

**A Resolution addressing the Criminalization of Seafarers
& The Application of the Seafarer Manslaughter Act
2010 Seafarer Regional Conference
Houston, Texas
March 9&10, 2010**

WHEREAS there is growing concern over the increasing trend to criminalize maritime accidents;

WHEREAS the Council of American Master Mariners and the International Federation of Shipmasters' Associations have adopted several resolutions concerning this worrisome trend of criminalization of seafarers by port state control authorities; and calling "upon the International Maritime Organization (IMO) and the International Labour Organization (ILO) and other maritime and regulatory interests to use professional and civil sanctions, rather than criminal action, to penalize simple negligence;

WHEREAS the burden of proof for shipboard personnel to be found guilty under the Seafarer Manslaughter Act is currently interpreted as simple negligence;

WHEREAS other operators of commercial carriers are not subject to this same standard;

WHEREAS IMO and ILO member States abide by the Guidelines on the Fair Treatment of Seafarers, adopted by the IMO Legal Committee in April 2006, there is great concern that foreign authorities will take retaliatory action against U.S. seafarers in similar circumstances;

RESOLVE, that the participants representing a varied group of maritime interests, including AMO, AOS USA, BIMCO, CAMM, IFSMA, ITF, MEBA, MM&P, Nautical Institute, Nautilus, NAMMA, and SIU* during its 2010 Seafarers Regional Conference in Houston, Texas, join their voices in an effort to ensure that simple negligence not be a sufficient burden of proof to hold seafarers criminally liable for maritime accidents;

AND

RESOLVE, that the United States Congress review the Seaman’s Manslaughter Act (US Code Title 18, Chapter 51, Sec. 1115) in light of the IMO Resolution Reg.3(91) of April 27, 2006, *Guidelines for the Treatment of Seafarers in the Event of a Maritime Accident*, and clarify that it be applied only to cases of willful, callous, reckless or other intentional misconduct.

RESOLVE, that the language of 18 USC 1115 be amended as follows:

18 USC 1115 - Sec. 1115. Misconduct of ship officers

Every captain, engineer, pilot, or other person employed on any steamboat or vessel, by whose willful, recklessness or other intentional misconduct the life of any person is destroyed, and every owner, charterer, inspector, or other public officer, through whose gross negligence, recklessness or other intentional misconduct, the life of any person is destroyed, shall be fined under this title or imprisoned not more than ten years, or both. When the owner or charterer of any steamboat or vessel is a corporation, any executive officer of such corporation, for the time being actually charged with the control and management of the operation, equipment, or navigation of such steamboat or vessel, who has knowingly and willfully caused or allowed such fraud, neglect, connivance, misconduct, or violation of law, by which the life of any person is destroyed, shall be fined under this title or imprisoned not more than ten years, or both.

Historical And Revision Notes

Based on title 18, U.S.C., 1940 ed., Sec. 461 (Mar. 4, 1909, ch. 321, Sec. 282, 35 Stat. 1144). Section restores the intent of the original enactments, R.S. Sec. 5344, and act Mar. 3, 1905, ch. 1454, Sec. 5, 33 Stat. 1025, and makes this section one of general application.

In the Criminal Code of 1909, by placing it in chapter 11, limited to places within the special maritime and territorial jurisdiction of the United States, such original intent was inadvertently lost as indicated by the entire absence of report or comment on such limitation.

AMENDMENTS 1994 - Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$10,000" in two places.

*List of Acronyms:

- AMO – American Maritime Officers
- AOS USA – Apostleship of the Sea of the United States of America

- BIMCO – Baltic & International Maritime Council
- CAMM – Council of American Master Mariners
- ISFMA – International Federation of Shipmasters’ Association
- ITF – International Federation of Transport Workers
- MEBA – Marine Engineers’ Beneficiary Association
- MM&P – Master, Mates & Pilots
- NI – Nautical Institute
- Nautilus – Nautilus International;
- NAMMA – North American Maritime Ministry Association
- SIU – Seafarers International Union