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*U.S. Coast Guard History Program*

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## **Federal Legal Authorities Regarding the Coast Guard Auxiliary**

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### **TITLE 14. COAST GUARD**

#### **PART II. COAST GUARD RESERVE AND AUXILIARY**

##### **CHAPTER 23. COAST GUARD AUXILIARY (2002)**

###### **§ 821. Administration of the Coast Guard Auxiliary**

(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the "Auxiliary headquarters unit"), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the following:

- (1) Chapter 26 [171] of title 28 (popularly known as the Federal Tort Claims Act).
- (2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) The Act of March 3, 1925 (46 App. U.S.C. 781-790; popularly known as the Public Vessels Act).

(4) The Act of March 9, 1920 (46 App. U.S.C. 741-752; popularly known as the Suits in Admiralty Act).

(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).

(6) Other matters related to non-contractual civil liability.

(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.

#### § 822. Purpose of the Coast Guard Auxiliary

The purpose of the Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.

#### INTERPRETIVE NOTES AND DECISIONS

14 USCS §§ 822 and 831 do not permit tasking Coast Guard auxiliarists with wartime missions such as securing of port facilities and other guard or picket duties for which carriage of sidearms would be necessary. G-LGL Memo 16790, 7 Mar. 83, CGLB No. 433.

#### § 823. Eligibility, enrollments

The Auxiliary shall be composed of citizens of the United States and its territories and possessions, who are owners, sole or part, of motorboats, yachts, aircraft, or radio stations or who by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary, and who may be enrolled therein pursuant to applicable regulations.

#### § 823a. Members of the Auxiliary; status

(a) Except as otherwise provided in this chapter [14 USCS §§ 821 et seq.], a member of the Coast Guard Auxiliary shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

(1) Chapter 26 [171] of title 28 (popularly known as the Federal Tort Claims Act).

(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) The Act of March 3, 1925 (46 App. U.S.C. 781-790; popularly known as the Public Vessels Act).

(4) The Act of March 9, 1920 (46 App. U.S.C. 741-752; popularly known as the Suits in Admiralty Act).

(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).

(6) Other matters related to noncontractual civil liability.

(7) Compensation for work injuries under chapter 81 of title 5 [5 USCS §§ 8101 et seq.].

(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).

(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28.

#### § 824. Disenrollment

Members of the Auxiliary may be disenrolled pursuant to applicable regulations.

#### § 825. Membership in other organizations

Members of the Auxiliary may be appointed or enlisted in the Reserve, pursuant to applicable regulations, and membership in the Auxiliary shall not be a bar to membership in any other naval or military organization.

#### § 826. Use of member's facilities

The Coast Guard may utilize for any purpose incident to carrying out its functions and duties as authorized by the Secretary any motorboat, yacht, aircraft, or radio station placed at its disposition for any of such purposes by any member of the Auxiliary, by any corporation, partnership, or association, or by any State or political subdivision thereof.

§ 827. Vessel deemed public vessel

While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.

§ 828. Aircraft deemed public aircraft

While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilots shall be deemed to be Coast Guard pilots.

§ 829. Radio station deemed government station

Any radio station, while assigned to authorized Coast Guard duty shall be deemed to be a radio station of the Coast Guard and a "government station" within the meaning of section 305 of the Communications Act of 1934 (47 U.S.C. 305).

§ 830. Availability of appropriations

(a) Appropriations of the Coast Guard shall be available for the payment of actual necessary traveling expense and subsistence, or commutation of ration allowance in lieu of subsistence, of members of the Auxiliary assigned to authorized duties and for actual necessary expenses of operation of any motorboat, yacht, aircraft, or radio station when assigned to Coast Guard duty, but shall not be available for the payment of compensation for personal services, incident to such operation, other than to personnel of the Coast Guard or the Reserve. The term "actual necessary expenses of operation," as used in this section, shall include payment for fuel, oil, power, water, supplies, provisions, replacement or repair of equipment, repair of any damaged motorboat, yacht, aircraft, or radio station and for the constructive or actual loss of any motorboat, yacht, aircraft, or radio station where it is determined, under applicable regulations, that responsibility for the loss or damage necessitating such replacement or repair of equipment, or for the damage or loss, constructive or actual, of such motorboat, yacht, aircraft, or radio station rests with the Coast Guard.

