit may contain limitations the Secretary considers appropriate.

(d) Waiver of Certain Laws.--The President may waive compliance with a law relating to masters, officers, crew members, or crew accommodations on a vessel documented under this section, to the extent and on terms the President finds necessary because of the lack of physical facilities on the vessel or the need to employ nationals of foreign countries on the vessel. The vessel may not be denied the privileges of a documented vessel because of the employment of an individual under this subsection.

(e) Inspection Laws.--Laws on the inspection of steam vessels apply to vessels documented under this section only to the extent and on conditions provided in regulations prescribed by the Secretary. In deciding the extent to which those laws are to apply, the Secretary shall consider the primary purpose of transporting commodities essential to the national defense.

(f) Surrender of Documentation.--The Secretary may order documentation issued under this section to be surrendered at any time.

SUBCHAPTER III--MISCELLANEOUS

Sec. 12131. Command of documented vessels

A documented vessel (other than a vessel with only a recreational endorsement) may be placed under the command only of a citizen of the United States.

Sec. 12132. Loss of coastwise trade privileges

A vessel of more than 200 gross tons (as measured under chapter 143 of this title) having an endorsement to engage in the coastwise trade, as specified by chapter 561 of this title, is permanently prohibited from engaging in that trade if the vessel is--

- (1) sold in whole or in part to a person not a citizen of the United States;
- (2) documented under the laws of a foreign country; or
- (3) rebuilt in whole or in part outside the United States.

Sec. 12133. Certificate of documentation to be carried on vessel and be available for examination

(a) Duty To Carry.--The certificate of documentation of a vessel shall be carried on the vessel unless the vessel is exempt by regulation from carrying the certificate.

(b) Availability.--The owner or individual in charge of a vessel required to carry its certificate of documentation shall make the certificate available for examination at the request of an officer enforcing the revenue laws or as otherwise required by law or regulation.

(c) Criminal Penalty.--A person willfully violating subsection (b) shall be fined under title 18, imprisoned for not more than one year, or both.

Sec. 12134. Evidentiary uses of documentation

A certificate of documentation is--

- (1) conclusive evidence of nationality for international purposes, but not in a proceeding conducted under the laws of the United States;
- (2) conclusive evidence of qualification to engage in a specified type of trade; and
- (3) not conclusive evidence of ownership in a proceeding in which ownership is in issue.

Sec. 12135. Invalidation of certificates of documentation

A certificate of documentation or an endorsement on the certificate is invalid if the vessel for which it is issued--

- (1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to the certificate or endorsement; or

(2) is placed under the command of an individual not a citizen of the United States in violation of section 12131 of this title.

Sec. 12136. Surrender of certificates of documentation

(a) Surrender.--An invalid certificate of documentation, or a certificate with an invalid endorsement, shall be surrendered as provided by regulations prescribed by the Secretary of Transportation.

(b) Continued Application of Certain Laws.--(1) Notwithstanding subsection (a), until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of--

(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

(B) chapters 571 and 573 of this title; and

(C) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

(2) This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

(3) The Secretary may approve the surrender of the certificate of documentation of a vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.

Sec. 12137. Recording of vessels built in the United States

The Secretary of Transportation may provide for recording and certifying information about vessels built in the United States that the Secretary considers to be in the public interest.

Sec. 12138. List of documented vessels

The Secretary of Transportation shall publish periodically a list of all documented vessels and information about those vessels that the Secretary considers pertinent or useful. The list shall contain a notation clearly indicating all vessels classed by the American Bureau of Shipping.

Sec. 12139. Reports

(a) In General.--To ensure compliance with this chapter and laws governing the qualifications of vessels to engage in the coastwise trade, as specified by chapter 561 of

this title, or the fisheries, the Secretary of Transportation may require owners and masters of documented vessels to submit reports in any reasonable form and manner the Secretary may prescribe.

(b) Vessels Rebuilt Outside United States.--Under regulations prescribed by the Secretary, if any part of a vessel that was most recently documented under the laws of the United States is rebuilt outside the United States, and the vessel is of more 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, the owner or master shall submit a report of the rebuilding to the Secretary. If the rebuilding is completed--

(1) in the United States, the report shall be submitted when the rebuilding is completed; or

(2) outside the United States, the report shall be submitted when the vessel first arrives at a port in the customs territory of the United States.

SUBCHAPTER IV--PENALTIES

Sec. 12151. Penalties

(a) In General.--A person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than \$10,000. Each day of a continuing violation is a separate violation.

(b) Penalty for Transporting Passengers.--A vessel transporting passengers in violation of this chapter or a regulation prescribed under this chapter is liable to the Government for a penalty of \$200 for each passenger.

(c) Penalties for Towing.--(1) The owner and master of a vessel towing another vessel in violation of the provisions of this chapter are each liable to a fine of not less than \$250 and not more than \$1,000, which constitutes a lien on the towing vessel enforceable through the district court of the United States for any district in which the vessel is found, and clearance may not be granted to the vessel until fines have been paid.

(2) A vessel towing another vessel in violation of this chapter or a regulation prescribed under this chapter is liable to the Government for a penalty of \$50 a ton based on the tonnage of the towed vessel.

(d) Seizure and Forfeiture of Cargo.--The Government may seize and forfeit cargo that is transported in violation of this chapter or a regulation prescribed under this chapter. Alternatively, the Government may recover an amount equal to the value of the cargo (as determined by the Secretary of the Treasury) or the actual cost of the transportation, whichever is greater, from any person committing the violation or causing the violation to be committed.

(e) Seizure and Forfeiture of Vessels.--

(1) Grounds.--The Government may seize and forfeit a vessel (including its equipment) if--

(A) the owner of the vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation, about the documentation of the vessel or in applying for documentation of the vessel;

(B) a certificate of documentation is knowingly and fraudulently used for the vessel;

(C) the vessel is operated after its endorsement has been denied or revoked under section 12152 of this title;

(D) the vessel is employed in commerce without an appropriate endorsement;

(E) the vessel has only a recreational endorsement and is operated other than for pleasure;

(F) the vessel is a documented vessel (except a vessel with only a recreational endorsement) and is placed under the command of a person not a citizen of the United States; or

(G) the vessel is rebuilt outside the United States and a report of the rebuilding is not submitted as required by section 12139(b) of this title.

(2) Alternative recovery.--Instead of seizing and forfeiting a vessel under paragraph (1), the Government may recover an amount equal to the value of the vessel from the owner of the vessel.

