

NASBLA MODEL ACT FOR CHARTER BOAT SAFETY

This model act originally was approved by the membership of the National Association of State Boating Law Administrators in September 1992. Applicable to vessels carrying passengers for hire, this act is intended to provide for the regulation, inspection, and licensing of charter boats; protect the safety and welfare of persons using them; authorize the administering department to prescribe standards and promulgate rules; provide for the seizure and condemnation of certain vessels; and impose duties on certain insurance carriers.

In October 2005, the loss of 20 lives in the sinking of the Ethan Allen in Lake George, NY, propelled the National Transportation Safety Board (NTSB) to investigate the accident and identify a deficiency among the states in effectively regulating small passenger vessel safety. In response to this event – and as part of an organizational effort to make the model act provisions consistent under the NASBLA Model Act Standards adopted in 2005 -- NASBLA undertook a review and update of the model act. The NASBLA Law Enforcement Committee reviewed the updated version and adopted it with minor editing changes. The model act, in revised form, was approved by the NASBLA membership on Sept. 27, 2006.

In October 2006, an NTSB-sponsored seminar with the United States Coast Guard (USCG) and state partners was held to showcase the states' own small passenger vessel safety programs and familiarize state officials with the USCG regulatory program for small vessel passenger safety. One of the action items agreed upon was for the USCG and NTSB to conduct a comparative review of the U.S. small passenger safety regulations (Title 46 of Federal Regulations Parts 117-187 [Subchapter T]) and this model act as had been adopted in September 2006. In March 2007, NTSB Chairman Mark V. Rosenker, in a letter to then-NASBLA President Jeffrey S. Johnson, identified areas in the model act where additional requirements needed to be developed.

The Uniform Boating Laws Subcommittee of NASBLA's Enforcement and Training Committee reviewed the model act in follow-up to the NTSB letter, and in March 2008, recommended the addition of two new provisions to the act – a new Section 10 on vessel repairs and alterations and a new Section 16 on accident investigations and reports.

*The major follow-up, however, came in revisions to the administrative rules that accompany the model act. See **NASBLA's Model Administrative Rules -- Charter Boats**, also revised in 2008.*

1 Section 1. [*Short Title.*] This act may be cited as the Charter Boat Safety Act.

1 Section 2. [*Definitions.*] As used in this act:

2 (1) "Bare boat charter" or "Livery boat" means the unconditional lease or rental of a vessel by
3 the vessel owner or the owner's agent to a person who, by written agreement or contract,
4 assumes all responsibility and liability for operating and provisioning of the vessel during the
5 term of agreement or contract.

6 (2) "Carrying passengers for hire" or "carry passengers for hire" means the transporting of any

7 person on a vessel for consideration regardless of whether the consideration is directly or
8 indirectly paid to the vessel owner, the owner's agent, the vessel operator, or any other person
9 who holds any interest in the vessel.

10 (3) "Charter boat" means a vessel which is rented or leased or offered for rent or lease to carry
11 passengers for hire if the vessel owner or the owner's agent retains possession, command, and
12 control of the vessel.

13 (4) "Class A vessel" means a vessel, except a sailboat, that carries for hire on navigable waters
14 not more than six (6) passengers.

15 (5) "Class B vessel" means a vessel, except a sailboat, that carries for hire on inland waters not
16 more than six (6) passengers.

17 (6) "Class C vessel" means a vessel, except a sailboat, that carries for hire on inland waters
18 more than six (6) passengers.

19 (7) "Class D vessel" means a vessel which is propelled primarily by a sail or sails and which
20 carries for hire on navigable waters not more than six (6) passengers or carries passengers for
21 hire on inland waters.

22 (8) "Class E vessel" means a bare boat charter of any type vessel twenty (20) feet in length or
23 more or designed for overnight accommodations on any waters of this state carrying any number
24 of passengers.

25 (9) "Department" means the [insert name of agency authorized by the legislative body to
26 administer this act].

27 (10) "Equipment" means a system, part, or component of a vessel as originally manufactured,
28 or a system, part, or component manufactured or sold for replacement, repair, or improvement of
29 a system, part, or component of a vessel; an accessory or equipment for, or appurtenance to, a
30 vessel; or a marine safety article, accessory, or equipment intended for use by a person on board
31 a vessel. The term does not include radio equipment.

32 (11) "Inland waters" means all waters of this state, except navigable waters.

33 (12) "Law enforcement officer" means [insert categories of local or state level law enforcement
34 officers, as applicable].

35 (13) "Navigable waters" means those waters of the state over which the state and the United
36 States Coast Guard exercise concurrent jurisdiction.

37 (14) "Operate" means to navigate or otherwise control the movement of a vessel, including
38 control of the vessel's propulsion system.

39 (15) "Operator" means the person who navigates or is otherwise in control or in charge of the
40 movement of the vessel, including control of the vessel's propulsion system.

