

110TH CONGRESS  
1ST SESSION

# H. R. 3387

To update and improve the codification of title 46, United States Code.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 2007

Mr. CONYERS (for himself and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To update and improve the codification of title 46, United States Code.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. TABLE OF CONTENTS.**

4       The table of contents for this Act is as follows:

- Sec. 1. Table of contents.
- Sec. 2. Purpose.
- Sec. 3. Personal injury to or death of seamen.
- Sec. 4. Amendments to chapter 537 based on Public Law 109–163.
- Sec. 5. Additional amendments based on Public Law 109–163.
- Sec. 6. Amendments based on Public Law 109–171.
- Sec. 7. Amendments based on Public Law 109–241.
- Sec. 8. Amendments based on Public Law 109–364.
- Sec. 9. Miscellaneous amendments.
- Sec. 10. Application of sunset provision to codified provision.
- Sec. 11. Technical corrections.

1 **SEC. 2. PURPOSE.**

2 (a) IN GENERAL.—The purposes of this Act are to—

3 (1) update certain provisions codified in title  
4 46, United States Code, by Public Law 109–304, to  
5 reflect amendments enacted after the cutoff date  
6 specified in section 18(a) of that law, which amend-  
7 ments were to provisions restated and repealed by  
8 that law;

9 (2) improve certain provisions codified by that  
10 law to reflect public comments submitted too late to  
11 be reflected in that law; and

12 (3) correct technical errors in that law.

13 (b) NO SUBSTANTIVE CHANGE.—This Act is not in-  
14 tended to make any substantive change.

15 **SEC. 3. PERSONAL INJURY TO OR DEATH OF SEAMEN.**

16 (a) AMENDMENT.—Section 30104 of title 46, United  
17 States Code, is amended by striking subsections (a) and  
18 (b) and inserting the following:

19 “(a) CAUSE OF ACTION.—A seaman injured in the  
20 course of employment or, if the seaman dies from the in-  
21 jury, the personal representative of the seaman may bring  
22 an action against the employer. In such an action, the laws  
23 of the United States regulating recovery for personal in-  
24 jury to, or death of, a railway employee shall apply. Such  
25 an action may be maintained in admiralty or, at the plain-

1 tiff's election, as an action at law, with the right of trial  
2 by jury.

3 “(b) VENUE.—When the plaintiff elects to maintain  
4 an action at law, venue shall be in the judicial district in  
5 which the employer resides or the employer's principal of-  
6 fice is located.”.

7 (b) INTENT.—The amendment made by subsection  
8 (a) is intended to ensure that the codification of section  
9 20(a) of the Act of March 4, 1915, as amended, in section  
10 30104 of title 46, United States Code, does not result in  
11 any substantive change. Section 30104 is intended to be  
12 given the same interpretation as was given to such section  
13 20(a).

14 (c) EFFECTIVE DATE.—The amendment made by  
15 subsection (a) shall be effective as if included in the enact-  
16 ment of Public Law 109–304.

17 **SEC. 4. AMENDMENTS TO CHAPTER 537 BASED ON PUBLIC**  
18 **LAW 109–163.**

19 (a) AMENDMENTS.—Title 46, United States Code, is  
20 amended as follows:

21 (1) Section 53701 is amended by—

22 (A) redesignating paragraphs (2)–(13) as  
23 paragraphs (3)–(14), respectively;

24 (B) inserting after paragraph (1) the fol-  
25 lowing:

1           “(2) ADMINISTRATOR.—The term ‘Adminis-  
2           trator’ means the Administrator of the Maritime Ad-  
3           ministration.”; and

4                   (C) amending paragraph (13) (as redesign-  
5           nated) to read as follows:

6           “(13) SECRETARY.—The term ‘Secretary’  
7           means the Secretary of Commerce with respect to  
8           fishing vessels and fishery facilities.”.

