

116TH CONGRESS
1ST SESSION

H. R. 3140

To amend title 46, United States Code, to set standards for the operation of uninspected commercial fishing vessels, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2019

Mr. PAPPAS introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 46, United States Code, to set standards for the operation of uninspected commercial fishing vessels, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commercial Fishing
5 Industry Vessel Clarification Act”.

6 **SEC. 2. UNINSPECTED COMMERCIAL FISHING INDUSTRY**
7 **VESSELS.**

8 (a) IN GENERAL.—Subtitle II of title 46, United
9 States Code, is amended by striking chapter 45 and insert-
10 ing the following:

1 **“CHAPTER 45—UNINSPECTED**
 2 **COMMERCIAL INDUSTRY VESSELS**

“Sec.

“4501. Application.

“4502. Definitions.

“4503. Safety standards.

“4504. Vessel construction.

“4505. Operating stability.

“4506. Training.

“4507. Vessel certification.

“4508. Alternate safety compliance program.

“4509. Substitute safety compliance program.

“4510. Enhanced substitute safety compliance program.

“4511. Prohibited acts.

“4512. Termination of unsafe operations.

“4513. Penalties.

“4514. Compliance; Secretary actions.

“4515. Exemptions.

“4516. Regulations; considerations and limitations.

“4517. Fishing safety grants.

3 **“§ 4501. Application**

4 “(a) IN GENERAL.—Except as provided in subsection
 5 (b), this chapter applies to an uninspected vessel that is
 6 a fishing vessel, fish processing vessel, or fish tender ves-
 7 sel.

8 “(b) CARRIAGE OF BULK DANGEROUS CARGOES.—
 9 This chapter does not apply to the carriage of bulk dan-
 10 gerous cargoes regulated under chapter 37.

11 **“§ 4502. Definitions**

12 “In this chapter:

13 “(1) The term ‘accountable vessel’ means a ves-
 14 sel to which this chapter applies that—

15 “(A)(i) was built after December 31, 1988,
 16 or undergoes a major conversion completed
 17 after that date; and

1 “(ii) operates with more than 16 individ-
2 uals on board; or

3 “(B) in the case of a fish tender vessel, en-
4 gages in the Aleutian trade.

5 “(2) The term ‘auxiliary craft’ means a vessel
6 that is carried onboard a fishing vessel and is nor-
7 mally used to support fishing operations.

8 “(3)(A) The term ‘built’ means, with respect to
9 a vessel, that the vessel’s construction has reached
10 any of the following stages:

11 “(i) The vessel’s keel is laid.

12 “(ii) Construction identifiable with the ves-
13 sel has begun and assembly of that vessel has
14 commenced comprising of at least 50 metric
15 tons or one percent of the estimated mass of all
16 structural material, whichever is less.

17 “(B) In the case of a vessel greater than 79
18 feet in overall length, for purposes of subparagraph
19 (A)(i), a keel is deemed to be laid when a marine
20 surveyor affirms that a structure adequate for serv-
21 ing as a keel for such vessel is in place and identi-
22 fied for use in the construction of such vessel.

23 “(4) The term ‘subject vessel’ means a vessel to
24 which this chapter applies that—

1 “(A) operates beyond 3 nautical miles from
2 the baseline from which the territorial sea of
3 the United States is measured or beyond 3 nau-
4 tical miles from the coastline of the Great
5 Lakes;

6 “(B) operates with more than 16 individ-
7 uals on board; or

8 “(C) in the case of a fish tender vessel, en-
9 gages in the Aleutian trade.

10 “(5) The term ‘substitute-eligible vessel’ means
11 a fishing vessel or fish tender vessel that is—

12 “(A) a subject vessel;

13 “(B) at least 50 feet overall in length, and
14 not more than 180 feet overall in length as list-
15 ed on the vessel’s certificate of documentation
16 or certificate of number; and

17 “(C) built after February 8, 2016.