41 (16) "Owner" means a person, other than a lienholder, having the property in or title to a
42 vessel.

43 (17) "Passenger" means a person carried on board a charter boat except either of the following:

44 (i) The vessel owner or the owner's agent.

45 (ii) The pilot and members of the crew of the vessel who have not contributed consideration
46 for their transportation either before, during, or after the voyage.

47 (18) "Person" means any natural person or individual.

48 (19) "Personal watercraft" means a vessel, less than 16 feet, propelled by a water-jet pump or
49 other machinery as its primary source of motor propulsion, which is designed to be operated by a
50 person sitting, standing or kneeling on, rather than being operated by a person sitting or standing
51 inside the vessel.

52 (20) "Pilot's license" means a vessel operator's license issued by the United States Coast Guard

53 or other federal agency, or a license issued by the department to an operator of a charter boat that
54 is operated on inland waters.

55 (21) "Rule" means a rule promulgated pursuant to the administrative procedures act.

56 (22) "Vessel" means every description of watercraft, other than a seaplane on water, used or
57 capable of being used as a means of transportation on the water.

58 (23) "Waters of the state" means any waters within the jurisdiction of this state.

1 Section 3. [*Exemptions.*]

2 (a) This act does not apply to a vessel which is required to be inspected by federal law or
3 regulations for the purposes of carrying passengers for hire and which carries a valid and current
4 certificate of inspection issued pursuant to federal law.

5 (b) This act shall not be construed to require the securing of a state pilot's license if a valid and
6 current federal pilot's license has been obtained from the United States Coast Guard or other
7 federal agency.

8 (c) This act shall not apply to a vessel twenty (20) feet or less in length which is used primarily
9 for training or instructional purposes and not used at any time as a charter boat or a livery boat.

1 Section 4. [*Inspection; License Requirements for Rental or Lease of Charter Boat.*]

2 (a) A person shall not offer to rent or lease nor shall rent or lease a charter boat, and a person
3 shall not carry passengers for hire on a vessel on the waters of this state unless both of the
4 following conditions are satisfied:

5 (1) The department has inspected the vessel, if required by this act, and has issued a
6 certificate of inspection that is valid and current for the vessel.

7 (2) The operator of the vessel is a licensed pilot or is under the direct supervision of a
8 licensed pilot who is on board the vessel.

9 (b) The licensed pilot of a charter boat shall possess a valid and current pilot's license issued in
10 the pilot's name and shall immediately display that license upon demand of any law enforcement
11 officer.

12 (c) A person shall not operate a charter boat that carries seven (7) or more passengers on
13 navigable waters without first obtaining a current vessel inspection certificate and a pilot's
14 license from the United States Coast Guard or other federal agency.

1 Section 5. [*Certificate of Inspection or Reciprocity Requirement.*] A person shall not advertise
2 or arrange for the carrying of any passenger on a charter boat unless the charter boat has been
3 issued a valid and current certificate of inspection pursuant to Section 4 of this act or operates
4 under a reciprocal agreement pursuant to Section 14 of this act.

1 Section 6. [*Minimum Safety Standards.*] The department shall promulgate rules to establish
2 minimum safety standards for charter boats. The safety standards shall be designed to insure the
3 safety and well-being of persons utilizing a charter boat and shall include all of the following:

4 (1) Methods for determining that a charter boat is of a structure suitable for carrying passengers
5 and crew, and is in a condition to enable it to be navigated safely.

6 (2) Necessary equipment and operating requirements.

7 (3) Minimum public liability insurance requirements.

8 (4) Methods for determination of maximum passenger capacity.

9 (5) Table tests to determine the sufficiency of the charter boat's structure, equipment, and

10 stability.

1 Section 7. [*Notification of Insurance Cancellation, Expiration.*] Any insurance carrier who
2 issues public liability insurance required by this act or a rule promulgated pursuant to this act
3 shall notify the department immediately, in writing, whenever the insurance is canceled or
4 expires and is not renewed.

1 Section 8. [*Rules for Pilot Licensing.*] The department, pursuant to this act, shall promulgate
2 rules for the licensing of pilots of charter boats on inland waters. Rules promulgated pursuant to
3 this section shall be designed to insure that pilots of charter boats have the training and skills
4 necessary to insure the safety and well-being of charter boat passengers, crew members, and
5 members of the general public.

1 Section 9. [*Inspection.*]

2 (a) Except for an inspection under Section 12(b) of this act, the department shall inspect or
3 arrange for the inspection of every charter boat and its equipment once every [twelve (12)
4 months] while the charter boat is at dockside and at least once every [sixty (60) months] while
5 the charter boat is in dry dock to determine if the charter boat and its equipment complies with
6 the rules promulgated pursuant to Section 6 of this act.