9           (2) Section 53706(c) is amended to read as fol-  
10          lows:

11          “(c) PRIORITIES FOR CERTAIN VESSELS.—

12                   “(1) VESSELS.—In guaranteeing or making a  
13           commitment to guarantee an obligation under this  
14           chapter, the Administrator shall give priority to—

15                           “(A) a vessel that is otherwise eligible for  
16           a guarantee and is constructed with assistance  
17           under subtitle D of the Maritime Security Act  
18           of 2003 (46 U.S.C. 53101 note); and

19                           “(B) after applying subparagraph (A), a  
20           vessel that is otherwise eligible for a guarantee  
21           and that the Secretary of Defense determines—

22                                   “(i) is suitable for service as a naval  
23           auxiliary in time of war or national emer-  
24           gency; and

1                   “(ii) meets a shortfall in sealift capac-  
2                   ity or capability.

3                   “(2) TIME FOR DETERMINATION.—The Sec-  
4                   retary of Defense shall determine whether a vessel  
5                   satisfies paragraph (1)(B) not later than 30 days  
6                   after receipt of a request from the Administrator for  
7                   such a determination.”.

8                   (3) Section 53707 is amended in—

9                   (A) subsections (a) and (d), by inserting  
10                  “or Administrator” after “Secretary” each  
11                  place it appears;

12                  (B) subsection (b), by striking “Secretary  
13                  of Transportation” and inserting “Adminis-  
14                  trator”;

15                  (C) subsection (c), by striking “of Com-  
16                  merce”; and

17                  (D) subsection (d)(2), by—

18                   (i) inserting “if the Secretary or Ad-  
19                   ministrators considers necessary,” before  
20                   “the waiver”; and

21                   (ii) striking “the increased” and in-  
22                   serting “any significant increase in”.

23                  (4) Section 53708 is amended in—

24                  (A) subsection (a), by striking “Secretary”  
25                  and “Secretary of Transportation” each place

1 they appear in the heading and in text and in-  
2 serting “Administrator”;

3 (B) subsections (b) and (c), by striking “of  
4 Commerce” each place it appears in a heading  
5 and in text;

6 (C) subsection (d), by—

7 (i) inserting “or Administrator” after  
8 “Secretary” the first place it appears; and

9 (ii) striking “financial structures, or  
10 other risk factors identified by the Sec-  
11 retary. Any independent analysis con-  
12 ducted under this subsection shall be per-  
13 formed by a party chosen by the Sec-  
14 retary.” and inserting “or financial struc-  
15 tures. A third party independent analysis  
16 conducted under this subsection shall be  
17 performed by a private sector expert in as-  
18 sessing such risk factors who is selected by  
19 the Secretary or Administrator.”; and

20 (D) subsection (e), by—

21 (i) inserting “or Administrator” after  
22 “Secretary” the first place it appears; and

23 (ii) striking “financial structures, or  
24 other risk factors identified by the Sec-

1           retary” and inserting “or financial struc-  
2           tures”.

3           (5) Section 53710(b)(1) is amended by striking  
4           “Secretary’s” and inserting “Administrator’s”.

5           (6) Section 53712(b) is amended by striking  
6           the last sentence and inserting “If the Secretary or  
7           Administrator has waived a requirement under sec-  
8           tion 53707(d) of this title, the loan agreement shall  
9           include requirements for additional payments, collat-  
10          eral, or equity contributions to meet the waived re-  
11          quirement upon the occurrence of verifiable condi-  
12          tions indicating that the obligor’s financial condition  
13          enables the obligor to meet the waived require-  
14          ment.”.

15          (7) Subsections (c) and (d) of section 53717  
16          are amended by striking “of Commerce” each place  
17          it appears in a heading and in text.

18          (8) Section 53732(e)(2) is amended by insert-  
19          ing “of Defense” after “Secretary” the second place  
20          it appears.

21          (9) The following provisions are amended by  
22          striking “Secretary” and “Secretary of Transpor-  
23          tation” and inserting “Administrator”:

24                 (A) Section 53710(b)(2)(A)(i).

1 (B) Section 53717(b) each place it appears  
2 in a heading and in text.

3 (C) Section 53718.