18 **“§ 4503. Safety standards**

19 “(a) IN GENERAL.—The Secretary shall prescribe
20 regulations that require that each vessel to which this
21 chapter applies shall be equipped with—

22 “(1) readily accessible fire extinguishers capable
23 of promptly and effectively extinguishing a flam-
24 mable or combustible liquid fuel fire;

1 “(2) at least one readily accessible life preserver
2 or other lifesaving device for each individual on
3 board;

4 “(3) an efficient flame arrestor, backfire trap,
5 or other similar device on the carburetors of each in-
6 board engine that uses gasoline as fuel;

7 “(4) the means to properly and efficiently venti-
8 late enclosed spaces, including engine and fuel tank
9 compartments, so as to remove explosive or flam-
10 mable gases;

11 “(5) visual distress signals;

12 “(6) other equipment required to minimize the
13 risk of injury to the crew during vessel operations,
14 if the Secretary determines that a risk of serious in-
15 jury exists that can be eliminated or mitigated by
16 that equipment; and

17 “(7) a placard as required by regulations pre-
18 scribed under section 10603(b).

19 “(b) SUBJECT VESSELS.—In addition to the require-
20 ments of subsection (a), the Secretary shall prescribe reg-
21 ulations requiring that subject vessels install, maintain,
22 and use the following equipment:

23 “(1) Alerting and locating equipment, including
24 emergency position indicating radio beacons.

1 “(2)(A) Subject to subparagraph (B), a survival
2 craft that—

3 “(i) ensures that no part of an individual
4 is immersed in water; and

5 “(ii) is sufficient to accommodate all indi-
6 viduals on board.

7 “(B) Except for a nonapplicable vessel, an aux-
8 iliary craft shall satisfy the equipment requirement
9 under paragraph (2)(B) if such craft is—

10 “(i) necessary for normal fishing oper-
11 ations;

12 “(ii) readily accessible during an emer-
13 gency; and

14 “(iii) capable, in accordance with the Coast
15 Guard capacity rating, when applicable, of safe-
16 ly holding all individuals on board the vessel to
17 which the craft functions as an auxiliary.

18 “(3) At least one readily accessible immersion
19 suit for each individual on board the vessel when op-
20 erating on the waters described in section 3102.

21 “(4) Marine radio communications equipment
22 sufficient to effectively communicate with a land-
23 based search and rescue facility.

24 “(5) Navigation equipment, including com-
25 passes, nautical charts, and publications.

1 “(6) First aid equipment and medical supplies
2 sufficient for the size and area of operation of the
3 vessel.

4 “(7) Ground tackle sufficient for the vessel.

5 “(c) ACCOUNTABLE VESSELS.—In addition to the re-
6 quirements described in subsections (a) and (b), the Sec-
7 retary may prescribe regulations establishing minimum
8 safety standards for accountable vessels, including stand-
9 ards relating to—

10 “(1) navigation equipment, including radars
11 and fathometers;

12 “(2) lifesaving equipment, immersion suits, sig-
13 naling devices, bilge pumps, bilge alarms, life rails,
14 and grab rails;

15 “(3) fire protection and firefighting equipment,
16 including fire alarms and portable and semiportable
17 fire extinguishing equipment;

18 “(4) use and installation of insulation material;

19 “(5) storage methods for flammable or combus-
20 tible material; and

21 “(6) fuel, ventilation, and electrical systems.

22 **“§ 4504. Vessel construction**

23 “A vessel to which this chapter applies shall be con-
24 structed in a manner that provides a level of safety equiva-
25 lent to the minimum safety standards the Secretary may

1 establish for recreational vessels under section 4302, if the
2 vessel is—

3 “(1) is a subject vessel;

4 “(2) less than 50 feet overall in length; and

5 “(3) built after January 1, 2010.

