

CHAPTER 115. BOATS CARRYING PASSENGERS FOR HIRE

§115.1. Purpose.

This chapter establishes regulations for boats carrying passengers for hire **[to protect the health and safety of the passengers and operators]**. **All regulations contained in this chapter are promulgated under section 5123(a)(1) of the code (relating to general boating regulations) and are deemed necessary for the health and safety of passengers, operators and persons on, in or towed by boats on, in or along the waters of this Commonwealth.** The definition “passenger-carrying boat” as set forth at section 102 of the code (relating to definitions) applies to this chapter and to the term “boats carrying passengers for hire.”

§115.2. Initial certification.

(a) An owner of a boat carrying passengers for hire shall apply for certification of the boat on a form provided by the Commission and shall provide the information requested on the form.

(b) An applicant shall submit the following documentation in addition to the application form:
(1) *Form PFBC-291c*. A Form PFBC-291c, Vessel Characteristic Report, has two parts. Part A is to be completed and signed by the owner. Part B is to be completed by a qualified **[licensed]** marine surveyor, **[approved by the Commission] accredited by one of the national marine surveyors associations**, who conducted the inspection within 6 months preceding the date of the application. The inspection report shall include a statement by the marine surveyor as to whether or not the boat is suitable for the use intended, or if not suitable, the requirements necessary to bring about compliance. The report shall also include the opinion of the marine surveyor as to the total number of persons who may be carried on the boat. **[If the boat is to carry more than 49 passengers or have more than one passenger carrying deck, this opinion shall be based on the performance of the boat in an incline experiment. This does not waive the requirement for an incline experiment for other boats if the marine surveyor determines a need for one because of other design conditions.] This opinion shall be based on a United States Coast Guard approved stability test suitable for the type and size of boat.**

(2) *Proof of financial responsibility*. An **[owner of a boat carrying passengers for hire] applicant** shall furnish the Commission proof of financial responsibility. The proof shall evidence the **[licensee’s] applicant’s** ability to respond in damages on account of accidents arising out of the maintenance or use of the passenger carrying boat. The minimum amount of coverage shall be **[\$250,000] \$500,000** because of injury or death to one person in an accident and **[\$500,000] \$1,000,000** because of injury or death to two or more persons in an accident and **[\$10,000] \$25,000** because of damage to property of others in an accident. Proof of financial responsibility shall be in a form acceptable to the Commission and shall provide for notice to the Commission in the event of cancellation of liability insurance.

§115.3. Recertification.

- (a) A boat carrying passengers for hire shall have reinspections and recertifications as follows:
- (1) **[A boat with a wooden formed hull. Inspection and dry dock examination by a qualified marine surveyor, approved by the Commission, at least once every 3 years.**
 - (2) **Other boats. In-water inspection at least once every 3 years and dry dock examination at least once every 6 years both to be conducted by a qualified marine surveyor approved by the Commission.] An in-water inspection and dry dock examination shall be conducted by a qualified marine surveyor accredited by one of the national marine surveyors associations at least once every 3 years.**
 - (2) **For passenger-carrying boats certified as of January 1, 2013, a stability test conducted by a qualified accredited marine surveyor is required in order to maintain certification. The stability test shall be United States Coast Guard approved and suitable for the type and size of boat. The Commission will accept results of a stability test conducted prior to January 1, 2013 if the boat was not involved in an accident or was structurally modified since the original stability test. Results of the stability test shall be forwarded to the Commission prior to the first commercial use of the boat in 2013.**
 - (3) **A new stability test shall be conducted by a qualified accredited marine surveyor whenever a boat has been involved in an accident or has been structurally modified. The stability test shall be approved by the United States Coast Guard and be suitable for the type and size of boat.**
- (b) The owner will forward to the Commission a copy of the recertification report along with other documents requested by the Commission.

§115.4. Annual safety inspections.

- (a) Annual safety inspections are required every year after the year of initial certification. When the vessel is ready for inspection, the owner shall apply for an annual safety inspection **[in writing] by electronic mail or telephone** to the regional law enforcement office for the region in which the boat is to operate. The application shall be submitted at least 30 days prior to the requested date of inspection. This annual inspection shall be conducted prior to the first commercial use of the boat or within 30 days of the date of issue on the certificate of inspection if the boat operates year round.
- (b) On the agreed date of inspection, the owner or representative shall be available to conduct the inspection jointly with the inspector designated by the Commission.
- (c) Results of the inspection shall be recorded on Form PFC-291b “Vessel Inspection Checkoff List.” Upon completion of the inspection, deficiencies shall be noted on the reverse of the form. Upon correction of the deficiencies, the owner or a representative and the inspector designated by the Commission shall sign the respective certifications.