(f) Penalty for False Fishery Endorsement Eligibility.--In addition to penalties under subsections (a) and (e), the owner of a documented vessel for which a fishery endorsement has been issued is liable to the Government for a civil penalty of not more than \$100,000 for each day in which the vessel has engaged in fishing (as such term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act) within the exclusive economic zone of the United States, if the owner or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation, with respect to the eligibility of the vessel under section 171(c) of this title in applying for or applying to renew such fishery endorsement.

Sec. 12152. Denial or revocation of endorsement for non-payment of civil penalty

If the owner of a vessel fails to pay a civil penalty imposed by the Secretary of Transportation, the Secretary may deny the issuance or renewal of an endorsement, or revoke the endorsement, on a certificate of documentation issued for the vessel under this chapter.

(b) Subtitle II of title 46, United States Code, is amended as follows:

(1) In the subtitle analysis, insert after the item for chapter 125 the following new item:

"127. DENIAL AND REVOCATION OF DOCUMENTATION OR NUMBER FOR SMUGGLING.12701".

(2) Immediately after chapter 125, insert the following new chapter:

CHAPTER 127--MISCELLANEOUS

Sec. 12701. Denial and revocation of documentation or number for smuggling.

(a) Definition.--In this section, "United States" includes the territories and possessions of the United States, except the Virgin Islands, the Canal Zone, American Samoa, Wake, Midway, Kingman Reef, and Johnston Island, and Guam.

(b) Denial and Revocation.--Under regulations prescribed by the Secretary of the Treasury, the Secretary of Transportation shall deny an application for documentation or numbering of a vessel, or revoke the documentation or number of a vessel (if the Secretary is the authority issuing the number under chapter 123 of this title), when the Secretary of Transportation finds that the vessel--

(1) is being, or is intended to be, used to smuggle--

(A) individuals or cargo into the United States; or

(B) cargo into the territory of a foreign government in violation of the laws of that government, if the laws of that government provide a penalty for violating the laws of the United States related to the customs duties; or

(2) because of its design, fittings, or repairs, has been built or adapted for smuggling cargo.

(c) Indemnification.--The Secretary of Transportation and individuals acting under the Secretary's direction shall be indemnified for any penalties or damages imposed for carrying out this section.

(d) Appeal.--A decision under this section may be appealed to the Secretary of the Treasury.

SEC. 4. SUBTITLE III OF TITLE 46.

Subtitle III of title 46, United States Code, is amended as follows:

(1) The subtitle analysis is amended to read as follows:

Chapter	Sec.
301. DEATH ON THE HIGH SEAS	30101
303. CARRIAGE OF GOODS BY SEA	30301
305. EXONERATION AND LIMITATION OF LIABILITY	30501
307. SUITS IN ADMIRALTY	30701
309. CIVIL ACTIONS INVOLVING PUBLIC VESSELS	30901
311. EXTENSION OF ADMIRALTY JURISDICTION TO CASES INVOLVING DAMAGE OR INJURY ON LAND	31101
313. COMMERCIAL INSTRUMENTS AND MARITIME LIENS	31301
315. PERSONAL INJURY OR DEATH OF SEAMAN	31501
317. OTHER MARITIME TORT ISSUES	31701

(2) Strike chapter 301 and the lines appearing immediately before and immediately after chapter 313 indicating that certain chapters are reserved.

(3) Insert after the subtitle analysis the following new chapters:

CHAPTER 301--DEATH ON THE HIGH SEAS

Sec.

- 30101. Chapter designated "Death on the High Seas Act".
- 30102. Cause of action.
- 30103. Amount and apportionment of recovery.
- 30104. Foreign cause of action.
- 30105. Death of plaintiff in pending action.
- 30106. Contributory negligence.
- 30107. Nonapplication of chapter.

Sec. 30101. Chapter designated "Death on the High Seas Act"

This chapter may be cited as the "Death on the High Seas Act".

Sec. 30102. Cause of action

(a) General.--Subject to subsection (b), when the death of an individual is caused by wrongful act, neglect, or default occurring on the high seas beyond a marine league from the shore of the United States, the personal representative of the decedent may bring a civil action in admiralty against the person or vessel responsible.

(b) Certain Commercial Aviation Accidents.--In the case of a commercial aviation accident, when the death of an individual occurring after July 16, 1996, is caused by wrongful act, neglect, or default occurring on the high seas 12 nautical miles or closer to the shore of the United States, this chapter does not apply, and the rules applicable under federal, state, and other appropriate law apply.

(c) For Whose Benefit.--An action under this chapter shall be for the exclusive benefit of the decedent's spouse, parent, child, and dependent relatives.

Sec. 30103. Amount and apportionment of recovery

(a) General.--The recovery shall be a fair compensation for the pecuniary loss sustained by the individuals for whose benefit the action is brought. The court shall apportion the recovery among those individuals in proportion to the loss each has sustained.

(b) Certain Commercial Aviation Accidents.--(1) If the death occurred after July 16, 1996, and resulted from a commercial aviation accident occurring on the high seas beyond 12 nautical miles from the shore of the United States, additional compensation for nonpecuniary damages for wrongful death of a decedent is recoverable. Punitive damages are not recoverable.

(2) In this subsection, "nonpecuniary damages" means damages for loss of care, comfort, and companionship.

Sec. 30104. Foreign cause of action

When a cause of action exists under the law of a foreign country for death by wrongful act, neglect, or default on the high seas, a civil action in admiralty may be brought in a court of the United States based on the foreign cause of action, without abatement for the amount for which recovery is authorized.

Sec. 30105. Death of plaintiff in pending action

If a civil action in admiralty is pending in a court of the United States to recover for personal injury caused by wrongful act, neglect, or default described in section 30102 of this chapter, and the individual dies from the injury during the action, the personal representative of the decedent may be substituted as the plaintiff and the action may proceed under this section for the recovery authorized by this section.

Sec. 30106. Contributory negligence

In an action under this chapter, contributory negligence of the decedent is not a bar to recovery. The court shall consider the negligence of the decedent and reduce the recovery proportionately.

Sec. 30107. Nonapplication of chapter

(a) General.--This chapter does not affect the law of a State regulating the right to recover for death.

(b) Certain Internal Waters.--This chapter does not apply to the Great Lakes, waters within the territorial limits of a State, or navigable waters in Panama.

CHAPTER 303--CARRIAGE OF GOODS BY SEA

SUBCHAPTER I--GENERAL

Sec.

