

Murky waters: Chartering the wrong boat can have tragic consequences

By [Sara DiNatale](#)



Cecil Davis, 59, Charter Boat Captain, goes over the safety information with his passengers aboard one of their sailing yachts called Fantasea, a 46 foot sail boat at Dolphin Landings Charter Boat Center, 4737 Gulf Blvd, where their business has been located running charter boats on St. Pete Beach since 1972. DIRK SHADD | Times

Captain Dan Peretz noticed the same charter boats overloaded with passengers again and again. He thought, "This is how people die."

So he sent emails to the Coast Guard, sharing his concerns, naming specific boats, including the Jaguar.

The first one obtained by the Tampa Bay Times is dated August 2014. There's another from April 2016, and on Jan. 30, 2017, Peretz also sent social media screen grabs of the Jaguar, with more people on board than federal law allows. The Coast Guard would email back, thank him and say they were educating the offenders.

Peretz wrote a formal letter on March 2. He complained again about the same boats and said that someone could be hurt.

About two weeks later, a group of college students got on the Jaguar, a yacht they found online. One student didn't make it back to shore alive, nor did the charter boat employee who jumped in the water to save him.

"It's a tragedy," said Peretz, who owns Dolphin Landings Charter Boat Center, "and it's a black eye on the whole industry."

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Only certified boats inspected by the Coast Guard are supposed to carry chartered parties of more than 12 people. The Jaguar had 15 students on board that day, deputies told reporters during the exhaustive search and rescue mission.

No charges have been filed. The investigation is ongoing, and the Coast Guard won't comment until it's over.

Had the Jaguar been certified to carry a large party, Coast Guard inspectors would have drilled its captain and crew on how to save a man overboard.

No one can know, of course, but maybe then, Jie Luo, a 21-year-old student from Colorado State University, and Andrew Dillman, a 27-year-old Florida Yachts Charter employee, would still be alive.

[Search continues for two missing men swept into Gulf of Mexico](#)

After months of not returning phone calls, Florida Yachts Charter delivered an unsigned letter to the Times this month.

The letter put most of the blame for what happened on the student who chartered the Jaguar, saying it was a "bare boat" charter, meaning he was taking temporary ownership of the boat and responsibility for those aboard, including captain and crew.

The letter faults him — for allowing too many people on board and for letting his friends swim — and not the captain the company endorses on its website to steer the 72-foot yacht.

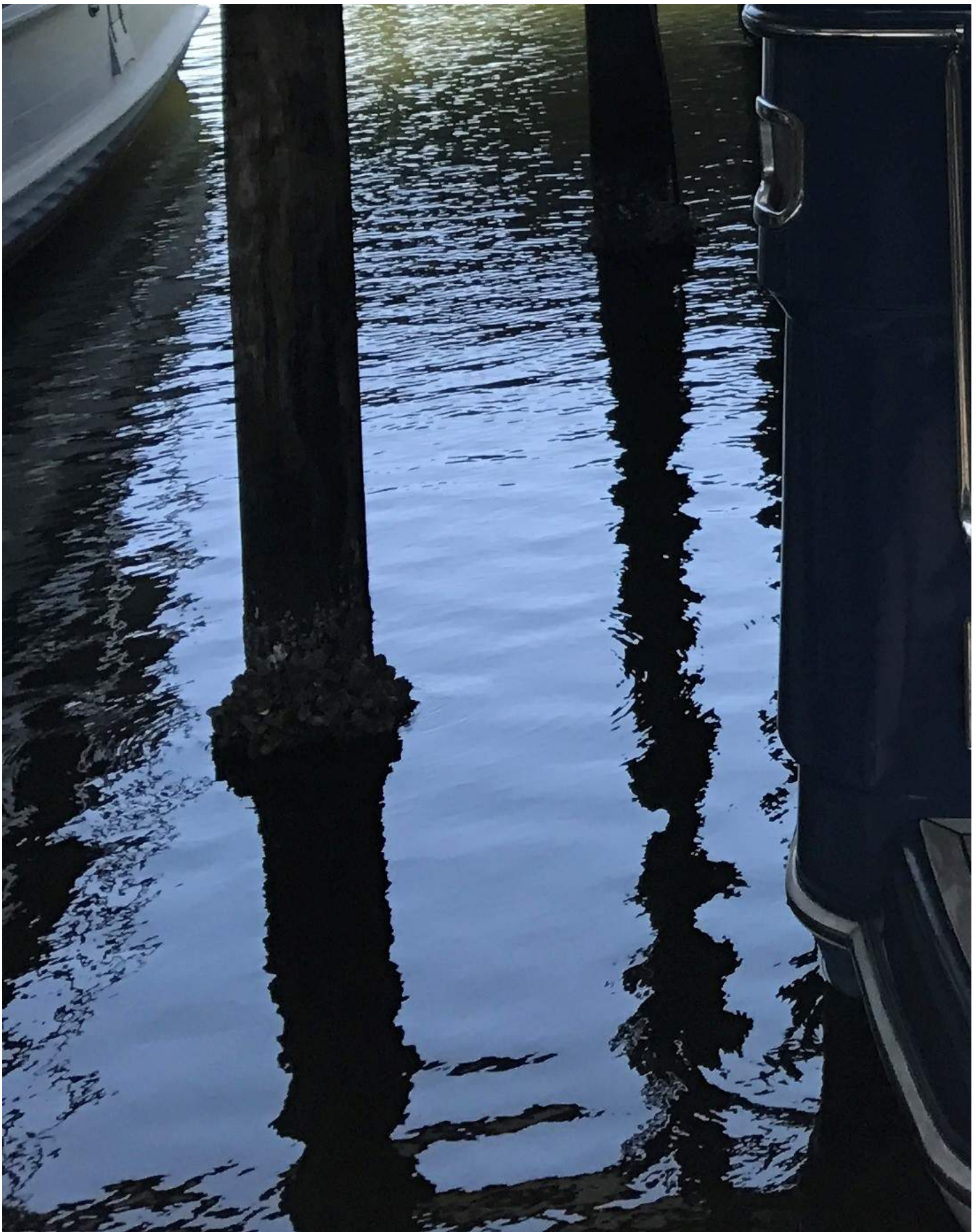
It's unlikely a consumer with no nautical experience could understand the liability they're agreeing to and have the insurance needed when booking a bare boat charter, said Florida maritime lawyer Michael T. Moore.

