ferential subsidy have a higher percentage citizenship requirement. Subsection (c) requires all of the crew and employees of a cargo vessel be United States citizens. Subsection (d) requires at least 90 percent of the entire complement of a passenger vessel be United States citizens. The phrase "including all licensed individuals" emphasizes that all licensed individuals are required to be United States citizens. Required by subsection (a) and that they compose part of the 90 percent requirement under this subsection. Further, under subsection (d), the balance of the complement must be individuals who have a declaration of intention to become a United States citizen or evidence of admission to the United States as a permanent resident and may only be employed in the steward’s department of the passenger vessel.

Except for the master, subsection (e) permits a non-United States citizen to fill a vacancy that occurs for any reason on a United States documented vessel during a foreign voyage until the vessel returns to a United States port where a United States citizen replacement can be obtained. The phrase "for any reason" is used merely for emphasis.

Subsection (f) provides for the penalty for violation of this section.

Subsection (g) requires a deck or engineer officer on a vessel that has been granted an operating differential subsidy or is under the control of the Department of Transportation to be, if eligible, a member of the Naval Reserve. This section does not apply to a vessel of the Coast Guard or the Saint Lawrence Seaway Development Corporation.

Subsection (h) permits the President to suspend the requirements of this section during a proclaimed national emergency or the requirement of subsection (a) for United States vessels documented for foreign trade when the needs of commerce require.

References in Text
The Immigration and Nationality Act, referred to in subsecs. (i)(1)(C) and (k)(1)(C), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 8 and Tables.

Amendments
2004—Subsec. (b)(1)(A). Pub. L. 108–293 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "each unlicensed seaman must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; and".
Subsec. (b)(3)(A). Pub. L. 104–324, §727, inserted "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 after "1,600 gross tons".
Subsec. (i)(3). Pub. L. 104–208 substituted "Magnuson-Stevens Fishery" for "Magnuson Fishery".
1990—Subsec. (i)(3)(C). Pub. L. 101–595, §§503(b) and 711, amended subpar. (C) identically, substituting "Nationalize" for "Naturalization".
Subsec. (c). Pub. L. 100–239, §5(a)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "On each departure of a documented vessel (except a fishing or whaling vessel or yacht) from a port of the United States, 75 percent of the seamen (excluding licensed individuals) must be citizens of the United States. If the Secretary decides, on investigation, that qualified citizen seamen are not available, the Secretary may reduce the percentage." Subsecs. (c), (d)(1), Pub. L. 100–239, §5(b), struck out "from the United States" after "On each departure".
Subsec. (e). Pub. L. 100–239, §5(c), inserted "and the radio officer after "the master" and substituted "until the vessel’s return to a port at which in the most expeditious manner" for "until the vessel’s first return to a United States port at which".

Effective Date of 1996 Amendment
Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

Effective Date of 1988 Amendment
Pub. L. 100–239, §5(a)(3), Jan. 11, 1988, 101 Stat. 1790, provided that: "Paragraph (2) of this subsection [amending this section] is effective 30 days after the date of enactment of this Act (Jan. 11, 1988).
"Pub. L. 100–239, §5(d)(2), Jan. 11, 1988, 101 Stat. 1781, provided that: "This subsection [amending this section] is effective 360 days after the date of the enactment of this Act (Jan. 11, 1988).

Transfer of Functions
For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Application of Section to Fishing Vessels in California
"(b) TERMINATION.—This section shall terminate on October 1, 2000.

§8104. Watches
(a) An owner, charterer, managing operator, master, individual in charge, or other person having authority may permit an officer to take charge of the deck watch on a vessel when leaving or immediately after leaving port only if the officer has been off duty for at least 6 hours within the 12 hours immediately before the time of leaving.
(b) On an ocean going or coastwise vessel of not more than 100 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 (except a fishing, fish processing, or
(f) Subsections (d) and (e) of this section do not limit the authority of the master or other officer or the obedience of the seamen when, in the judgment of the master or other officer, any part of the crew is needed for—

1. maneuvering, shifting the berth of, mooring, or unmooring, the vessel;
2. performing work necessary for the safety of the vessel, or the vessel's passengers, crew, or cargo;
3. saving life on board another vessel in jeopardy; or
4. performing fire, lifeboat, or other drills in port or at sea.

(g)(1) On a towing vessel, an offshore supply vessel, or a barge to which this section applies, that is engaged on a voyage of less than 600 miles, the licensed individuals and crewmembers (except the coal passers, firemen, oilers, and water tenders) may be divided, when at sea, into at least 2 watches.

(2) Paragraph (1) applies to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title if the individuals engaged on the vessel are in compliance with hours of service requirements (including recording and recordkeeping of that service) as prescribed by the Secretary.

(h) On a vessel to which section 8904 of this title applies, an individual licensed to operate a towing vessel may not work for more than 12 hours in a consecutive 24-hour period except in an emergency.

(i) A person violating subsection (a) or (b) of this section is liable to the United States Government for a civil penalty of $10,000.

(j) The owner, charterer, or managing operator of a vessel on which a violation of subsection (c), (d), (e), or (h) of this section occurs is liable to the Government for a civil penalty of $10,000. The seaman is entitled to discharge from the vessel and receipt of wages earned.