30301. Chapter designated "Carriage of Goods by Sea Act".

30302. Definitions.

30303. Other law not affected.

SUBCHAPTER II--FOREIGN COMMERCE

30311. Application.

30312. Freedom of contract and restrictions.

30313. General duties of carrier.

30314. Bills of lading.

30315. "Shipped" bills of lading.

30316. Shipper's guarantee of statements.

30317. Limitation on liability when shipper fails to declare nature and value of goods.

30318. Weight of bulk cargo.

30319. Defenses of carrier and vessel.

30320. Dangerous goods.

30321. Liability of shipper.

30322. Inspecting for loss or damage.

30323. Notice of loss or damage; limitation of actions.

30324. Special agreement about particular goods.

30325. Discrimination between competing shippers.

30326. Suspension of subchapter by President.

SUBCHAPTER III--COASTWISE TRADE AND CERTAIN FOREIGN COMMERCE

30341. Application.

30342. Bills of lading.

30343. General duties of carrier.

30344. Defenses of carrier and vessel.

30345. Civil penalty.

SUBCHAPTER I--GENERAL

Sec. 30301. Chapter designated "Carriage of Goods by Sea Act"

This chapter may be cited as the "Carriage of Goods by Sea Act".

Sec. 30302. Definitions

In this chapter-

(1) "carrier" includes an owner or charterer of a vessel that makes a contract of carriage with a shipper.

(2) "contract of carriage" means a contract of carriage evidenced by a bill of lading or similar document of title.

(3) "foreign commerce" means the carriage of goods between a port in the United States and a port in a foreign country.

(4) "goods" means property of any kind, but does not include live animals or property that the contract of carriage states will be carried on deck and is carried on deck.

Sec. 30303. Other law not affected

This chapter does not affect the applicability of chapter 801 of title 49.

SUBCHAPTER II--FOREIGN COMMERCE

Sec. 30311. Application

(a) General.--This subchapter applies to the carriage of goods under a contract of carriage by a common carrier by water in foreign commerce from the time the goods are loaded on the vessel to the time they are discharged from the vessel.

(b) Charter Agreements.--Unless the parties provide otherwise, this subchapter does not apply to the carriage of goods under a charter agreement. However, if a bill of lading is issued under a charter agreement--

(1) the bill of lading shall include the information required by section 30314(b)(1)(A)-(C) of this title; and

(2) this subchapter applies between the carrier and a holder of the bill of lading not a party to the charter agreement (except to the extent the bill of lading provides otherwise).

Sec. 30312. Freedom of contract and restrictions

(a) General.--A shipper and a carrier may make an agreement to increase any of the carrier's duties and liabilities under this subchapter by including the agreement in a bill of lading.

(b) Periods Before Loading and After Unloading.--A shipper and a carrier may make an agreement about the duties and liabilities of the carrier and the vessel covering the period before the goods are loaded on the vessel or after they are unloaded from the vessel, except that the agreement may not limit the duties and liabilities imposed on the carrier and the vessel under subchapter III of this chapter.

(c) Void Provisions.--A provision in a contract of carriage limiting the liability of a carrier or vessel for failure to satisfy the requirements of this subchapter is void. A benefit of insurance in favor of the carrier, or a similar clause, is deemed to be a provision limiting the carrier's liability.

Sec. 30313. General duties of carrier

(a) Vessel.--Before and at the beginning of a voyage, the carrier shall use due diligence to--

(1) make the vessel seaworthy;

(2) properly man, equip, and supply the vessel; and

(3) make the holds, refrigerating and cooling chambers, and other parts of the vessel in which goods are carried fit and safe to receive, carry, and preserve the goods.

(b) Loading, Carrying, and Discharging.--The carrier shall properly and carefully load, carry, and discharge the goods.

Sec. 30314. Bills of lading

(a) Issuance.--On receipt of the goods and demand of the shipper, the carrier or the master or agent of the carrier shall issue the shipper a bill of lading.

(b) Contents.--(1) The bill of lading shall include--

(A) the marks necessary to identify the goods as provided in writing by the shipper before the loading begins, if they are stamped or otherwise shown clearly

on the goods (if uncovered) or their covering or container in a way that ordinarily should remain legible until the end of the voyage;

(B) the quantity or weight as provided in writing by the shipper;

(C) the apparent condition of the goods; and

(D) a statement that the bill of lading is subject to this subchapter.

(2) The bill of lading is not required to include a mark, quantity, or weight that the carrier, master, or agent has reasonable ground to suspect is inaccurate or has no reasonable means of checking.

(c) General Average.--A bill of lading may include a provision on general average.

(d) Prima Facie Evidence of Receipt.--A bill of lading is prima facie evidence of receipt by the carrier of the goods described in the bill of lading.

Sec. 30315. "Shipped" bills of lading

If the shipper demands, the carrier, master, or agent shall issue a "shipped" bill of lading after the goods are loaded on the vessel. If the shipper has already received a document of title, the shipper shall surrender the document in exchange for the "shipped" bill of lading. The carrier, master, or agent may note on the document at the port of shipment the names of the vessels and the dates of shipment, and when so noted, that document is deemed to be a "shipped" bill of lading.

Sec. 30316. Shipper's guarantee of statements

The shipper is deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks and the quantity or weight provided by the shipper. The shipper shall indemnify the carrier against loss, damages, and expenses arising from inaccuracies in the information. However, the carrier's right to indemnity from the shipper does not limit the carrier's liability under the contract of carriage to other persons.

Sec. 30317. Limitation on liability when shipper fails to declare nature and value of goods

(a) General.--(1) If the nature and value of the goods are not declared by the shipper before shipment and included in the bill of lading, the carrier and the vessel are not liable for loss or damage in an amount greater than \$500 (United States currency or an equivalent amount in other currency) for each package or, if the goods are not shipped in packages, for each customary freight unit. A declaration of the nature and value of the goods in a bill of lading is prima facie evidence of the nature and value.

(2) A shipper and a carrier may agree on a higher limit of liability than provided in paragraph (1) of this subsection. However, the carrier is not liable for more than the amount of damage actually sustained.

(b) Fraud.--If the shipper fraudulently misstates the nature or value of the goods in the bill of lading, the carrier and the vessel are not liable for loss or damage.

Sec. 30318. Weight of bulk cargo

If, under the custom of a trade, the weight of bulk cargo included in a bill of lading is a weight ascertained or accepted by a third party (other than the carrier and the shipper), and the bill of lading states that the weight was ascertained or accepted by a third party--

(1) the shipper is not deemed to have guaranteed to the carrier the accuracy of the weight; and

(2) the bill of lading is not prima facie evidence against the carrier of receipt of goods of the weight stated in the bill of lading.