4 (D) Section 53731 each place it appears,  
5 except where “Secretary” is followed by “of En-  
6 ergy”.

7 (E) Section 53732 (as amended by para-  
8 graph (8)) each place it appears, except where  
9 “Secretary” is followed by “of the Treasury”,  
10 “of State”, or “of Defense”.

11 (F) Section 53733 each place it appears.

12 (10) The following provisions are amended by  
13 inserting “or Administrator” after “Secretary” each  
14 place it appears in headings and text, except where  
15 “Secretary” is followed by “of Transportation” or  
16 “of the Treasury”:

17 (A) The items relating to sections 53722  
18 and 53723 in the analysis of chapter 537.

19 (B) Sections 53701(1), (4), and (9) (as re-  
20 designated by paragraph (1)(A)), 53702(a),  
21 53703, 53704, 53706(a)(3)(B)(iii),  
22 53709(a)(1), (b)(1) and (2)(A), and (d),  
23 53710(a) and (c), 53711, 53712 (except in the  
24 last sentence of subsection (b) as amended by

1 paragraph (6)), 53713 to 53716, 53721 to  
2 53725, and 53734.

3 (11) Sections 53715(d)(1), 53716(d)(3),  
4 53721(c), 53722(a)(1) and (b)(1)(B), and 53724(b)  
5 are amended by inserting “or Administrator’s” after  
6 “Secretary’s”.

7 (b) REPEAL OF SUPERSEDED AMENDMENTS.—Sec-  
8 tion 3507 (except subsection (c)(4)) of the National De-  
9 fense Authorization Act for Fiscal Year 2006 (Public Law  
10 109–163) is repealed.

11 **SEC. 5. ADDITIONAL AMENDMENTS BASED ON PUBLIC LAW**

12 **109–163.**

13 (a) AMENDMENTS.—Title 46, United States Code, is  
14 amended as follows:

15 (1) Chapters 513 and 515 are amended by  
16 striking “Naval Reserve” each place it appears in  
17 analyses, headings, and text and inserting “Navy  
18 Reserve”.

19 (2) Section 51504(f) is amended to read as fol-  
20 lows:

21 “(f) FUEL COSTS.—

22 “(1) IN GENERAL.—Subject to the availability  
23 of appropriations, the Secretary shall pay to each  
24 State maritime academy the costs of fuel used by a

1 vessel provided under this section while used for  
2 training.

3 “(2) MAXIMUM AMOUNTS.—The amount of the  
4 payment to a State maritime academy under para-  
5 graph (1) may not exceed—

6 “(A) \$100,000 for fiscal year 2006;

7 “(B) \$200,000 for fiscal year 2007; and

8 “(C) \$300,000 for fiscal year 2008 and  
9 each fiscal year thereafter.”.

10 (3) Section 51505(b)(2)(B) is amended by  
11 striking “\$200,000” and inserting “\$300,000 for  
12 fiscal year 2006, \$400,000 for fiscal year 2007, and  
13 \$500,000 for fiscal year 2008 and each fiscal year  
14 thereafter”.

15 (4) Section 51701(a) is amended by inserting  
16 before the period at the end “and to perform func-  
17 tions to assist the United States merchant marine,  
18 as determined necessary by the Secretary”.

19 (5)(A) Section 51907 is amended to read as fol-  
20 lows:

21 **“§ 51907. Provision of decorations, medals, and re-**  
22 **placements**

23 “The Secretary of Transportation may provide—

1           “(1) the decorations and medals authorized by  
2           this chapter and replacements for those decorations  
3           and medals; and

4           “(2) replacements for decorations and medals  
5           issued under a prior law.”.

6           (B) In the analysis of chapter 519, the item re-  
7           lating to section 51907 is amended to read as fol-  
8           lows:

“51907. Provision of decorations, medals, and replacements.”.

9           (6)(A) The following new chapter is inserted  
10          after chapter 539:

11          **“CHAPTER 541—MISCELLANEOUS**

“Sec.

“54101. Assistance for small shipyards and maritime communities.”.

