



# Marine Safety Information Bulletin

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## SMALL PASSENGER & BAREBOAT CHARTER VESSEL QUICK REFERENCE GUIDE

This MSIB was requested to provide better understanding and comply with regulations pertaining to the operation of small passenger vessels, charter and bareboat vessels. Specifically, a small passenger vessel carrying more than six passengers (with at least one for hire) must be inspected and certificated by the Coast Guard. Where the application of these regulations often gets confusing is in determining if a vessel is operated as a small passenger vessel, an uninspected passenger vessel, a charter vessel, or a bareboat charter vessel. For the purposes of this discussion, the requirements for vessels referenced in this bulletin will apply to vessels less than 100 gross tons operating on a domestic voyage.

### Small Passenger Vessel

- Coast Guard Inspected and certificated. Issued a Certificate of Inspection (COI)
- Carries more than six passengers, including at least one for or passenger for hire
- Bareboat chartered vessels carrying more than 12 passengers must be CG inspected
- Chartered vessels with the crew provided by the owner carrying more than six passengers must be Coast Guard inspected
- Inspected under subchapters “T” and “K” of Title 46 Code of Federal Regulation
- Operated by licensed Master of appropriate route and tonnage

### Uninspected Passenger Vessel (UPV)

- Carries up to six passengers for hire, not including the Master and paid crew
- Sometimes referred to as a “six-pack” operation
- Must be operated by a licensed Master
- Vessel is not routinely inspected and certified by the Coast Guard, but must meet requirements of 46CFR Subchapter “C”
- A chartered, rented, or leased vessel with the crew provided by the owner is considered an uninspected passenger vessel and is limited to six passengers

**Bareboat Charter Vessel:** Vol II of the Marine Safety Manual, (B4-8) has a good discussion of Demise or Bareboat Charters. The concept of bareboat chartering of vessel developed in admiralty laws as a legitimate means of transferring the rights of ownership of vessel to a charterer for a period of time (traditionally that exceed a single voyage.) However, this short term practice has withstood most legal challenges when all the requirements of bareboat charter are complied with. If the charterer pays the crew and has the option of selecting the crew and retains the authority to dismiss the crew for cause the excursion may be considered to be a bareboat charter. Provided the above conditions are met, the owner of the vessel may offer crew suggestions and set minimum levels of crew proficiency for whatever crew is retained based on federal statute (i.e., licenses, merchant mariner documents, etc.) in the interest of ensuring the vessel is manned by a competent crew. **Any bareboat charter that carries more than twelve persons in addition to the charterer and hired crew is required to be inspected and certificated by the Coast Guard under 46 CFR Subchapter “T” or “K”.**

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## Elements of Valid Bareboat Charters (MSM II, B, 5 F)

The following provisions are indicative of a valid bareboat charter. Note that a valid bareboat charter does not necessarily require that all of these elements be present. Each arrangement must be evaluated on its own standing, according to the following:

- (1) Although a master or crew may be furnished by the owner, full possession and control must be vested in the charterer (a provision requiring the charterer to be guided by the advice of the furnished master or crew, in regard to technical matters or navigation, is acceptable).
- (2) The master and crew are paid by the charterer.
- (3) All food, fuel, and stores are provided by the charterer.
- (4) All port charges and pilotage fees are paid by the charterer.
- (5) Insurance is obtained by the charterer, at least to the extent of covering liability not included in the owner's insurance. A greater indication of full control in the charterer is shown if all insurance is carried by the charterer (of course, the owner retains every right to protect his or her interest in the vessel).
- (6) The charterer may discharge, for cause, the master or any crewmember without referral to the owner.
- (7) The vessel is to be surveyed upon its delivery and return.

**NOTE: Any provision that tends to show retention of possession and control (including basic navigation) by the owner or the owner's representative should be carefully examined to see if it contradicts the claim to have created a bareboat charter.**

If a vessel owner is considering utilizing their vessel for bareboat charters it is highly recommended that he or she thoroughly reviews and understands the bareboat charter requirements and liabilities. Specifically, the owner should ensure that all involved parties are aware of the following points: The charterer is responsible for the operation and safety of the vessel, its crew, passengers, and all other persons aboard during the term of the charter; the charterer is responsible for ensuring that the vessel complies with all regulations which are applicable to the service of the vessel; the vessel owner may still be at risk to penalty action stemming from the charterer's misuse of the vessel; a bareboat chartered vessel is still at risk for forfeiture if in violation of certain U.S. laws; and the Master may also be held accountable for the safe operation of the vessel as well as ensuring compliance with all applicable safety equipment requirements.

What passenger requirements apply to your vessel*				
Use the following chart, moving from top to bottom, left to right.				
Step 1	Step 2	Step 3, pick a column.		
Do you have at least one passenger for hire? Is some kind of consideration a condition to ride the vessel?	Number of passengers/persons on your boat.	Not Chartered	Chartered without Crew provided by owner.	Chartered with Crew Provided by owner.
No	6 or less	REC	REC (1)	UPV
	7-12	REC	REC (1)	SPV
	More than 12	REC	SPV	SPV
Yes	6 or less	UPV	UPV	UPV
	More than 6	SPV	SPV	SPV
<i>Vessel Requirements: REC = Recreational Vessel UPV = Uninspected Passenger Vessel SPV = Small Passenger Vessel                      (1) Valid Bareboat charter where charterer hires crew</i>				