Sec. 30319. Defenses of carrier and vessel

(a) Due Diligence.--If a carrier has used due diligence as required by section 30313(a) of this title, the carrier and the vessel are not liable for loss or damage caused by unseaworthiness. The burden of proving due diligence is on the carrier or other person claiming exemption from liability under this subsection.

(b) Other Defenses.--(1) A carrier and the vessel are not liable for loss or damage caused by--

(A) error in the navigation or management of the vessel;

(B) fire, unless caused by the actual fault or privity of the carrier;

(C) dangers of the sea or other navigable waters;

(D) act of God;

(E) act of war;

(F) act of a public enemy;

(G) arrest or restraint of princes, rulers, or people, or seizure under legal process;

(H) quarantine restriction;

- (I) act or omission of the shipper or owner of the goods or their agent;
- (J) strike, lockout, stoppage, or restraint of labor not caused by the carrier;
- (K) riot or civil commotion;
- (L) attempt to save life or property at sea;
- (M) inherent defect, quality, or vice of the goods;
- (N) insufficiency of packaging;
- (O) insufficiency of marks;
- (P) latent defect not discoverable by due diligence; or
- (Q) any other cause arising without the actual fault or privity of the carrier and without the fault or neglect of an agent of the carrier.

(2) The burden of proof is on the person claiming the benefit of paragraph (1)(Q) of this subsection to show that neither the actual fault or privity of the carrier nor the fault or neglect of the carrier's agent contributed to the loss or damage.

(c) Reasonable Deviations.--A reasonable deviation, including a deviation to attempt to save life or property at sea, is not a breach of a contract of carriage or a violation of this subchapter, and a carrier is not liable for loss or damage caused by the deviation. A deviation to load or unload passengers or cargo is prima facie unreasonable.

Sec. 30320. Dangerous goods

(a) Shipped Without Knowledge and Consent.--If inflammable, explosive, or otherwise dangerous goods are shipped without the carrier, master, or agent knowing the nature of the goods and consenting to the shipment, the carrier may unload the goods at any place, destroy them, or make them innocuous any time before discharge of the goods at the port of destination, without liability. The shipper shall be liable for all damages and expenses arising out of the shipment.

(b) Shipped With Knowledge and Consent.--If goods described in subsection (a) of this section are shipped with knowledge and consent of the carrier, master, or agent, and the goods become a danger to the vessel or other property on the vessel, the carrier may take any action described in subsection (a) with liability only for general average.

Sec. 30321. Liability of shipper

A shipper is liable for loss or damage sustained by a carrier or vessel only if the shipper or the shipper's agent was at fault.

Sec. 30322. Inspecting for loss or damage

If loss or damage is suspected, the carrier and the person receiving the goods shall give all reasonable facilities to each other to inspect and tally the goods.

Sec. 30323. Notice of loss or damage; limitation of actions

(a) Giving Notice.--(1) If loss or damage has occurred, the person entitled to delivery of the goods shall give written notice of the general nature of the loss or damage to the carrier or the carrier's agent. If the loss or damage is apparent, the notice shall be given at the port of discharge before or at the time of taking custody of the goods. If the damage is not apparent, the notice shall be given within 3 days after taking custody. Notice is not required if a joint inspection of the goods is made at or before the time of taking custody.

(2) Notice of the loss or damage may be written on the receipt by the person taking custody.

(b) Effect of Failure To Give Notice.--Failure to give notice under this section is prima facie evidence of delivery of the goods as described in the bill of lading.

(c) Limitation Of Actions.--A civil action under this chapter for loss or damage must be brought within one year after the goods are delivered or should have been delivered, and failure to give notice does not affect the shipper's right to bring a civil action for the loss or damage.

Sec. 30324. Special agreement about particular goods

(a) Application.--This section applies only to shipments for which the character or condition of the goods or the circumstances or terms of the carriage reasonably justify a special agreement, and not to ordinary commercial shipments made in the ordinary course of commerce.

(b) General.--A shipper and a carrier may make a special agreement about the carrier's duties and liabilities applicable to the carriage of particular goods, including, to the extent not contrary to public policy, the duty about seaworthiness.

(c) Bill of Lading Prohibited.--A bill of lading may not be issued for goods carried under an agreement under this section. The agreement shall be embodied in a receipt marked nonnegotiable.

Sec. 30325. Discrimination between competing shippers

A carrier may not discriminate between competing shippers similarly placed in time and circumstances in--

(1) issuing bills of lading under this subchapter; or

(2) increasing any of the carrier's duties or liabilities as provided in section 30312(a) of this title.

Sec. 30326. Suspension of subchapter by President

(a) Authority.--The President, by proclamation, may suspend any of the provisions of this subchapter for any period (including indefinitely) if the Secretary of Transportation certifies that any of those provisions, or the laws of a foreign country related to the carriage of goods by sea, prejudice the United States in competing with foreign countries in foreign commerce.

(b) Rescissions.--The President, by proclamation, may rescind a suspension under this section. When a suspension is rescinded, the provisions that were suspended are reinstated.

(c) Applicable Contracts and Laws.--(1) A suspension under this section applies only to a contract of carriage made during the suspension.

(2) Any other provision of law applicable to a suspended provision continues to apply.

(d) Effective Date of Suspension.--A suspension or rescission under this section is effective on the date named in the proclamation, but the date shall be at least 10 days after the proclamation is issued.

SUBCHAPTER III--COASTWISE AND CERTAIN FOREIGN COMMERCE

Sec. 30341. Application

(a) General.--This subchapter applies to the carriage of goods under a contract of carriage by a common carrier by water--

(1) in foreign commerce before the goods are loaded on the vessel and after they are unloaded from the vessel; or

(2) not in foreign commerce.

(b) Agreement To Apply Subchapter II.--A shipper and a carrier may agree that the carriage of goods by sea not in foreign commerce is to be governed by subchapter II of this chapter rather than by this subchapter.

Sec. 30342. Bills of lading

(a) Issuance.--On receipt of the goods and demand of the shipper, the carrier or the master or agent of the carrier shall issue the shipper a bill of lading or shipping document.

(b) Contents.--The bill of lading shall include-

(1) the marks necessary to identify the goods;

(2) the quantity or weight, and whether the weight was determined by the carrier or the shipper; and

(3) the apparent condition of the goods.

(c) Prima Facie Evidence of Receipt.--A bill of lading is prima facie evidence of receipt by the carrier of the goods described in the bill of lading.

