

## **PASSENGER DEFINITION as defined in 46 USC(21)**

46 USC 2101(21) defines "passenger" as an individual carried on the vessel except:

1. The owner or an individual representative of the owner or in case of a vessel under charter, an individual charterer or individual representative of the charter;
2. The master; or
3. A member of the crew who is engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for onboard services.

46 USC 2101(21a) defines "passenger for hire" as: "A passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel."

The act further defines "consideration" as: "An economic benefit, inducement, right, or profit including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies."

## **Crewmember Definition as defined in 46 CFR 16.105**

Someone onboard a vessel acting under the authority of a credential or engaged or employed onboard a vessel required to be operated by a credentialed individual, except individuals who have no duties that directly affect the safe operation of the vessel. Operation (as defined in 46 CFR 16.105) means to navigate, steer, direct, manage, or sail a vessel, or to control, monitor, or maintain the vessel's main or auxiliary equipment or systems. Operation includes:

(a) Determining the vessel's position, piloting, directing the vessel along a desired track line, keeping account of the vessel's progress through the water, ordering or executing changes in course, rudder position, or speed, and maintaining a lookout;

(b) Controlling, operating, monitoring, maintaining, or testing: the vessel's propulsion and steering systems; electric power generators; bilge, ballast, fire, and cargo pumps; deck machinery including winches, windlasses, and lifting equipment; lifesaving equipment and appliances; firefighting systems and equipment; and navigation and communication equipment; and

(c) Mooring, anchoring, and line handling; loading or discharging of cargo or fuel; assembling or disassembling of tows; and maintaining the vessel's stability and watertight integrity.

### **Comment:**

**The list of Safety sensitive duties is extensive. Example: a crew person that handles an anchor line, dock lines, fenders or assists passengers in an emergency are performing safety sensitive duties, which requires them to be enrolled in your random drug program. To be a crew member the person must be paid a reasonable amount. If you are never going to have a crew member perform safety sensitive duties at any time, you should have that spelled out in either your company policy or in a written contract that that employee.**