

## **Bareboat Charter Boat**

The USCG issued a circular (NVIC 7-94) in July of 1994 to put clarity to what a Bareboat Charter Boat is and its licensing requirements. The clarification was important because it defined when a Bareboat Charter Boat is taking passengers for hire and when it is a recreational boat. It was specifically issued to address some abuses of the Passenger Vessel Safety Act of 1993.

Recreational Boats do not need a licensed captain as they are not taking any passengers for hire. Any vessel taking passengers for hire does require a licensed captain.

Passenger for hire means “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.

### **So, what is a Bareboat Charter Boat?**

A Bareboat Charter is a vessel which is leased by the owner to another person for a period of time *without* captain and crew. The person leasing the vessel is then responsible for the entire vessels operation and any captain and crewing requirements. The vessel is not subject to Passenger Vessel inspections and manning requirements and is considered a recreational vessel.

### **Is a Bareboat Charter Boat a Passenger Vessel (requiring a captain) or is it a recreational boat?**

It depends on a number of factors, the most important is whether the owner of the boat is the operator, or provides the operator, or dictates the operator.

If the **owner provides or dictates the operator** of the boat and/or its crew it is a Passenger Vessel and requires a licensed operator.

If the **owner is the operator** of the boat it is a Passenger Vessel and requires a licensed operator.

If the **owner does not provide or dictate the operator** of the boat/and or its crew it is a Recreation Vessel, providing it does not carry more than 12 passengers. If the vessel carries more than 12 passengers its considered a Small Passenger Vessel and must have a licensed operator and must maintain a Inspected Vessel Certificate of Inspection (COI).

Anyone can lease/rent a boat and take up to 12 friends, sharing expense, etc.. without needing a licensed captain as long as they are driving the boat or hire someone to drive the boat for them that is not the owner or dictated by the owner of the boat.

However, any provision that tends to show retention of possession or control of the vessel such as the owner of the vessel being aboard during the charter of the vessel contradicts the claim that a valid bareboat charter exists.

**What other factors are used for determining if a Bareboat Charter Boat is a Passenger Vessel or a recreational boat?**

A written agreement must exist. The person leasing the vessel is taking on significant legal obligations in regard to the vessel and the safety of the passengers. If a written agreement does not exist, it is considered a charter operation and requires a licensed captain.

Other factors defined in the NVIC which influences whether a valid bareboat charter exist are defined in the circular. These are:

1. The charterer must have the option of selecting the crew. Although a master or crew may be furnished by the owner, full possession and control must be vested in the charterer. This does not preclude the charterer from taking advice from the master and crew regarding hazardous conditions such as, inclement weather, navigational obstructions, etc.
2. The master and crew are paid by the charterer.
3. All food, fuel, and stores are provided by the charterer.
4. All port charges and pilotage fees, if any, are paid by the charterer.
5. Insurance is obtained by the charterer, at least to the extent of covering liability not included in the owner's insurance. A greater indication of full control in the charterer is shown if all insurance is carried by the charterer
6. The charterer may discharge, for cause, the master or any crew member without referral to the owner.
7. The vessel is to be surveyed upon its delivery and return.

Finally, the circular indicates if there is any question of whether a vessel is operating as a bareboat charter or as a passenger vessel it is necessary for the owner to discuss this with the USCG Officer in Charge of Marine Inspection (OCMI) for determination.

I encourage anyone with further concerns or questions about Bareboat Charter Boats refer to the NVIC 7-94 circular and discuss their particular operation with the USCG OCMI.