Sec. 30343. General duties of carrier

(a) Vessel.--Before and at the beginning of a voyage, the carrier shall use due diligence to--

(1) make the vessel seaworthy; and

(2) properly man, equip, and supply the vessel.

(b) Receiving, Loading, Carrying, and Delivering.--The carrier shall properly and carefully receive, load, carry, and deliver the goods.

(c) Void Provision.--A provision in a bill of lading or shipping document limiting the liability of a carrier or vessel for failure to carry out the duties described in this section is void.

Sec. 30344. Defenses of carrier and vessel

(a) Due Diligence.--If a carrier has used due diligence as required by section 30343(a) of this title, the carrier and the vessel are not liable for loss or damage caused by an error in the navigation or management of the vessel.

(b) Other Defenses.--A carrier and the vessel are not liable for loss or damage caused by--

(1) dangers of the sea or other navigable waters;

(2) act of God;

- (3) act of a public enemy;
- (4) seizure under legal process;
- (5) act or omission of the shipper or owner of the property or their agent;
- (6) inherent defect, quality, or vice of the property;
- (7) insufficiency of packaging;
- (8) attempt to save life or property at sea; or
- (9) deviation to save life or property.

Sec. 30345. Civil penalty

(a) General.--A carrier, master, or agent of a carrier that commits any of the following violations is liable for a civil penalty of not more than \$2,000:

(1) Refusing to issue a bill of lading as required by section 30342 of this title.

(2) Contracting to limit a duty imposed by section 30343 of this title or a liability for breach of the duty.

(b) Lien.--The amount of the penalty and costs of the violation are a lien on the vessel whose owner, master, or agent committed the violation.

(c) Disposition of Penalty.--Half of the penalty shall be paid to the person injured by the violation and half to the United States Government.

CHAPTER 305--EXONERATION AND LIMITATION OF LIABILITY

Sec.

30501. Definition.

30502. Application.

30503. Declaration of nature and value of goods.

30504. Loss by fire.

30505. General limit of liability.

30506. Limit of liability in case of personal injury or death.

30507. Apportionment of losses.

30508. Provisions requiring notice of claim or limiting time
for bringing action.

30509. Prohibition on limitation of liability.

30510. Vicarious liability for medical malpractice.

30511. Action by owner for limitation.

30512. Liability as master, officer, or seaman not affected.

Sec. 30501. Definition

In this chapter, "owner" includes a charterer that mans, supplies, and navigates a vessel.

Sec. 30502. Application

Except as otherwise provided, this chapter (except section 30503) applies to all vessels operating on navigable waters.

Sec. 30503. Declaration of nature and value of goods

(a) General.--If an item named in subsection (b) of this section is in a parcel, package, or trunk when loaded on a vessel (either as cargo or baggage), the owner and master of the vessel shall not be liable as carriers unless the nature and value of the item, as provided in writing by the shipper at the time of loading, are included in the bill of lading. The liability of the owner or master is limited to the value stated in the bill of lading.

(b) Items.--The items referred to in subsection (a) of this section are precious metals, gold or silver plated articles, precious stones, jewelry, trinkets, watches, clocks, glass, china, coins, bills, securities, printings, engravings, pictures, stamps, maps, papers, silks, furs, lace, and similar items of high value and small size.

Sec. 30504. Loss by fire

The owner of a vessel is not liable for loss or damage to goods on the vessel caused by fire on the vessel, unless the fire resulted from the design or neglect of the owner.

Sec. 30505. General limit of liability

(a) General.--Except as provided in section 30506 of this title, the liability of the owner of a vessel for all claims arising from a cause that occurred without the privity or knowledge of the owner is limited to the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner for all claims arising from a cause that occurred without the privity or knowledge of that owner is limited to that owner's proportionate interest in the vessel and pending freight.

(b) Privity or Knowledge.--In a claim for personal injury or death, the privity or knowledge of the master or managing agent, at or before the beginning of each voyage, is imputed to the owner.

(c) Nonapplication.--This section does not apply to a claim for wages.

Sec. 30506. Limit of liability in case of personal injury or death

(a) General.--In the case of a seagoing vessel, if the amount determined under section 30505 of this title is such that the portion available to pay claims for personal injury or death is less than \$420 times the tonnage of the vessel, that portion shall be increased to \$420 times the tonnage of the vessel. That portion may be used only to pay claims for personal injury or death.

(b) Calculation of Tonnage.--Under subsection (a) of this section, the tonnage of a self-propelled vessel is the gross tonnage without deduction for engine room, and the tonnage of a sailing vessel is the tonnage for documentation. However, space for the use of seamen is excluded.

(c) Claims Arising on Distinct Occasions.--Separate limits of liability apply to claims for personal injury or death arising on distinct occasions.

(d) Nonapplication.--This section does not apply to a pleasure yacht, tug, towboat, towing vessel, tank vessel, fishing vessel, fish tender vessel, canal boat, scow, car float, barge, lighter, or nondescript vessel.

Sec. 30507. Apportionment of losses

If the amount determined under sections of this title is insufficient to pay all claimants, the claimants shall be paid in proportion to their respective losses.

Sec. 30508. Provisions requiring notice of claim or limiting time for bringing action

(a) Minimum Time Limits.--(1) The owner, master, manager, or agent of a vessel transporting passengers or property between ports on navigable waters may not include in a regulation or contract a provision limiting the period for--

(A) giving notice of, or filing a claim for, personal injury or death to less than 6 months after the date of the injury or death; or

(B) bringing a civil action for personal injury or death to less than one year after the date of the injury or death.

(2) A regulation or contract described in paragraph (1) of this subsection is void.

(b) Effect of Failure To Give Notice.--When notice of a claim for personal injury or death is required by a contract, the failure to give the notice is not a bar to recovery if-

(1) the court finds that the owner, master, or agent of the vessel had knowledge of the injury or death and the owner has not been prejudiced by the failure;

(2) the court finds there was a satisfactory reason why the notice could not have been given; or

(3) the owner of the vessel fails to object to the failure to give notice.

(c) Tolling of Period To Give Notice.--If a claimant is a minor or mental incompetent, or if a claim is for wrongful death, any period provided by a contract for giving notice of the claim is tolled until the earlier of-

(1) the date a legal representative is appointed for the minor, incompetent, or decedent's estate; or

(2) 3 years after the injury or death.

(d) Nonapplication.--This section does not apply to a pleasure yacht, tug, towboat, towing vessel, tank vessel, fishing vessel, fish tender vessel, canal boat, scow, car float, barge, lighter, or nondescript vessel.

