

## 46 U.S. Code § 8106 - Riding gangs

**(a) In General.**— The owner or managing operator of a freight vessel of the United States on voyages covered by the International Convention for Safety of Life at Sea, 1974 (32 UST 47m) shall—

**(1)** ensure that—

**(A)** subject to subsection (d), each riding gang member on the vessel—

**(i)** is a United States citizen or an alien lawfully admitted to the United States for permanent residence; or

**(ii)** possesses a United States nonimmigrant visa for individuals desiring to enter the United States temporarily for business, employment-related and personal identifying information, and any other documentation required by the Secretary;

**(B)** all required documentation for such member is kept on the vessel and available for inspection by the Secretary; and

**(C)** each riding gang member is identified on the vessel's crew list;

**(2)** ensure that—

**(A)** the owner or managing operator attests in a certificate that the background of each riding gang member has been examined and found to be free of any credible information indicating a material risk to the security of the vessel, the vessel's cargo, the ports the vessel visits, or other individuals onboard the vessel;

**(B)** the background check consisted of a search of all information reasonably available to the owner or managing operator in the riding gang member's country of citizenship and any other country in which the riding gang member works, receives employment referrals, or resides;

**(C)** the certificate required under subparagraph (A) is kept on the vessel and available for inspection by the Secretary; and

**(D)** the information derived from any such background check is made available to the Secretary upon request;

**(3)** ensure that each riding gang member, while on board the vessel, is subject to the same random chemical testing and reporting regimes as crew members;

**(4)** ensure that each such riding gang member receives basic safety familiarization and basic safety training approved by the Coast Guard as satisfying the requirements for such training under the International Convention of Training, Certification, and Watchkeeping for Seafarers, 1978;

**(5)** prevent from boarding the vessel, or cause the removal from the vessel at the first available port, and disqualify from future service on board any other vessel owned or operated by that owner or operator, any riding gang member—

**(A)** who has been convicted in any jurisdiction of an offense described in paragraph (2) or (3) of section [7703](#);

**(B)** whose license, certificate of registry, or merchant mariner's document has been suspended or revoked under section [7704](#); or

- (C) who otherwise constitutes a threat to the safety of the vessel;
- (6) ensure and certify to the Secretary that the sum of—
  - (A) the number of riding gang members on board a freight vessel, and
  - (B) the number of individuals in addition to crew permitted under section [3304](#), does not exceed 12;
  - (7) ensure that every riding gang member is employed on board the vessel under conditions that meet or exceed the minimum international standards of all applicable international labor conventions to which the United States is a party, including all of the merchant seamen protection and relief provided under United States law; and
  - (8) ensure that each riding gang member—
    - (A) is supervised by an individual who holds a license issued under chapter 71; and
    - (B) only performs work in conjunction with individuals who hold merchant mariners documents issued under chapter 73 and who are part of the vessel's crew.
- (b) Permitted Work.**— Subject to subsection (f), a riding gang member on board a vessel to which subsection (a) applies who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence may not perform any work on board the vessel other than—
  - (1) work in preparation of a vessel entering a shipyard located outside of the United States;
  - (2) completion of the residual repairs after departing a shipyard located outside of the United States; or
  - (3) technical in-voyage repairs, in excess of any repairs that can be performed by the vessel's crew, in order to advance the vessel's useful life without having to actually enter a shipyard.
- (c) Workday Limit.**—
  - (1) **In general.**— The maximum number of days in any calendar year that the owner or operator of a vessel to which subsection (a) applies may employ on board riding gang members who are neither United States citizens nor aliens lawfully admitted to the United States for permanent residence for work on board that vessel is 60 days. If the vessel is at sea on the 60th day, each riding gang member shall be discharged from the vessel at the next port of call reached by the vessel after the date on which the 60-workday limit is reached.
  - (2) **Calculation.**— For the purpose of calculating the 60-workday limit under this subsection, each day worked by a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence shall be counted against the limitation.
- (d) Exceptions for Warranty Work.**—
  - (1) **In general.**— Subsections (b), (c), (e), and (f) do not apply to a riding gang member employed exclusively to perform, and who performs only, work that is—
    - (A) customarily performed by original equipment manufacturers' technical representatives;

(B) required by a manufacturer's warranty on specific machinery and equipment; or  
(C) required by a contractual guarantee or warranty on actual repairs performed in a shipyard located outside of the United States.

**(2) Citizenship requirement.**— Subsection (a)(1)(A) applies only to a riding gang member described in paragraph (1) who is on the vessel when it calls at a United States port.

**(e) Recordkeeping.**— In addition to the requirements of subsection (a), the owner or managing operator of a vessel to which subsection (a) applies shall ensure that all information necessary to ensure compliance with this section, as determined by the Secretary, is entered into the vessel's official logbook required by chapter 113.

**(f) Failure to Employ Qualified Available U.S. Citizens or Residents.**—

**(1) In general.**— The owner or operator of a vessel to which subsection (a) applies may not employ a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence to perform work described in subsection (b) unless the owner or operator determines, in accordance with procedures established by the Secretary to carry out section [8103 \(b\)\(3\)\(C\)](#), that there is not a sufficient number of United States citizens or individuals lawfully admitted to the United States for permanent residence who are qualified and available for the work for which the riding gang member is to be employed.

**(2) Civil penalty.**— A violation of paragraph (1) is punishable by a civil penalty of not more than \$10,000 for each day during which the violation continues.

**(3) Continuing violations.**— The maximum amount of a civil penalty for a violation under this subsection shall not exceed—

**(A)** \$50,000 if the violation occurs in fiscal year 2006;

**(B)** \$75,000 if the violation occurs in fiscal year 2007; and

**(C)** \$100,000 if the violation occurs after fiscal year 2007.

**(4) Determination of amount.**— In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, the history of prior offenses, the ability to pay, and such other matters as justice may require.

**(5) Compromise, modification, and remittal.**— The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.