12          (B) Section 3506 of the National Defense Au-  
13          thorization Act for Fiscal Year 2006 (46 U.S.C.  
14          53101 note) is transferred to and redesignated as  
15          section 54101 of title 46, United States Code, to ap-  
16          pear at the end of chapter 541 of title 46, as en-  
17          acted by subparagraph (A).

18          (C) The heading of section 54101 is amended  
19          to read as follows:

1 **“§ 54101. Assistance for small shipyards and mari-**  
 2 **time communities”.**

3 (D) The table of chapters at the beginning of  
 4 subtitle V is amended by inserting after the item re-  
 5 lating to chapter 539 the following new item:

**“541. Miscellaneous ..... 54101”.**

6 (b) REPEAL OF SUPERSEDED AMENDMENTS.—Sec-  
 7 tions 515(g)(2), 3502, 3509, and 3510 of the National  
 8 Defense Authorization Act for Fiscal Year 2006 (Public  
 9 Law 109–163) are repealed.

10 **SEC. 6. AMENDMENTS BASED ON PUBLIC LAW 109–171.**

11 (a) AMENDMENTS.—Section 60301 of title 46,  
 12 United States Code, is amended in—

13 (1) subsection (a), by striking “2 cents per ton  
 14 (but not more than a total of 10 cents per ton per  
 15 year)” and inserting “4.5 cents per ton, not to ex-  
 16 ceed a total of 22.5 cents per ton per year, for fiscal  
 17 years 2006 through 2010, and 2 cents per ton, not  
 18 to exceed a total of 10 cents per ton per year, for  
 19 each fiscal year thereafter,”; and

20 (2) subsection (b), by striking “6 cents per ton  
 21 (but not more than a total of 30 cents per ton per  
 22 year)” and inserting “13.5 cents per ton, not to ex-  
 23 ceed a total of 67.5 cents per ton per year, for fiscal  
 24 years 2006 through 2010, and 6 cents per ton, not

1 to exceed a total of 30 cents per ton per year, for  
2 each fiscal year thereafter.”

3 (b) REPEAL OF SUPERSEDED AMENDMENTS.—Sec-  
4 tion 4001 of the Deficit Reduction Act of 2005 (Public  
5 Law 109–171) is repealed.

6 **SEC. 7. AMENDMENTS BASED ON PUBLIC LAW 109–241.**

7 (a) AMENDMENTS.—Title 46, United States Code, is  
8 amended as follows:

9 (1) Section 12111 is amended by adding at the  
10 end the following:

11 “(d) ACTIVITIES INVOLVING MOBILE OFFSHORE  
12 DRILLING UNITS.—

13 “(1) IN GENERAL.—Only a vessel for which a  
14 certificate of documentation with a registry endorse-  
15 ment is issued may engage in—

16 “(A) the setting, relocation, or recovery of  
17 the anchors or other mooring equipment of a  
18 mobile offshore drilling unit that is located over  
19 the outer Continental Shelf (as defined in sec-  
20 tion 2(a) of the Outer Continental Shelf Lands  
21 Act (43 U.S.C. 1331(a))); or

22 “(B) the transportation of merchandise or  
23 personnel to or from a point in the United  
24 States from or to a mobile offshore drilling unit

1 located over the outer Continental Shelf that is  
2 not attached to the seabed.

3 “(2) COASTWISE TRADE NOT AUTHORIZED.—  
4 Nothing in paragraph (1) authorizes the employment  
5 in the coastwise trade of a vessel that does not meet  
6 the requirements of section 12112 of this title.”.

7 (2) Section 12139(a) is amended by striking  
8 “and charterers” and inserting “charterers, and  
9 mortgagees”.

10 (3) Section 51307 is amended by—

11 (A) striking “and” at the end of paragraph  
12 (2);

13 (B) striking the period at the end of para-  
14 graph (3) and inserting “; and”; and

15 (C) adding at the end the following:

16 “(4) on any other vessel considered by the Sec-  
17 retary to be necessary or appropriate or in the na-  
18 tional interest.”.