7 (b) The department may at any time inspect or provide for the inspection of any charter boat if
8 the department has reasonable cause either to believe that a provision of this act has been
9 violated or that an inspection is necessary to insure the safety of life and property.

10 (c) If, after the inspection provided for in Section 4 of this act and payment of the fees
11 prescribed in Section 12 of this act, the department finds that the charter boat and its equipment
12 comply with this act and the rules promulgated under this act, the department shall issue to the
13 owner of the charter boat a certificate of inspection to be furnished by the department. The
14 certificate of inspection shall:

15 (1) Contain the maximum passenger, crew, and total person capacity of the charter boat.

16 (2) Be prominently displayed on the charter boat while the charter boat is operated upon
17 waters of the state.

18 (3) Expire on [May 31 of the second year following the year] in which the charter boat was
19 dockside inspected, except that the department may extend the expiration date if conditions exist
20 which would prevent the launching or the inspection of the charter boat before the expiration of
21 the certificate of inspection.

22 (d) The department may determine the number of crew necessary for the safe operation of a
23 charter boat.

24 (e) If the department determines that a charter boat or its equipment does not comply with this
25 act or the rules promulgated pursuant to this act or applicable federal law or regulations, the
26 department shall not issue a certificate of inspection and may revoke any current certificate of
27 inspection pursuant to proper administrative procedures.

1 Section 10. [*Repairs and Alterations*]

2 (a) Before any repair or modification is made to the structure or engineering plant of a charter
3 boat, or any repair or modification is made that may affect the stability, seaworthiness or safe
4 operation of a charter boat, or in the event that the owner of a charter boat becomes aware of any

5 such repair or modification, the owner shall notify the marine inspector of the repair or
6 modification or proposed repair or modification in writing.

7 (b) The marine inspector shall be authorized to determine

8 (1) whether a proposed repair or modification may be made, or

9 (2) whether inspection of the charter boat shall be required before any proposed repair or
10 modification is made, or

11 (3) whether inspection should be made after the repair or modification.

12 (c) The marine inspector shall also be authorized to determine

13 (1) whether the charter boat may be operated pending inspection, or

14 (2) whether the charter boat may only be operated after inspection, or

15 (3) whether it may not be operated.

16 (d) The marine inspector may impose conditions on any such repair or modification, inspection
17 and operation taking into consideration the nature of the charter boat and any factors the marine
18 inspector deems relevant to the stability, seaworthiness and safe operation of such charter boat.

1 Section 11. [*Operation in Violation of Certificate of Inspection.*]

2 (a) A person shall not operate a charter boat in violation of the terms of a certificate of
3 inspection.

4 (b) This section shall not apply when the charter boat is being utilized by the owner of the
5 charter boat exclusively for noncommercial purposes.

1 Section 12. [*Examination for Pilot's License.*]

2 (a) The department shall examine, or provide for the examination of, all applicants for a state
3 pilot's license or renewal of an existing state pilot's license pursuant to the rules promulgated
4 pursuant to Section 8 of this act to insure that an applicant has the skill, knowledge, and
5 experience necessary to pilot a charter boat. If the department has reasonable cause to believe it
6 necessary, the department may reexamine the holder of a state pilot's license at any time to
7 determine continued compliance with the rules. If the department determines that the holder of
8 the state pilot's license no longer complies with the rules, the department may revoke the license
9 pursuant to proper administrative procedures.

10 (b) If, after the applicant has successfully completed the examination and paid the fees
11 prescribed in Section 12 of this act, the department determines that the applicant is qualified
12 pursuant to the rules promulgated under Section 8 of this act, the department shall issue a state
13 pilot's license to the applicant..

14 (c) A state pilot's license shall be issued for a [three (3) year] period.

1 Section 13. [*Application for Inspection, Pilot's Examination; Fees.*]

2 (a) The owner of a charter boat required to be inspected under this act or a person required to
3 be licensed as a state pilot under this act shall apply for the charter boat inspection or the state
4 pilot's examination on a form prescribed and furnished by the department and shall pay the
5 required fee. An applicant shall furnish information required by the department, and shall not file
6 an application that contains false information. An applicant shall certify by the person's signature
7 that the information furnished on the application is true and correct.