Sec. 30509. Prohibition on limitation of liability

(a) In General.--(1) The owner, master, manager, or agent of a vessel transporting passengers between ports on navigable waters may not include in a regulation or contract a provision limiting--

(A) the liability of the owner, master, or agent for personal injury or death caused by the negligence of the owner or the owner's employees or agents; or

(B) the right of a claimant for personal injury or death to a trial.

(2) A regulation or contract described in paragraph (1) of this subsection is void.

(b) Emotional Distress, Mental Suffering, and Psychological Injury.--(1) Subsection (a) of this section does not prohibit a provision in a contract or in ticket conditions of carriage with a passenger that relieves an owner, master, manager, agent, operator, or crewmember of a vessel from liability for infliction of emotional distress, mental suffering, or psychological injury so long as the provision does not limit such liability if the emotional distress, mental suffering, or psychological injury was--

(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator;

(B) the result of the claimant having been at actual risk of physical injury, and the risk was caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator; or

(C) intentionally inflicted by a crewmember or the owner, master, manager, agent, or operator.

(2) This subsection does not limit the liability of a crewmember or the owner, master, manager, agent, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.

Sec. 30510. Vicarious liability for medical malpractice

In a civil action by any person in which the owner or operator of a vessel or employer of a crewmember is claimed to have vicarious liability for medical malpractice with regard to a crewmember occurring at a shoreside facility, and to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, the owner, operator, or employer is entitled to rely on any statutory limitations of liability applicable to the doctor, hospital, medical facility, or other health care provider in the State of the United States in which the shoreside medical care was provided.

Sec. 30511. Action by owner for limitation

(a) General.--The owner of a vessel may bring a civil action in admiralty in a district court of the United States for limitation of liability under this chapter. The action must be brought within 6 months after a claimant gives the owner written notice of a claim.

(b) Creation of Fund.--When the action is brought, the owner shall--

(1) deposit with the court, for the benefit of claimants--

(A) an amount equal to the value of the owner's interest in the vessel and pending freight, or approved security; and

(B) an amount, or approved security, as the court may fix from time to time as necessary to carry out this chapter; or

(2) transfer to a trustee appointed by the court, for the benefit of claimants--

(A) the owner's interest in the vessel and pending freight; and

(B) an amount, or approved security, as the court may fix from time to time as necessary to carry out this chapter.

(c) Cessation of Other Actions.--When an action has been brought under this section and the owner has complied with subsection (b) of this section, all other proceedings against the owner related to the matter in question shall cease.

Sec. 30512. Liability as master, officer, or seaman not affected

The limitations on liability of a vessel owner in this chapter (other than section 30503) do not reduce or otherwise affect the remedy to which a party may be entitled, against the master, officer, or seaman of the vessel on account of embezzlement, injury, loss, or destruction of property put on board the vessel, or on account of negligence, fraud, or other misconduct, nor to reduce or remove any responsibility to which the master or seaman of the vessel may by law be liable, notwithstanding that the master or seaman may be an owner or part owner of the vessel.

CHAPTER 307--SUITS IN ADMIRALTY

Sec.

- 30701. Definition; exemption from arrest or seizure; nonapplication; chapter designation.
- 30702. Authorization for claims against the United States Government.
- 30703. Applicable procedure; costs and interest; security.
- 30704. Release of privately owned vessel after arrest or attachment.
- 30705. Time limit on bringing action; exclusive remedy.
- 30706. Exoneration and limitation.
- 30707. Seizures and other proceedings in a foreign jurisdiction.
- 30708. Payment of judgment, award, or settlement.
- 30709. Arbitration, compromise, or settlement.
- 30710. Claims by United States Government for salvage services.
- 30711. Disposition of amounts recovered by the United States Government.

Sec. 30701. Definition; exemption from arrest or seizure; nonapplication; chapter designation

(a) Definition.--In this chapter, "federally-owned corporation" means a corporation in which the United States Government owns all the outstanding capital stock.

(b) Exemption from Arrest or Seizure.--The following are not subject to arrest or seizure by judicial process in the United States:

- (1) A vessel owned by, possessed by, or operated by or for the United States Government or a federally-owned corporation.
- (2) Cargo owned or possessed by the Government or a federally-owned corporation.

(c) Nonapplication to Panama Canal Commission.--This chapter does not apply to the Panama Canal Commission.

(d) Chapter Designation.--This chapter may be cited as the "Suits in Admiralty Act".

Sec. 30702. Authorization for claims against the United States Government

(a) Waiver of Immunity.--If a civil action in admiralty could be brought were the defendant a private party, a civil action in admiralty may be brought in personam against the United States Government or a federally-owned corporation. An action or claim described in this section shall be tried without a jury.

(b) Venue.--A civil action under this section shall be brought in the district court of the United States for the district in which--

- (1) any plaintiff's residence or principal place of business is located; or
- (2) the vessel or cargo involved is found.

(c) Filing of Counterclaim, Cross-Claim, or Third-Party Claim.--If the United States Government or a federally-owned corporation brings a civil action in rem or in personam in any district, a cross-claim in personam may be filed or a set-off claimed against the United States or the corporation with the same force and effect as if the civil action had been filed by a private party.

(d) Transfer of Actions.--On a motion by a party, the court may transfer the action to any other district court of the United States.

Sec. 30703. Applicable procedure; costs and interest; security

(a) General.--Except as otherwise provided in this chapter, a civil action in personam under this chapter shall proceed and be decided according to the principles of law and rules of practice applicable in like cases between private parties.

(b) Proceeding Under Action-In-Rem Principles.--(1) The action may proceed according to the principles of an action in rem if--

(A) the plaintiff elects in the complaint; and

(B) it appears that an action in rem could have been brought if the vessel or cargo had been privately owned and possessed.

(2) An election under paragraph (1) of this subsection does not prevent the plaintiff from seeking relief in personam in the same action.

(c) Costs and Interest in General.--A judgment against the United States Government or a federally-owned corporation under this chapter may include costs and interest at the rate of 4 percent a year, running from the date the action was brought until the judgment is satisfied.

(d) Contract Providing for Interest.--Notwithstanding subsection (c) of this section, if the claim is based on a contract providing for interest, interest may be awarded at the rate and for the period provided in the contract.

(e) Security.--Neither the United States Government nor a federally-owned corporation may be required to give a bond or admiralty stipulation in a civil action under this chapter.