19 (4) Section 55105(b)(3) is amended by striking  
20 “Secretary of the department in which the Coast  
21 Guard is operating” and inserting “Secretary of  
22 Homeland Security”.

23 (5) Section 70306(a) is amended by striking  
24 “Not later than February 28 of each year, the Sec-

1       retary shall submit a report” and inserting “The  
2       Secretary shall submit an annual report”.

3               (6) Section 70502(d)(2) is amended to read as  
4       follows:

5               “(2) RESPONSE TO CLAIM OF REGISTRY.—The  
6       response of a foreign nation to a claim of registry  
7       under paragraph (1)(A) or (C) may be made by  
8       radio, telephone, or similar oral or electronic means,  
9       and is proved conclusively by certification of the Sec-  
10      retary of State or the Secretary’s designee.”.

11      (b) REPEAL OF SUPERSEDED AMENDMENTS.—Sec-  
12      tions 303, 307, 308, 310, 901(q), and 902(o) of the Coast  
13      Guard and Maritime Transportation Act of 2006 (Public  
14      Law 109–241) are repealed.

15      **SEC. 8. AMENDMENTS BASED ON PUBLIC LAW 109–364.**

16      (a) UPDATING OF CROSS REFERENCES.—Section  
17      1017(b)(2) of the John Warner National Defense Author-  
18      ization Act for Fiscal Year 2007 (Public Law 109–364,  
19      10 U.S.C. 2631 note) is amended by striking “section 27  
20      of the Merchant Marine Act, 1920 (46 U.S.C. 883), sec-  
21      tion 12106 of title 46, United States Code, and section  
22      2 of the Shipping Act, 1916 (46 U.S.C. App. 802)” and  
23      inserting “sections 12112, 50501, and 55102 of title 46,  
24      United States Code”.

25      (b) SECTION 51306(e).—

1           (1) IN GENERAL.—Section 51306 of title 46,  
2           United States Code, is amended by adding at the  
3           end the following:

4           “(e) ALTERNATE SERVICE.—

5                 “(1) SERVICE AS COMMISSIONED OFFICER.—An  
6           individual who, for the 5-year period following grad-  
7           uation from the Academy, serves as a commissioned  
8           officer on active duty in an armed force of the  
9           United States or as a commissioned officer of the  
10          National Oceanic and Atmospheric Administration  
11          or the Public Health Service shall be excused from  
12          the requirements of subsection (a)(3)–(5).

13                 “(2) MODIFICATION OR WAIVER.—The Sec-  
14          retary may modify or waive any of the terms and  
15          conditions set forth in subsection (a) through the  
16          imposition of alternative service requirements.”.

17           (2) APPLICATION.—Section 51306(e) of title  
18          46, United States Code, as added by this subsection,  
19          applies only to an individual who enrolls as a cadet  
20          at the United States Merchant Marine Academy,  
21          and signs an agreement under section 51306(a) of  
22          title 46, after October 17, 2006.

23          (c) SECTION 51306(f).—

1           (1) IN GENERAL.—Section 51306 of title 46,  
2           United States Code, is further amended by adding  
3           at the end the following:

4           “(f) SERVICE OBLIGATION PERFORMANCE REPORT-  
5           ING REQUIREMENT.—

6           “(1) IN GENERAL.—Subject to any otherwise  
7           applicable restrictions on disclosure in section 552a  
8           of title 5, the Secretary of Defense, the Secretary of  
9           the department in which the Coast Guard is oper-  
10          ating, the Administrator of the National Oceanic  
11          and Atmospheric Administration, and the Surgeon  
12          General of the Public Health Service—

13                 “(A) shall report the status of obligated  
14                 service of an individual graduate of the Acad-  
15                 emy upon request of the Secretary; and

16                 “(B) may, in their discretion, notify the  
17                 Secretary of any failure of the graduate to per-  
18                 form the graduate’s duties, either on active  
19                 duty or in the Ready Reserve component of  
20                 their respective service, or as a commissioned  
21                 officer of the National Oceanic and Atmos-  
22                 pheric Administration or the Public Health  
23                 Service, respectively.

