

Legal Operation of Charter Boats-Guidance for Passengers

This message is intended to inform prospective charter boat passengers about charter boat operations in the Hampton Roads area.

Charter boats are considered uninspected passenger vessels for purposes of Coast Guard regulation, and it is illegal for an uninspected passenger vessel engaged in “passenger for hire” operations to be operated by an individual who is not licensed by the U.S. Coast Guard. Specifically, an uninspected passenger vessel of less than 100 gross ton, as defined by 46 CFR 24.10-1, carrying *six passengers or less*, including one or more passengers for hire, must be under the direction and control of an individual licensed by the U.S. Coast Guard. The license must be kept in the operator’s possession (46 CFR 26.20-1). In addition to a licensed operator, each uninspected passenger vessel must meet all of the safety requirements outlined in 46 CFR 25. It is strongly recommended that prospective passengers take it upon themselves to make certain that the vessel is operated by a licensed master in order to ensure:

- (1) Their personal safety and the safety of their families while onboard.
- (2) That the vessel is properly insured in case someone is injured.
- (3) That the vessel is structurally maintained and seaworthy.

Additionally, in accordance with 46 CFR 175.110, if a vessel carries *more than six passengers*, including at least one for hire, then the vessel is considered an inspected passenger vessel and must meet all Coast Guard safety requirements for an inspected vessel.

The question of when an individual becomes a “passenger for hire” has caused confusion but is actually straightforward. “Passenger for hire” means a passenger for whom consideration is contributed as a condition of carriage, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having interest in the vessel (46 CFR 24.10-1). For example, requiring strangers to share expenses constitutes a “passenger for hire” operation.

“Consideration” means an economic benefit or profit including payment of money or donation of fuel, food, beverage, or supplies. It does NOT include a voluntary sharing of the actual expense of the voyage (46 CFR 175.400).

Therefore, if a passenger provides any money, fuel, or supplies as a condition for them to get underway with that vessel, the vessel is operating as a passenger vessel and requires a Coast Guard-licensed operator. If more than six passengers are carried, the vessel will require certification as a Coast Guard inspected vessel in addition to a licensed operator. In both situations, if an individual gives the owner, charterer, operator, agent or anyone else who has an interest in the vessel any money, fuel, or supplies that the passenger did not **freely** choose to share as part of the actual cost of the trip, the vessel is carrying a passenger for hire and must meet the following requirements:

- (1) The master in command of a passenger for hire vessel must be an individual licensed by the U.S. Coast Guard.
- (2) Vessels carrying more than six passengers, in which at least one is for hire, must be inspected and certified by the U.S. Coast Guard.
- (3) This inspection includes but is not limited to certificates and documents, navigation safety, structural integrity, general health and safety, ground tackle, lifesaving equipment, fire protection, machinery/electrical equipment, pollution prevention, and completion of emergency drills. Different regulations apply depending on service and route.

It is strongly recommended that prospective charter boat passengers determine if the vessel has passed a complete Coast Guard inspection. An inspected passenger vessel is required to post its Certificate of Inspection in a conspicuous place or have it readily available for display upon request. If the vessel has not passed an inspection, passengers are at a significantly elevated risk for accidents, injuries, or death.

Please take this guidance into consideration. Your safety depends on it. If you have any additional questions, please do not hesitate to contact my staff at the following address and telephone number:

Sector Hampton Roads
Investigations Division
200 Granby St. Suite 700
Norfolk, VA 23510
(757) 668-5540