(d) The owner or a representative shall present on the day of inspection a current certificate of insurance with minimum coverage as described in § 115.2(b)(2) (relating to initial certification) to the inspector designated by the Commission.

§115.5. Certification of inspection.

(a) *Display of certificate.* The certificate of inspection shall be framed under transparent material and prominently displayed in a public space aboard the boat or, if it is not feasible to display the certificate on the boat, it shall be displayed at a prominent place dockside where it can be seen by passengers boarding the boat. It is unlawful for the owner of a boat inspected under this section to fail to display the certificate of inspection as provided in this section.

(b) *Contents of certificate.* Form PFBC-291a shall be used as the certificate of inspection. The certificate of inspection shall include the following information:

- (1) The name of the vessel, if applicable.
- (2) The registration number of the vessel.
- (3) The hull identification number of the vessel.
- (4) The name, address and zip code of the owners.
- (5) The date qualified for initial inspection.
- (6) Hull material, such as wood, steel, aluminum, plastic, fiberglass or other.
- (7) The type of propulsion, such as outboard, inboard, inboard/outboard or other and the horsepower rating.
- (8) The type of fuel, such as gas, diesel or other.
- (9) The length and beam.
- (10) The total number of passengers allowed.
- (11) Operating personnel requirements, such as one or more operators, one or more line handlers or assistants, or both.
- (12) The total number of Coast Guard approved flotation devices required by type and size.
- (13) Fire extinguisher indicating number, type and size, such as two each Type BI Carbon Dioxide.
- (14) The body of water upon which the boat is to be employed and route if it is restricted.
- (15) The seasons of run-starting and closing date.
- (16) The hours of operation—starting time and final docking time.

(c) *Validation of certificates.* The certificate of inspection will be valid with the original signatures of the Director, Bureau of **[Boating] Law Enforcement** or a designee, the inspecting officer and the owner.

(d) *Compliance.* It is unlawful to operate a boat carrying passengers for hire if the boat is not in compliance with the certificate of inspection. **[Compliance with subsection (b)(10)—(13) and (16) is deemed necessary for the health and safety of passengers and operators as set forth at section 5123(a)(1) of the code (relating to general boating regulations).]**

§115.6. Exception.

A boat operating under a certificate of inspection from the United States Coast Guard does not require inspection or certification under this chapter. The operators of the boats are subject to the licensing requirements of the United States Coast Guard certificate of inspection and United States Coast Guard regulations and are not subject to the licensing requirements of §115.9 (relating to licenses for operators).

[§115.7. Approved marine surveyors.

The Commission will maintain a list of approved qualified marine surveyors. A marine surveyor may request approval by the Commission by submitting a letter listing education, licenses, registration, accreditation and other pertinent information which will attest to qualifications as a marine surveyor. Upon approval, the Commission will notify the surveyor that their name has been added to the list.]

§115.8. Personnel requirements of passenger carrying boats.

(a) It is unlawful for a person to operate a boat carrying passengers for hire unless the person first obtains an operator's license for passenger carrying boats under §115.9 (relating to licenses for operators).

(b) It is unlawful to operate a boat carrying passengers for hire without an additional qualified crew member if one of the following conditions exist:

- (1) The length of the boat exceeds 45 feet.
- (2) The boat is certified to carry more than 49 passengers.
- (3) The operator cannot handle the mooring lines or associated equipment without assistance.

(c) To qualify as a crew member, an individual shall meet the following conditions. The individual shall:

- (1) Be at least 16 years of age.
- (2) Be capable of performing the duties required.
- (3) Possess a valid Boating Safety Education Certificate.

(4) Possess and maintain current certification in basic CPR and basic first aid skills. Crew members shall present proof of CPR or first aid certification upon request of the Commission.

§115.9. Licenses for operators.

(a) *Eligibility.* Persons, 18 years of age and older, **[of good character and]** in good physical condition and who possess a valid Boating Safety Education Certificate are eligible for licensing as operators of passenger-carrying boats.