6 **“§ 4505. Operating stability**

7 “(a) REGULATIONS.—The Secretary shall prescribe
8 regulations for the operating stability of a vessel to which
9 this chapter applies—

10 “(1) that was built after December 31, 1989; or

11 “(2) the physical characteristics of which are
12 substantially altered after December 31, 1989, in a
13 manner that affects the vessel’s operating stability.

14 “(b) EVIDENCE OF COMPLIANCE.—The Secretary
15 may accept, as evidence of compliance with this section,
16 a certification of compliance issued by the person pro-
17 viding insurance for the vessel or by another qualified per-
18 son approved by the Secretary.

19 **“§ 4506. Training**

20 “(a) IN GENERAL.—The individual in charge of a
21 subject vessel must pass a training program approved by
22 the Secretary that meets the requirements of subsection
23 (b) and hold a valid certificate issued under that program.

24 “(b) TRAINING PROGRAM REQUIREMENTS.—The
25 training program shall—

1 “(1) be based on professional knowledge and
2 skill obtained through sea service and hands-on
3 training, including training in seamanship, stability,
4 collision prevention, navigation, firefighting and pre-
5 vention, damage control, personal survival, emer-
6 gency medical care, emergency drills, and weather;

7 “(2) require an individual to demonstrate abil-
8 ity to communicate in an emergency situation and
9 understand information found in navigation publica-
10 tions;

11 “(3) recognize and give credit for recent past
12 experience in fishing vessel operation; and

13 “(4) provide for issuance of a certificate to an
14 individual who has successfully completed the pro-
15 gram.

16 “(c) REGULATIONS.—The Secretary shall prescribe
17 regulations implementing this subsection. The regulations
18 shall require that an individual who is issued a certificate
19 under subsection (b)(4) must complete refresher training
20 at least once every 5 years as a condition of maintaining
21 the validity of the certificate.

22 “(d) ELECTRONIC DATABASE.—The Secretary shall
23 establish an electronic database listing the names of indi-
24 viduals who have participated in and received a certificate

1 confirming successful completion of a training program
2 approved by the Secretary under this section.

3 **“§ 4507. Vessel certification**

4 “(a) IN GENERAL.—A vessel to which this section ap-
5 plies may not be operated unless the vessel—

6 “(1) meets all survey and classification require-
7 ments prescribed by the American Bureau of Ship-
8 ping or another similarly qualified organization ap-
9 proved by the Secretary; and

10 “(2) has on board a certificate issued by the
11 American Bureau of Shipping or such other organi-
12 zation evidencing compliance with this subsection.

13 “(b) APPLICATION.—

14 “(1) Except as provided in section 4509, this
15 section applies to a fish processing vessel to which
16 this chapter applies that—

17 “(A) is built after July 27, 1990; or

18 “(B) undergoes a major conversion com-
19 pleted after that date.

20 “(2)(A) Except as provided in subparagraph
21 (B), this section applies to a subject vessel that is
22 at least 50 feet overall in length and is built after
23 July 1, 2013.

24 “(B) This section does not apply to a sub-
25 stitute-eligible vessel if such vessel complies with—

1 “(i) the substitute safety compliance pro-
2 gram established under section 4509; or

3 “(ii) the enhanced substitute safety compli-
4 ance program established by the Secretary
5 under section 4510.

6 **“§ 4508. Alternate safety compliance program**

7 “(a) IN GENERAL.—

8 “(1) The Secretary shall establish an alternate
9 safety compliance program developed in coordination
10 with the commercial fishing industry.

11 “(2) The program established under paragraph
12 (1) may include requirements for—

13 “(A) a specific region or fishery (or both);
14 and

15 “(B) any combination of regions or fish-
16 eries (or both).

17 “(b) VESSELS REQUIRED TO COMPLY.—Beginning
18 on the date that is 3 years after the date the Secretary
19 prescribes an alternate safety compliance program, the fol-
20 lowing vessels shall comply with such program:

21 “(1) A subject vessel that is—

22 “(A) at least 50 feet overall in length;

23 “(B) built before July 1, 2013; and

24 “(C) 25 years of age or older.