Sec. 30704. Release of privately owned vessel after arrest or attachment

If a privately owned vessel not in the possession of the United States Government or a federally-owned corporation is arrested or attached in a civil action arising from prior ownership, possession, or operation by the Government or corporation, the vessel shall be released without bond or stipulation on a statement by the Attorney General or other authorized law officer that the Government is interested in the action, desires release of the vessel, and agrees to pay any judgment obtained by the plaintiff. After the vessel is released, the action shall proceed against the Government as an action under this chapter.

Sec. 30705. Time limit on bringing action; exclusive remedy

(a) Time Limit on Bringing Action.--A civil action under this chapter must be brought within 2 years after the cause of action arose.

(b) Exclusive Remedy.--If a civil action is authorized by this section, an action arising out of the same subject matter may not be brought against an officer, employee, or agent of the Government or a federally-owned corporation whose act or omission gave rise to the action.

Sec. 30706. Exoneration and limitation

The United States Government and a federally-owned corporation are entitled to the same exemptions from and limitations on liability as a private party.

Sec. 30707. Seizures and other proceedings in a foreign jurisdiction

(a) General.--If a vessel or cargo described in section 30701(b) or 30704 of this title is arrested, attached, or otherwise seized by judicial process in a foreign country, or if an action is brought in a court of a foreign country against the master of such a vessel for a claim arising from the ownership, possession, or operation of the vessel, or the ownership, possession, or carriage of such cargo, the Secretary of State, on request of the

Attorney General or an individual authorized by the Attorney General, may direct the United States consul residing at or nearest the place at which the action was brought--

(1) to claim the vessel or cargo as immune from arrest, attachment, or seizure and to execute an agreement, stipulation, bond, or undertaking, for the United States Government or federally-owned corporation, for the release of the vessel or cargo and the prosecution of any appeal; or

(2) if an action has been brought against the master of such a vessel, to enter the appearance of the Government or corporation and to pledge the credit of the Government or corporation to the payment of any judgment and costs in the action.

(b) Arranging Bond or Stipulation.--The Attorney General may--

(1) arrange with a bank, surety company, or other person, whether in the United States or a foreign country, to execute a bond or stipulation; and

(2) pledge the credit of the Government to secure the bond or stipulation.

(c) Payment of Judgment.--The appropriate accounting officer of the Government or corporation may pay a judgment in an action described in subsection (a) of this section on presentation of a copy of the judgment if certified by the clerk of the court and authenticated by--

(1) the certificate and seal of the United States consul claiming the vessel or cargo, or by the consul's successor; and

(2) the certificate of the Secretary of State as to the official capacity of the consul.

(d) Right To Claim Immunity Not Affected.--This section does not affect the right of the Government to claim immunity of a vessel or cargo from foreign jurisdiction.

Sec. 30708. Payment of judgment, award, or settlement

(a) General.--The appropriate accounting officer of the United States Government shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy of the judgment, award, or settlement.

(b) Source of Payment.--(1) Payment shall be made from an appropriation or fund available specifically for the purpose.

(2) If an appropriation or fund is not specifically available, an amount is appropriated, out of money in the Treasury not otherwise appropriated, to pay the judgment, award, or settlement.

Sec. 30709. Arbitration, compromise, or settlement

The Secretary of a department of the United States Government, or the board of trustees of a federally-owned corporation, may arbitrate, compromise, or settle a claim if a civil action to enforce the claim is authorized by this chapter.

Sec. 30710. Claims by United States Government for salvage services

(a) Civil Action.--The United States Government, a federally-owned corporation, and the crew of a merchant vessel owned or operated by the Government or the corporation may bring a civil action to recover for salvage services provided by the vessel and crew.

(b) Deposit of Amounts Recovered.--Any amount recovered under this section by the Government for its own benefit, and not for the benefit of the crew, shall be deposited in the Treasury to the credit of the department of the Government, or the corporation, having control of the possession or operation of the vessel.

Sec. 30711. Disposition of amounts recovered by the United States Government

Amounts recovered in a civil action brought by the United States Government on a claim arising from the ownership, possession, or operation of a merchant vessel, or the ownership, possession, or carriage of cargo, shall be deposited in the Treasury to the credit of the department of the Government, or the federally-owned corporation, having control of the vessel or cargo, for reimbursement of the appropriation, insurance fund, or other fund from which the compensation for which the judgment was recovered was or will be paid.

Sec. 30712. Reports

At each session of Congress, the Secretary of each department of the United States Government, and the board of trustees of each federally-owned corporation shall report to Congress any arbitration awards or settlements under this chapter.

CHAPTER 309--CIVIL ACTIONS INVOLVING PUBLIC VESSELS

Sec.

30901. Admiralty claims involving public vessels; chapter designation.

30902. Venue; applicability of chapter 307 provisions.

30903. Counterclaim, cross-claim, or third-party claim; security.

30904. Subpoenas to officers or members of crew.

30905. Claims by nationals of foreign countries.

30906. Arbitration, compromise, or settlement.

30907. Payment of judgment, award, or settlement.

30908. Lien not created against public vessels.

30909. Exoneration and limitation.

30910. Reports.

Sec. 30901. Admiralty claims involving public vessels; chapter designation

(a) General.--A civil action in admiralty may be brought in personam against the United States Government for damages caused by a public vessel of the United States, and for compensation for towage and salvage services rendered to a public vessel.

(b) Chapter Designation.--This chapter may be cited as the "Public Vessels Act".

Sec. 30902. Venue; applicability of chapter 307 provisions

(a) Venue.--A civil action under this chapter shall be brought in the district court of the United States for the district in which the vessel or cargo involved is found at the time suit is filed. If the vessel or cargo is outside the territorial waters of the United States--

(1) the action shall be brought in the district court of the United States for any district in which any plaintiff resides or has a place of business; or

(2) if none of the plaintiffs resides or has a place of business in the United States, the action may be brought in the district court of the United States for any district.

(b) Applicability of Chapter 307 Provisions.--A civil action under this chapter shall be subject to and proceed under the provisions of chapter 307 of this title, except to the extent that they are inconsistent with the provisions of this chapter.

(c) Award of Interest.--(1) A judgment against the United States Government or a federally-owned corporation under this chapter may include interest, running from the date of the judgment until the judgment is satisfied.

(2) Notwithstanding paragraph (1), if the claim is based on a contract providing for interest, interest may be awarded for the period provided in the contract.

Sec. 30903. Counterclaim, cross-claim, or third-party claim; security

(a) General.--If the United States Government brings a civil action in rem or in personam in any district for damages caused by a privately owned vessel, a counterclaim, cross-claim, or third-party claim in personam may be filed or a set-off claimed against the Government for damages arising out of the same subject matter or cause of action.