(b) The Secretary may pay interest on a claim under this section in any case in which a payment authorized under this section is not made within 60 days after the submission of the claim in a manner prescribed by the Secretary. The rate of interest for purposes of this section shall be the annual rate established under section 6621 of the Internal Revenue Code of 1954.

§ 831. Assignment and performance of duties

No member of the Auxiliary, solely by reason of such membership, shall be vested with, or exercise, any right, privilege, power, or duty vested in or imposed upon the personnel of the Coast Guard or the Reserve, except that any such member may, under applicable regulations, be assigned duties, which, after appropriate training and examination, he has been found competent to perform, to effectuate the purposes of the Auxiliary. No member of the Auxiliary shall be placed in charge of a motorboat, yacht, aircraft, or radio station assigned to Coast Guard duty unless he has been specifically designated by authority of the Commandant to perform such duty. Members of the Auxiliary, when assigned to duties as herein authorized shall, unless otherwise limited by the Commandant, be vested with the same power and authority, in the execution of such duties, as members of the regular Coast Guard assigned to similar duty. When any member of the Auxiliary is assigned to such duty he may, pursuant to regulations issued by the Secretary, be paid actual necessary traveling expenses, including a per diem allowance in conformity with standardized Government travel regulations in lieu of subsistence, while traveling and while on duty away from his home. No per diem shall be paid for any period during which quarters and subsistence in kind are furnished by the Government, and no per diem shall be paid for any period while such member is performing duty on a vessel.

#### § 832. Injury or death in line of duty

When any member of the Auxiliary is physically injured or dies as a result of physical injury incurred while performing any duty to which he has been assigned by competent Coast Guard authority, such member or his beneficiary shall be entitled to the same benefits provided for temporary members of the Reserve who suffer physical injury or death resulting from physical injury incurred incident to service. Members of the Auxiliary who incur physical injury or contract sickness or disease while performing any duty to which they have been assigned by competent Coast Guard authority shall be entitled to the same hospital treatment afforded members of the Coast Guard. The performance of a duty as the term is used in this section includes time engaged in traveling back and forth between the place of assigned duty and the permanent residence of a member of the Auxiliary.

#### § 646. Admiralty claims against the United States

(a) The Secretary may consider, ascertain, adjust, determine, compromise, or settle, and pay in an amount not more than \$ 100,000, an admiralty claim against the United States for--

(1) damage caused by a vessel in the Coast Guard service or by other property under the jurisdiction of the Department in which the Coast Guard is operating;

(2) compensation for towage and salvage services, including contract salvage, rendered to a vessel in the Coast Guard service or to other property under the jurisdiction of the Department in which the Coast Guard is operating; or

(3) damage caused by a maritime tort committed by an agent or employee of the Department in which the Coast Guard is operating or by property under the jurisdiction of that Department.

(b) Upon acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other law.

(c) If a claim under this section is settled or compromised for more than \$ 100,000, the Secretary shall certify it to Congress.

#### § 647. Claims for damages to property of the United States

The Secretary [Secretary of Transportation] may consider, ascertain, adjust, determine, compromise, or settle claims for damage cognizable in admiralty in a district court of the United States and all claims for damage caused by a vessel or floating object, to property of the United States under the jurisdiction of the Coast Guard or property for which the Coast Guard may have assumed, by contract or otherwise, any obligation to respond for damage thereto. The Secretary [Secretary of Transportation] is further authorized to receive in payment of any such claim the amount due the United States pursuant to determination, compromise, or settlement as herein authorized and, upon acceptance of such payment but not until then, such determination, settlement, or compromise of such claim shall be final and conclusive for all purposes, any law to the contrary notwithstanding. All such payments shall be deposited in the Treasury of the United States as miscellaneous receipts. The Secretary [Secretary of Transportation] is further authorized to execute on behalf of the United States and to deliver in exchange for such payment a full release of such claim. This section, as respects the determination, compromise, settlement, and payment of claims, shall be supplementary to, and not in lieu of, all other provisions of law authorizing the determination, compromise, or settlement of claims for damage to property hereinabove described. No settlement or compromise where there is involved a payment in the net amount of over \$ 100,000 is authorized by this section.