(b) *Physical examination.* The physical condition of an applicant for an operator's license shall be certified by a physician after a physical examination. The physician's certification shall include a statement attesting **[to unimpaired color sense of the applicant] that the applicant displays normal color vision.** **[The] This** requirement **[of unimpaired color sense]** may be waived if the operation of vessels for which the license is sought will be limited to daylight hours. **[Licensees shall notify the Commission of changes in physical condition that may affect their ability to operate a boat carrying passengers for hire.] The physician's certification also shall include a statement that the applicant was subject to and passed a standard drug screen as part of the physical examination.**

(c) *Application.* An application for a boat operator's license shall be made on the form provided by the Commission. The completed form shall be submitted with the applicable fee as listed in section **[5104(b)] 5104(a)(6)** of the code.

(d) *Examination.* **[Persons applying for a license to operate a boat carrying passengers for hire] An applicant for a boat operator's license** shall pass a professional examination to demonstrate sufficient experience and capabilities to assume the responsibilities for operation of a passenger-carrying boat. Examination will include oral questions and a practical test of boating skills using the boat—or a boat of identical size and type—for which an operator's license is being requested. If the applicant does not pass the oral examination or the practical test, 30 days is required prior to taking a retest. A request for the retest shall be submitted on Form PFBC-292.

(e) **CPR and first aid.** **An applicant for a boat operator's license shall possess current certification in basic CPR and basic first aid skills. A licensed boat operator shall maintain current certifications in these areas and shall present proof of CPR and first aid certification upon request of the Commission.**

(f) *Contents and display of boat operator's license.* The operator's **[certificate] license** shall contain a photograph of the licensee **[approximately 2 inches by 2 inches in dimension]**. In addition, it will list the name and the limitations on the operator with respect to size of vessel authorized to operate **and** day or night restrictions **[and area or body of water in which authorized to operate]**. **Licenses issued under this section shall be valid on any sole state water for boats up to and including the size listed on the license.** The Commission will validate the operator's **[certificate] license**. **[The operator shall display the operator's certificate alongside the certificate of inspection required by §115.3 (relating to recertification) onboard the boat. It is unlawful to fail to display the validated operator's certificate as provided in this section.] The operator shall carry and display the license while in actual operation of a passenger-carrying boat and shall produce the license upon request of the Commission.**

[(f)] (g) Expiration. **[Operator certificates] Licenses** issued under this section will expire on December 31, 5 years from the date of issuance.

(h) Waiver. **The Commission will waive the licensing requirement of this section for individuals possessing a current valid United States Coast Guard certification appropriate for the size and type of boat they intend to operate upon presentation of proof of their**

Coast Guard Merchant Mariner Credential or other Coast Guard certification and proof of certification in basic CPR and first aid.

§115.10. Renewal of operator's license.

(a) Operators may apply for a renewal of their license 60 days prior to its expiration. Applications shall be made on the form provided by the Commission and accompanied by the appropriate fees.

(b) **Applicants for renewal of licenses shall [disclose changes in their physical condition or operational capabilities that might affect their ability to operate a boat carrying passengers for hire] undergo a new physical examination and submit a new physician's certification as described in §115.9(b) (relating to licenses for operators).**

(c) If there are no changes to the limitations imposed by the original license, a practical [**or written**] examination is not required. An oral examination may be required if there have been significant changes to regulations concerning safe operation of boats, carriage requirements for safety equipment or carrying passengers for hire.

(d) A licensed operator who does not renew a license as required by subsection (a) shall reapply in accordance with §115.9 [**(relating to licenses for operators)**].

§115.11. Personal flotation devices.

It is unlawful to operate a boat carrying passengers for hire unless it carries sufficient, serviceable Type I, II, III or V personal flotation devices to provide one for the maximum number of passengers and crew members indicated on the certificate. It is unlawful to operate a boat carrying passengers for hire unless it carries an additional number of personal flotation devices suitable for children equal to at least 10% of the maximum capacity of the boat. If more than 10% of the passengers are children, additional personal flotation devices sized for children are required.

§115.12. Applicability of other regulations.

The boats governed by this chapter shall comply with this subpart with regard to registration, equipment, **accident reporting** and operation. Also see Chapters 93, 95, 97, **101**, 103, 105 and 107.

§115.13. Authority for Executive Director to issue temporary waiver.

The Executive Director may waive or modify the operating requirements of this chapter which affect the conduct of a business enterprise in which small boats restricted to an area controlled by

the management are used. The owner of the business or an agent shall request the waiver or modification in writing and furnish convincing justification that the public safety is not lessened by the action. The action by the Executive Director shall be construed as temporary pending action by the Commission at its next regularly scheduled meeting.

§115.14. Prohibited acts.

It is unlawful for a person to operate a passenger-carrying boat or for the owner of a passenger-carrying boat to permit its operation except in compliance with the inspection, certification and licensing requirements of this chapter.