1 “(2) A fishing vessel, fish processing vessel, or
2 fish tender vessel built before July 1, 2013, that un-
3 dergoes a major conversion completed after the date
4 the Secretary prescribes an alternate safety compli-
5 ance program.

6 “(c) EXEMPT VESSELS.—

7 “(1) Notwithstanding subsection (b), vessels
8 owned by a person that owns more than 30 vessels
9 subject to that subsection are not required to comply
10 with alternate safety compliance program require-
11 ments until January 1, 2030, if that owner—

12 “(A) enters into a compliance agreement
13 with the Secretary that provides for a fixed
14 schedule for all such vessels owned by that per-
15 son to meet requirements of such paragraph by
16 such date; and

17 “(B) is meeting such schedule.

18 “(2) A subject vessel that was classed before
19 July 1, 2012, is exempt from the requirements of
20 this section if such vessel—

21 “(A) remains subject to the requirements
22 of a classification society approved by the Sec-
23 retary; and

24 “(B) has on board a certificate from that
25 society.

1 **“§ 4509. Substitute safety compliance program**

2 “(a) IN GENERAL.—The Secretary shall establish a
3 substitute safety compliance program for substitute-eli-
4 ble vessels that includes the following requirements:

5 “(1) A substitute-eligible vessel shall be de-
6 signed by an individual licensed by a State as a
7 naval architect or marine engineer, and the design
8 shall incorporate standards equivalent to those pre-
9 scribed by a classification society to which the Sec-
10 retary has delegated authority under section 3316 or
11 another qualified organization approved by the Sec-
12 retary for purposes of this paragraph.

13 “(2) Construction of a substitute-eligible vessel
14 shall be overseen and certified as being in accord-
15 ance with its design by a marine surveyor of an or-
16 ganization accepted by the Secretary.

17 “(3) A substitute-eligible vessel shall—

18 “(A) complete a stability test performed by
19 a qualified individual;

20 “(B) have written stability and loading in-
21 structions from a qualified individual that are
22 provided to the owner or operator; and

23 “(C) have an assigned loading mark.

24 “(4) A substitute-eligible vessel shall not be
25 substantially altered without the review and approval
26 of an individual licensed by a State as a naval archi-

1 tect or marine engineer before the beginning of such
2 substantial alteration.

3 “(5) A substitute-eligible vessel shall undergo a
4 condition survey at least twice in 5 years, with not
5 more than 3 years between surveys, to the satisfac-
6 tion of a marine surveyor of an organization accept-
7 ed by the Secretary.

8 “(6) A substitute-eligible vessel shall undergo
9 an out-of-water survey at least once every 5 years to
10 the satisfaction of a certified marine surveyor of an
11 organization accepted by the Secretary.

12 “(7) Once every 5 years, and at the time of a
13 substantial alteration to a substitute-eligible vessel,
14 compliance of the vessel with the requirements of
15 paragraph (3) is reviewed and updated as necessary.

16 “(8) For the life of a substitute-eligible vessel,
17 the owner of the vessel shall maintain records to
18 demonstrate compliance with this subsection and
19 make such records readily available for inspection by
20 an official authorized to enforce this chapter.

21 “(b) COMPLIANCE.—Section 4507 of this title shall
22 not apply to a substitute-eligible vessel that complies with
23 the requirements of the program established under this
24 section.

1 “(c) REPORT.—Not later than February 8, 2026, the
2 Secretary shall submit to the Committee on Transpor-
3 tation and Infrastructure of the House of Representatives
4 and the Committee on Commerce, Science, and Transpor-
5 tation of the Senate a report that provides an analysis of
6 the adequacy of the substitute safety compliance program
7 requirements established under subsection (a) in main-
8 taining the safety of substitute-eligible fishing vessels and
9 fish tender vessels and that comply with such require-
10 ments.

