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Coast Guard Can Charge Rail Jumpers

The call came in last month from a PVA vessel member who operates a sightseeing and dinner cruise vessel on an inland river. "Over the weekend, several young male passengers at a wedding decided to show off for their girlfriends. At the end of the cruise, as the boat arrived at the dock, they stripped down to their boxer shorts and jumped from the deck into the water. My captain and crew responded just as they should have, and we successfully pulled them out of the water, but they disrupted my cruise, endangered my crew, and frightened the other customers. What can be done about a customer like this?"

The answer: the Coast Guard can charge them with a violation of federal law and assess them a stiff civil fine! The statute is known as the "Rail Jumper Safety Amendment," and PVA was responsible for its enactment into law.

The Coast Guard can also use the same law against a jet ski operator that unsafely buzzes or jumps the wake of a passenger vessel. Back in 1997, PVA placed at the top of its legislative wish list enactment of language imposing a federal penalty on rail jumpers and other individuals who interfere with the safe operation of a vessel. We achieved our goal! The necessary language was included in H.R. 2204, the Coast Guard Authorization Act of 1998.

On March 19, 1997, PVA Legislative Committee Chairman (and now PVA President) Cornel Martin testified before the House Subcommittee on Coast Guard and Maritime Transportation about the need for such an amendment. Cornel stated, "Another activity which endangers the safe operation of our vessels, and therefore the lives of our passengers, is what we call 'rail jumping.' More common than most sensible people would guess, this is the practice of voluntarily leaving the vessel -- going overboard -- while the vessel is underway. This situation -- whether it is an attempted suicide, a stunt, or an effort to get out from paying the fare -- creates havoc for the captain and crew of commercial passenger vessels. The crew, by law, is obligated to 'render necessary assistance' to rescue the party in the water but in so doing often is forced into difficult and, depending on the state and circumstance of the cruise, dangerous maneuvers to complete the rescue. These maneuvers can have the unintended consequence of injuring onboard passengers when the vessel, for example, veers sharply to return to the scene of the incident. [R]ail jumping ... and other conscious and deliberate individual actions which endanger the operation of a commercial passenger vessel and, hence, the public on board are safety threats that should be outlawed by Congress and the perpetrators should be prosecuted by U.S. Coast Guard accordingly."

When Cornel testified, the then-existing federal law allowed for a sanction against a vessel operator whose conduct endangers others, but the statute was not broad enough to apply to rail jumpers. Rail jumping is not a hypothetical danger; every year, several PVA operators experience this alarming behavior by passengers.

The House of Representatives passed its first version of the rail jumper provision on October 21, 1997. The report accompanying the legislation explains the provision: "Section 302 of this bill [H.R. 2204] amends section 2302(a) of title 46, United States Code, to establish a new civil penalty of \$1,000 for a person who interferes with the safe operation of a vessel, so as to endanger the life, limb, or property of a person. Activities subject to this penalty may include jumping off a commercial passenger vessel while the vessel is in operation, interfering with the duties of the master or other crew members, or operating a vessel in a manner which interferes with the safe operation of another vessel."

"The [House] Committee [on Transportation and Infrastructure] is concerned about the lack of enforcement action against persons who 'jump the wakes' of passenger vessels in violation of the existing prohibition under section 2302(a) of title 46 against operating a vessel in a negligent manner. While the Committee is aware of numerous efforts by the Coast Guard Auxiliary and others to educate the boating public about the dangers of these practices, direct enforcement action against this activity should be taken by the Coast Guard if this unsafe activity is to be curtailed. The Committee urges the Coast Guard to make a concerted effort to improve the safety of our nation's waterways by enhancing its enforcement action against this activity." (Page 24 of House Report 105-236)

On October 15, 1998, the House passed a second version of H.R. 2204, again with the rail jumper provision. During debate, Congressman Bob Clement of Tennessee alluded to the problem, saying, "We have also included a number of recommendations made by the maritime industry, such as prohibiting people from interfering with the safe operation of commercial vessels. Some dinner cruises have had problems with drunken passengers jumping overboard. This disturbance jeopardizes the vessels and all other passengers on board." Those who attended MariTrends 1998 and the PVA Annual Convention in Nashville, Tennessee will remember that Congressman Clement was the speaker at our public policy luncheon.

The Senate approved the revised H.R. 2204 on October 21, 1998. President Clinton signed the legislation in law on November 13, 1998 (Public Law 105-383).

For several years, the maximum civil fine that could be imposed on a rail jumper or wake jumper was \$1,000. However, in the year 2002, Congress dramatically increased the potential fine. As a result, federal law now reads "A person operating a vessel in a negligent manner or interfering with the safe operation of a vessel, so as to endanger the life, limb, or property of a person is liable to the United States Government for a civil penalty of not more than \$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel." The language that applies to rail jumpers is highlighted.

No one believes that the existence of a federal penalty will eliminate rail jumping. However, it does give a PVA operator and the Coast Guard a tool with which to combat the problem. Now it is possible for a vessel operator to advise passengers by means of the pre-trip safety announcement and by posting warning signs that rail jumping is a federal offense with a substantial financial penalty.

For the "Rail Jumper Safety Amendment" to be of any deterrence, your local Coast Guard officials must know about it and be prepared to invoke it. Unfortunately, PVA has heard of several instances in which Coast Guard personnel confessed that they didn't even know that this enforcement tool was in their available arsenal! PVA recommends that you make a copy of this article and share it with your local Coast Guard office. Make sure that they know about the "Rail Jumper Safety Amendment."

Tell them that if you ever have a rail jumping incident, you intend to notify the Coast Guard as soon as it occurs and that you want the Coast Guard to be ready to charge the offenders. Only if the industry and the Coast Guard act against rail jumpers will this dangerous and offensive behavior be curbed.

For more information about this issue, please contact PVA Legislative Director Ed Welch by phone at 800-807-8350 x27 or by email at ewelch@passengervessel.com.

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Title 46, United States Code, Section 2302