8 (b) The owner of a charter boat that has not been dry dock or dockside inspected during the
9 [twelve (12) month] period prior to the effective date of this act, or has never been inspected,
10 shall pay to the department an inspection fee for dry dock and dockside inspection according to

11 the following schedule:

12 (1) Class A & D vessels [insert dollar amount]

13 (2) Class B vessels [insert dollar amount]

14 (3) Class C vessels [insert dollar amount]

15 (c) After the effective date of this act, for each required dry dock or dockside inspection of a
16 charter boat, the owner shall pay the department a fee according to the following schedule:

17 (1) Class A and D vessels:

18 (i) Dockside inspection [insert dollar amount]

19 (ii) Dry dock inspection [insert dollar amount]

20 (2) Class B vessels:

21 (i) Dockside inspection [insert dollar amount]

22 (ii) Dry dock inspection [insert dollar amount]

23 (3) Class C vessels:

24 (i) Dockside inspection [insert dollar amount]

25 (ii) Dry dock inspection [insert dollar amount]

26 (d) When the department inspects any charter boat at an interval other than as required by this
27 act, the inspection shall be conducted without an inspection fee for a dockside inspection and for
28 a reduced fee to be determined by the department for a dry dock inspection. When a [twelve (12)
29 month] dockside inspection and a [sixty (60) month] dry dock inspection are required in the
30 same year, the owner shall only pay the fee for the dry dock inspection, as provided in subsection
31 (c) of this Section.

32 (e) For each examination of a person for a state pilot's license, the applicant shall pay a fee of
33 [insert dollar amount] to the department.

34 (f) An applicant for a charter boat inspection or state pilot's license examination who cannot
35 keep an appointment mutually agreed upon by the applicant and the department and who fails to
36 notify the inspecting officer or the department's [insert appropriate division] at least [twenty-four
37 (24) hours] prior to the scheduled appointment, shall forfeit the inspection or examination fee to
38 the department. The fee shall be credited to the [insert fund]. Upon forfeiture of the fee, the
39 applicant must submit a new application and fee before the department shall conduct any
40 inspection or examination.

41 (g) The revenue received for inspection fees under this section shall be deposited in the state
42 treasury to the credit of the [insert fund] and shall only be used to pay for inspections required by
43 this act and to maintain the education and enforcement program provided for in Section 14(b) of
44 this act. The [revenue division of the department of treasury] shall annually provide to the
45 department an accurate total of revenue collected and shall annually credit that amount to the
46 [insert fund].

1 Section 14. [*Petition for Hearing; Appeal.*]

2 (a) A person denied a state pilot's license or the owner of a charter boat who has been denied a
3 certificate of inspection for a vessel may petition the department for an evidentiary hearing
4 pursuant to the administrative procedures.

5 (b) A person who is aggrieved by the decision of the department under subsection (a) may
6 appeal the action of the department in the manner provided in administrative procedures.

1 Section 15. [*Authority to Enter Agreements; Develop Enforcement Program.*]

2 (a) The department may enter into reciprocal agreements with other jurisdictions concerning

3 the operation and inspection of charter boats from those jurisdictions that operate on the waters
4 of this state. Reciprocity shall be granted only if a jurisdiction can establish to the satisfaction of
5 the department that its laws and standards concerning charter boats meet or exceed the laws and
6 rules of this state.

7 (b) The department shall develop an enforcement program designed to eliminate the operation
8 of charter boats that have not been inspected as required by this act.

1 Section 16. [*Investigation by Inspector*]

2 (a) The department shall prescribe rules for the immediate investigation of charter boat
3 casualties to decide

4 (1) the cause of the casualty, including the cause of any death, serious injury to an individual,
5 material injury to an individual, material loss of property or damage affecting the seaworthiness
6 of a charter boat or significant harm to the environment;

7 (2) whether an act of misconduct, incompetence, negligence, unskillfulness, or willful
8 violation of law committed by any individual licensed or certificated has contributed to the cause
9 of the casualty;

10 (3) whether there is evidence that an act subjecting the offender to a civil or criminal penalty
11 under the laws of the state has been committed; and

12 (4) whether there is a need for new laws or regulations, or amendments or repeal of existing
13 laws or regulations, to prevent the recurrence of the casualty.

14 (b) The department shall prescribe rules about the form and manner of reports of investigations
15 conducted under this part.

1 Section 17. [*Bare Boat Charter Inspection Fees.*] Any bare boat charter that is used or to be
2 used without the owner either being on board or operating the vessel shall pay the inspection fees
3 established pursuant to Section 12(c) for each livery boat to be inspected. Fees collected pursuant
4 to this section shall be forwarded to the department. The department shall utilize the fees to
5 develop and maintain the enforcement program provided for in Section 14(b) of this act.

1 Section 18. [*Penalty for Violation.*]

2 (a) A person who violates this act or a rule promulgated pursuant to this act is guilty of a [insert
3 offense], punishable by imprisonment for not more than [insert sentence], or by a fine of not
4 more than [insert dollar amount], or both.

5 (b) When a vessel is operated in violation of Section 4 or 10 of this act, the vessel may be
6 seized as evidence and upon conviction of the owner, the vessel may be condemned and
7 confiscated in the manner as provided for under [insert relevant state code].

8 (c) A law enforcement officer may issue an appearance ticket to any person violating any of
9 the provisions of this act or a rule promulgated pursuant to this act.

1 Section 19. [*Effective Date.*] [Insert effective date.]