11 **“§ 4510. Enhanced substitute safety compliance pro-**
12 **gram**

13 “(a) IN GENERAL.—If the report required under sec-
14 tion 4509(c) includes a determination that the substitute
15 safety compliance program established under section
16 4509(a) is not adequate or that additional safety measures
17 are necessary, then the Secretary may establish an en-
18 hanced substitute safety compliance program for fishing
19 vessels or fish tender vessels (or both) that are substitute-
20 eligible vessels and that comply with the requirements of
21 section 4509.

22 “(b) REQUIREMENTS.—The enhanced substitute
23 safety compliance program established under this sub-
24 section shall include requirements for—

25 “(1) vessel construction;

1 “(2) a vessel stability test;

2 “(3) vessel stability and loading instructions;

3 “(4) an assigned vessel loading mark;

4 “(5) a vessel condition survey at least twice in
5 5 years, not more than 3 years apart;

6 “(6) an out-of-water vessel survey at least once
7 every 5 years;

8 “(7) maintenance of records to demonstrate
9 compliance with the program, and the availability of
10 such records for inspection; and

11 “(8) such other aspects of vessel safety as the
12 Secretary considers appropriate.

13 “(c) COMPLIANCE.—Section 4507 shall not apply to
14 a substitute-eligible vessel that complies with the require-
15 ments of the program established under this section.

16 **“§ 4511. Prohibited acts**

17 “A person may not operate a vessel in violation of
18 this chapter or a regulation prescribed under this chapter.

19 **“§ 4512. Termination of unsafe operations**

20 “An official authorized to enforce this chapter—

21 “(1) may direct the individual in charge of a
22 vessel to which this chapter applies to immediately
23 take reasonable steps necessary for the safety of in-
24 dividuals on board the vessel if the official observes
25 the vessel being operated in an unsafe condition that

1 the official believes creates an especially hazardous
2 condition, including ordering the individual in charge
3 to return the vessel to a mooring and to remain
4 there until the situation creating the hazard is cor-
5 rected or ended; and

6 “(2) may order the individual in charge of an
7 uninspected fish processing vessel that does not have
8 on board the certificate required under section 4507
9 to return the vessel to a mooring and to remain
10 there until the vessel is in compliance with such sec-
11 tion, unless the vessel is required to comply with sec-
12 tion 4508.

13 **“§ 4513. Penalties**

14 “(a) CIVIL PENALTY.—The owner, charterer, man-
15 aging operator, agent, master, and individual in charge of
16 a vessel to which this chapter applies that is operated in
17 violation of this chapter or a regulation prescribed under
18 this chapter may each be assessed a civil penalty by the
19 Secretary of not more than \$10,260. Any vessel with re-
20 spect to which a penalty is assessed under this subsection
21 is liable in rem for the penalty.

22 “(b) CRIMINAL PENALTIES.—An individual willfully
23 violating this chapter or a regulation prescribed under this
24 chapter shall be fined not more than \$5,000, imprisoned
25 for not more than one year, or both.

1 **“§ 4514. Compliance; Secretary actions**

2 “To ensure compliance with the requirements of this
3 chapter, the Secretary—

4 “(1) shall require the individual in charge of a
5 subject vessel to keep a record of equipment mainte-
6 nance, and required instruction and drills;

7 “(2) shall examine at dockside a subject vessel
8 at least once every 5 years, but may require an exam
9 at dockside every 2 years for certain subject vessels
10 if requested by the owner or operator; and

11 “(3) shall issue a certificate of compliance to a
12 vessel meeting the requirements of this chapter and
13 satisfying the requirements of paragraph (2).

14 **“§ 4515. Exemptions**

15 “The Secretary may exempt a vessel from any part
16 of this chapter if, under regulations prescribed by the Sec-
17 retary (including regulations on special operating condi-
18 tions), the Secretary finds that—

19 “(1) good cause exists for granting an exemp-
20 tion; and

21 “(2) the safety of the vessel and those on board
22 will not be adversely affected.