24                 “(2) INFORMATION TO BE PROVIDED.—A re-  
25                 port or notice under subparagraph (A) shall identify

1 any graduate determined to have failed to comply  
2 with service obligation requirements and provide all  
3 required information as to why such graduate failed  
4 to comply.

5 “(3) CONSIDERED AS IN DEFAULT.—Upon re-  
6 ceipt of such a report or notice, such graduate may  
7 be considered to be in default of the graduate’s serv-  
8 ice obligations by the Secretary, and subject to all  
9 remedies the Secretary may have with respect to  
10 such a default.”.

11 (2) APPLICATION.—Section 51306(f) of title  
12 46, United States Code, as added by this subsection,  
13 does not apply with respect to an agreement entered  
14 into under section 51306(a) of title 46 before Octo-  
15 ber 17, 2006.

16 (d) SECTION 51509(c).—Section 51509(c) of title 46,  
17 United States Code, is amended by—

18 (1) striking “Midshipman and” in the sub-  
19 section heading and “midshipman and” in the text;  
20 and

21 (2) inserting “or the Coast Guard Reserve”  
22 after “Reserve)”.

23 (e) SECTION 51908(a).—Section 51908(a) of title 46,  
24 United States Code, is amended by striking “under this

1 chapter” and inserting “by this chapter or the Secretary  
2 of Transportation”.

3 (f) SECTION 53105(e)(2).—Section 53105(e)(2) of  
4 title 46, United States Code, is amended by striking “sec-  
5 tion 2 of the Shipping Act, 1916 (46 U.S.C. App. 802),”  
6 and inserting “section 50501 of this title”.

7 (g) REPEAL OF SUPERSEDED AMENDMENTS.—Sec-  
8 tions 3505, 3506, 3508, and 3510(a) and (b) of the John  
9 Warner National Defense Authorization Act for Fiscal  
10 Year 2007 (Public Law 109–364) are repealed.

11 **SEC. 9. MISCELLANEOUS AMENDMENTS.**

12 (a) DELETION OF OBSOLETE REFERENCE TO CAN-  
13 TON ISLAND.—Section 55101(b) of title 46, United States  
14 Code, is amended by—

15 (1) inserting “or” after the semicolon at the  
16 end of paragraph (2);

17 (2) striking paragraph (3); and

18 (3) redesignating paragraph (4) as paragraph

19 (3).

20 (b) IMPROVEMENT OF HEADING.—Title 46, United  
21 States Code, is amended as follows:

22 (1) The heading of section 55110 is amended  
23 by inserting “valueless material or” before “dredged  
24 material”.



1 (A) Section 15(10) is amended by striking  
2 “46 App. U.S.C.” and inserting “46 U.S.C.  
3 App.”.

4 (B) Section 15(30) is amended by striking  
5 “Shipping Act, 1936” and inserting “Shipping  
6 Act, 1916”.

7 (C) The schedule of Statutes at Large re-  
8 pealed in section 19, as it relates to the Act of  
9 June 29, 1936, is amended by—

10 (i) striking the second section “1111”  
11 (relating to 46 App. U.S.C. 1279f) and in-  
12 serting section “1113”; and

13 (ii) striking the second section “1112”  
14 (relating to 46 App. U.S.C. 1279g) and in-  
15 serting section “1114”.

16 (2) EFFECTIVE DATE.—The amendments made  
17 by paragraph (1) shall be effective as if included in  
18 the enactment of Public Law 109–304.

19 (c) REPEAL OF DUPLICATIVE OR UNEXECUTABLE  
20 AMENDMENTS.—

21 (1) REPEAL.—Sections 9(a), 15(21) and  
22 (33)(A)–(D)(i), and 16(c)(2) of Public Law 109–304  
23 are repealed.

1           (2) INTENDED EFFECT.—The provisions re-  
2           pealed by paragraph (1) shall be treated as if never  
3           enacted.

○