(b) Security by Private Parties.--If the action involves a public vessel and the Government files a counterclaim, the person against whom the counterclaim is filed shall give security in the usual form and amount to respond to the counterclaim, unless the

court for cause shown orders otherwise. The action shall be stayed until the security is given.

Sec. 30904. Subpoenas to officers or members of crew

An officer or member of the crew of a public vessel may be subpoenaed in a civil action under section 30901 of this title only with the consent of--

(1) the Secretary of the department or the head of the independent establishment having control of the vessel at the time the cause of action arose; or

(2) the master or commanding officer of the vessel at the time the subpoena is issued.

Sec. 30905. Claims by nationals of foreign countries

A national of a foreign country may assert a claim against the Government of the United States involving a public vessel only if the court in which the action is brought is satisfied that the government of that country allows nationals of the United States to bring a civil action in its courts under similar circumstances.

Sec. 30906. Arbitration, compromise, or settlement

The Attorney General may arbitrate, compromise, or settle a claim involving a public vessel if a civil action to enforce the claim is authorized by this chapter and the claim has been asserted in a civil action.

Sec. 30907. Payment of judgment, award, or settlement

The appropriate accounting officer of the United States Government shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy of the judgment, award, or settlement out of funds made available from an appropriation for the purpose.

Sec. 30908. Lien not created against public vessels

This chapter does recognize the existence of or create a lien against a public vessel of the United States.

Sec. 30909. Exoneration and limitation

The United States Government is entitled to the same exemptions from and limitations on liability as a private party.

Sec. 30910. Reports

At each session of Congress, the Attorney General shall report to Congress any settlements made under this chapter.

CHAPTER 311--EXTENSION OF ADMIRALTY JURISDICTION TO CASES INVOLVING DAMAGE OR INJURY ON LAND

Sec.

31101. Extension of admiralty and maritime jurisdiction.

31102. Actions under this chapter; exclusive remedy.

31103. Requirement for submission of administrative claim.

Sec. 31101. Extension of admiralty and maritime jurisdiction

The admiralty and maritime jurisdiction of the United States extends to and includes cases of damage or injury, to person or property, caused by a vessel on navigable waters, notwithstanding that the injury or damage occurs or is completed on land.

Sec. 31102. Actions under this chapter; exclusive remedy

(a) General.--A civil action in a case referred to in section 31101 of this title may be brought the same as if the personal injury or property damage had occurred and been completed on navigable waters.

(b) Exclusive Remedy.--As to any cause of action against the United States under this chapter, the exclusive remedy is under chapters 307 and 309 of this title.

Sec. 31103. Requirement for submission of administrative claim

A civil action may be brought against the United States Government or a federally-owned corporation under this chapter only after--

(1) the claim has been submitted in writing to the agency owning, possessing, or operating the vessel at the time the cause of action arose; and

(2) a period of 6 months has expired since the claim was submitted.

(4) Insert after chapter 313 the following new chapters:

CHAPTER 315--PERSONAL INJURY OR DEATH OF SEAMAN

Sec.

31501. Personal injury to or death of seaman.

31502. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters of other countries.

Sec. 31501. Personal injury to or death of seaman

(a) Cause of Action.--A seaman injured in the course of employment or, if the seaman dies from the injury, the personal representative of the seaman may elect to bring a civil action at law, with the right of trial by jury, against the employer. Laws of the United States regulating recovery for personal injury to, or death of, a railway employee apply to an action under this section.

(b) Venue.--An action under this section shall be brought in the judicial district in which the employer resides or the employer's principal office is located.

Sec. 31502. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters of other countries

(a) Definition.--In this section, "continental shelf" has the meaning given that term in article I of the 1958 Convention on the Continental Shelf.

(b) Restriction.--Except as provided in subsection (c) of this section, a civil action for maintenance and cure or for damages for personal injury or death may not be brought under a maritime law of the United States if--

(1) the individual suffering the injury or death was not a citizen of the United States or lawfully admitted for permanent residence in the United States at the time of the incident giving rise to the action;

(2) the incident occurred in the territorial waters or waters overlaying the continental shelf of a country other than the United States; and

(3) the individual suffering the injury or death was employed at the time of the incident by a person engaged in exploring for, developing, or producing offshore mineral or energy resources, including drilling, mapping, surveying, diving, pipelaying, maintaining, repairing, building, or transporting supplies, equipment, or personnel, but not including transporting those resources by a vessel built or adapted primarily to carry oil in bulk in the cargo spaces.

(c) Nonapplication.--Subsection (b) of this section does not apply if the individual bringing the action establishes that a remedy is not available under the laws of--

(1) the country asserting jurisdiction over the area in which the incident occurred; or

(2) the country in which the individual suffering the injury or death maintained citizenship or residency at the time of the incident.

CHAPTER 317--OTHER MARITIME TORT ISSUES

Sec.

31701. Liability to passengers.

31702. Liability of master, mate, engineer, and pilot.

31703. Time limit on bringing action.

31704. Evidence of financial responsibility for sailing school vessels.

Sec. 31701. Liability to passengers

(a) Liability.--The owner and master of a vessel, and the vessel, are liable for personal injury to a passenger or damage to a passenger's baggage caused by--

(1) a neglect or failure to comply with part B or F of subtitle II of this title;
or

(2) a known defect in the steaming apparatus or hull of the vessel.

(b) Not Subject to Limitation.--A liability imposed under this section is not subject to limitation under chapter 305 of this title.

Sec. 31702. Liability of master, mate, engineer, and pilot

A person may bring a civil action against a master, mate, engineer, or pilot of a vessel, and recover damages, for personal injury or loss caused by the master's, mate's, engineer's, or pilot's--

(1) negligence or willful misconduct; or

(2) neglect or refusal to obey the laws governing the navigation of vessels.

Sec. 31703. Time limit on bringing action

Except as otherwise provided by law, a civil action for damages for personal injury or death arising out of a maritime tort must be brought within 3 years after the cause of action arose.

Sec. 31704. Evidence of financial responsibility for sailing school vessels

(a) Definitions.--In this section, "sailing school instructor", "sailing school student", and "sailing school vessel" have the same meaning given those terms in section 2101 of this title.

(b) Duty.--The owner or charterer of a sailing school vessel shall maintain evidence of financial responsibility to pay liability for personal injury or death to sailing school students and sailing school instructors arising on a voyage on the vessel. The amount of financial responsibility shall be at least \$50,000 for each student and