(k) On a fish processing vessel subject to inspection under part B of this subtitle, the licensed individuals and deck crew shall be divided, when at sea, into at least 3 watches.

(l) Except as provided in subsection (k) of this section, on a fish processing vessel, the licensed individuals and deck crew shall be divided, when at sea, into at least 2 watches if the vessel—

1. entered into service before January 1, 1987, and has more than 16 individuals on board primarily employed in the preparation of fish or fish products.

(m) This section does not apply to a fish processing vessel—

1. entered into service before January 1, 1988, and not more than 1,600 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; or
2. entered into service after December 31, 1987, and has more than 16 individuals on board primarily employed in the preparation of fish or fish products.

(n) On a tanker, a licensed individual or seaman may not be permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period, except in an emergency or a drill. In this subsection, “work” in-
cludes any administrative duties associated with the vessel whether performed on board the vessel or onshore.

(o)(1) Except as provided in paragraph (2) of this subsection, on a fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or less than 500 gross tons as measured under section 14502 of this title, or is less than 2,500 gross tons as measured under section 14302 of this title engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 3 watches.

(2) On a fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or less than 500 gross tons as measured under section 14502 of this title, or is less than 2,500 gross tons as measured under section 14302 of this title engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 2 watches, if the vessel—

(A) before September 8, 1990, operated in that trade;

(B)(i) before September 8, 1990, was purchased to be used in that trade; and

(ii) before June 1, 1992, entered into service in that trade.

(p) The Secretary may prescribe the watchstanding and work hours requirements for an oil spill response vessel.

Revised section Source section (U.S. Code)
8104 .............................................. 46:235
8105 .............................................. 46:405(b)
8106 .............................................. 46:373

Section 8104 prescribes certain working hours and conditions under which working hours are set. The committee intends that these sections be interpreted in a manner consistent with one another.

Subsection (a) permits an individual to take charge of the deck watch on leaving port and immediately thereafter only if the individual has been off duty for 6 of the 12 hours immediately prior to departure.

Subsection (b) prohibits a licensed individual from being required to work more than 9 of 24 hours in port or more than 12 of 24 hours at sea on an ocean-going or coastwise vessel of not more than 100 gross tons, except in an emergency.

Subsection (c) prescribes a maximum 8-hour day for licensed individuals and seamen on towing vessels operating on the Great Lakes and certain connecting or tributary waters.

Subsection (d) requires certain members of the complement of certain merchant vessels of more than 100 gross tons to be divided into at least 3 successive watches when at sea. This requirement applies to radio officers only when at least 3 radio officers are employed. Subsection (d) also prescribes a maximum 8-hour work day for licensed individuals and seamen on these vessels.

For the Great Lakes towing vessels and merchant vessels in subsections (c) and (d), subsection (e) requires that seamen be hired only for work in either the deck or the engine department. When in a safe harbor, seamen may be required to do only necessary work on Sundays and certain holidays, unless the vessel is getting underway on a voyage. Further, when in a safe harbor, this subsection restates the maximum 8-hour work day which applies even for anchor watch.

Subsection (f) states that the limitations in subsections (d) and (e) do not apply if the master or other officer decides the crew is needed for certain routine, safety, or rescue activities.

Subsection (g) provides that for a towing vessel (except a Great Lakes towing vessel under subsection (c)), offshore supply vessel, or barge on a voyage of less than 600 miles, the licensed officers and certain crewmembers may be divided into not less than two watches when at sea.

Subsection (h) provides that the licensed operator for a towing vessel at least 26 feet long may not be required to work more than 12 of 24 hours, except in an emergency.

Subsections (i) and (j) prescribe penalties for violations of the provisions of this section and, in certain instances, entitles the seaman to discharge and payment of wages.

AMENDMENTS

2010—Subsec. (g). Pub. L. 111–231, § 617(d), designated existing provisions as pars. (1) and added par. (2).


1996—Subsec. (b). Pub. L. 104–324, § 728(1), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title” for “as prescribed by the Secretary under section 14104 of this title” in pars. (1) and (2).

1992—Subsec. (a). Pub. L. 102–516, § 231(b), substituted “as prescribed by the Secretary under section 14104 of this title” for “as prescribed by the Secretary under section 14104 of this title” after “100 gross tons”.

Subsec. (c). Pub. L. 102–516, § 231(a), struck out “or permitted” after “required” and inserted “or permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period” after “day”.

Subsec. (d). Pub. L. 102–516, § 728(2), inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title” after “100 gross tons”.

Subsec. (e). Pub. L. 102–516, § 231(a), substituted “subsection (d)” for “subsections (c) and (d)” in introductory provisions.

Subsec. (g). Pub. L. 104–324, § 1114(c), struck out “except a vessel to which subsection (c) of this section applies” after “On a towing vessel”.

Subsec. (h). Pub. L. 104–324, § 728(3), inserted “as measured under section 14302 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” after “1,400 gross tons”.

Subsec. (m)(1). Pub. L. 104–324, § 728(4), inserted “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” after “1,600 gross tons”.

Subsec. (o)(1). Pub. L. 104–324, § 728(5), inserted “as measured under section 14502 of this title, or an alter-