23 **“§ 4516. Regulations; considerations and limitations**

24 “In prescribing a regulation under this chapter, the
25 Secretary—

1 “(1) shall consider the specialized nature and
2 economics of the operations and the character, de-
3 sign, and construction of the vessel; and

4 “(2) may not require the alteration of a vessel
5 or associated equipment that was constructed or
6 manufactured before the effective date of such regu-
7 lation.

8 **“§ 4517. Fishing safety grants**

9 “(a) SAFETY TRAINING GRANTS.—

10 “(1) ESTABLISHMENT.—The Secretary of
11 Health and Human Services shall establish a Fish-
12 ing Safety Training Grant Program to provide fund-
13 ing to municipalities, port authorities, other appro-
14 priate public entities, not-for-profit organizations,
15 and other qualified persons that provide commercial
16 fishing safety training.

17 “(2) USE OF FUNDS.—Entities receiving funds
18 under this section may use such funds—

19 “(A) to conduct fishing vessel safety train-
20 ing for vessel operators and crewmembers
21 that—

22 “(i) in the case of vessel operators,
23 meets the requirements of section 4506;
24 and

1 “(ii) in the case of crewmembers,
2 meets the requirements of sections
3 4506(b)(1), 4506(b)(4), 4506(c), and
4 4506(d), and such requirements of section
5 4506(b)(2) as are appropriate for crew-
6 members; and

7 “(B) for purchase of safety equipment and
8 training aids for use in such fishing vessel safe-
9 ty training programs.

10 “(3) AWARD CRITERIA.—The Secretary of
11 Health and Human Services, in consultation with
12 and based on criteria established by the Com-
13 mandant of the Coast Guard, shall award grants
14 under this subsection on a competitive basis.

15 “(4) LIMITATION ON FEDERAL SHARE OF
16 COST.—The Federal share of the cost of any activity
17 carried out with a grant under this subsection shall
18 not exceed 50 percent.

19 “(5) AUTHORIZATION OF APPROPRIATIONS.—
20 There is authorized to be appropriated \$3,000,000
21 for each of fiscal years 2020 and 2021 for grants
22 under this subsection.

23 “(b) RESEARCH GRANT PROGRAM.—

24 “(1) ESTABLISHMENT.—The Secretary of
25 Health and Human Services shall establish a Fish-

1 ing Safety Research Grant Program to provide fund-
2 ing to individuals in academia, nonprofit organiza-
3 tions, businesses involved in fishing and maritime
4 matters, and other persons with expertise in fishing
5 safety, to conduct research on methods of improving
6 the safety of the commercial fishing industry, includ-
7 ing vessel design, emergency and survival equipment,
8 enhancement of vessel monitoring systems, commu-
9 nications devices, de-icing technology, and severe
10 weather detection.

11 “(2) AWARD CRITERIA.—The Secretary of
12 Health and Human Services, in consultation with
13 and based on criteria established by the Com-
14 mandant of the Coast Guard, shall award grants
15 under this subsection on a competitive basis.

16 “(3) LIMITATION ON FEDERAL SHARE OF
17 COST.—The Federal share of the cost of any activity
18 carried out with a grant under this subsection shall
19 not exceed 50 percent.

20 “(4) AUTHORIZATION OF APPROPRIATIONS.—
21 There is authorized to be appropriated \$3,000,000
22 for each fiscal year 2020 and 2021 for activities
23 under this subsection.”.

24 “(b) CONFORMING AMENDMENT.—Section 3104(d) of
25 title 46, United States Code, is amended by striking

1 “under section 4503(d)” and inserting “under section
2 4502(3)”.

3 (c) SAFETY STANDARDS.—Not later than 90 days
4 after the date of the enactment of this Act, and without
5 regard to the provisions of chapters 5 and 6 of title 5,
6 United States Code, the Secretary of the department in
7 which the Coast Guard is operating shall promulgate the
8 regulations required by section 4503(b) of title 46, United
9 States Code, as amended by this section.

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