"You're relying on the owner and operator of vessel," Moore said.

Renting a boat isn't as simple as renting a car: There's a nuanced set of federal regulations surrounding charter boats, what can make them illegal, what it means if a vessel is inspected or isn't, what a "passenger for hire" is, and how many people are allowed on board.







The Jaguar yacht docked at Maximo Marina in St. Petersburg on March 15, 2017, after two men aboard the boat were swept out into the Gulf. [SCOTT KEELER | Times]

Across the country, cities with booming waterfronts are dealing with charter boat companies and boat owners breaking and bending the rules to carry more people than the law allows.

"There are many, many reputable vessel operators out there," said Tampa Bay Coast Guard investigator Brian Knapp. "However, there are operators who are not willing to comply with the regulations in order to carry more passengers to make more money."

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An illegal charter can be a lavish yacht or a simple fishing boat.

Sometimes, they have captains without licenses or carrying more people than their licenses allow. They can have ill-trained crews who are unaware they are ill-trained.

Figuring out how to tell the difference is left largely to the consumer, who needs to know which sticker to look for or to ask to see a captain's license before the boat leaves port.

The Coast Guard tells potential passengers to ask to see proof a boat was inspected if a captain says he or she can take more than six customers.

If you're not a boat owner, there are only two ways to ride with more than six people: Either you find a captain with an inspected vessel and the documentation to match, or you take on all the liability yourself with a bare boat agreement, which allows you up to 12 non-paying guests.

[Search for two missing in gulf waters now called a recovery operation](#)

Operators caught with too many customers can be fined or have their licenses suspended or revoked.

Knapp works with two other investigators who track illegal charters in the bay area — but that's only about a fourth of their overall duties. Tampa Bay has more than 100,000 boats registered in Pinellas, Hillsborough and Pasco counties. Of those, 310 are Coast Guard inspected, Knapp said.

They investigate and reprimand captains for every on-board casualty, injury and failed drug test. Typically, about half the boats Knapp's investigators come in contact with get a citation, letter of warning or fine. So far this year, they've issued 62 infractions — whether that be to captains who have overloaded boats or failed to enroll in a required drug-testing program.

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The Pinellas County Sheriff's Office did not say where online the students found the Jaguar, but there's no shortage of options: Craigslist ads, Facebook posts and boat-finder apps lure in people looking for a deal.

Three months after [Luo's](#) and [Dillman's](#) bodies were found in the Gulf of Mexico, an app called "Get My Boat" still listed the Jaguar, saying it could hold up to 30 people. The group of 15, mainly Chinese international students at Colorado State University, booked a four-hour cruise for \$2,000, according to the Sheriff's Office.

The Coast Guard and Sheriff's Office gave a basic outline of what happened:

Todd Davis, 52, was the captain. Not long after pulling out of Maximo Marina, Davis anchored the boat because the waters were too rough to go past Shell Key. During a rip-current warning, Luo and four friends were jumping into the water. The students told investigators the captain said they could; Davis told authorities he told them it wasn't a good idea. Luo and his friends jumped off the boat a third time and he became fatigued.

He couldn't get back to the Jaguar. Dillman, without any flotation device, jumped in after him. The current swept the two men into the Gulf before Davis pulled his anchor up.

In its November letter to the Times, Florida Yachts Charter wrote "the charterer is boss" and that "When the captain says, 'Do not go swimming. ... It's dangerous!' The charterer does not have to listen ... to his own peril."

Moore and Peretz argue that Davis was in charge, because he was the only one certified as a captain.

In a true bare boat contract, the owner or broker is supposed to hand over just the boat. Yet, the Jaguar had a Florida Yachts Charter employee, Dillman, on board in addition to company-endorsed Captain Davis.

Neither Davis, who runs a bow-fishing charter out of Pasco County, nor the student Florida Yachts Charter identified as the charterer could be reached for comment.

Moore said if the Jaguar case makes it to court, the judge would need to determine if it was truly a bare boat charter. If not, it would be held to a different set of standards — ones the Coast Guard has in place to protect paying customers.

Florida Yachts Charter suggested in its letter only the student charterer paid for the vessel, therefore was an acting boat owner.

Once multiple people pay for an uninspected boat, the regulations kick in to keep the number of customers on board to six. However, boat owners can bring as many people aboard as the manufacturer says is safe, as long as money isn't exchanged.

That complicates the Coast Guard's job, especially during pirate-fest Gasparilla, when every boat is likely at capacity.

Captains can lie to investigators. They can say their passengers are family, that no money passed hands, so it's fine there are 14, or 20, or more, people on board.

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On a weekday morning, Coast Guard Lt. Nate Herring walked the docks at the Clearwater Beach Marina. He pointed to the flashy tour boats — the pirate ship, the one made to look like a two-story beach hut, the massive one that serves dinner. Those are boats the Coast Guard oversees built from the ground up.









Nate Herring, an Investigation Officer with the United States Coast Guard, checks to confirm charters are legally operated based on the coast guard requirements, at the Clearwater Municipal Marina. DIRK SHADD | Times

Then Herring looked to the private yachts sitting in their slips. Many are new, glossy and have puns and sea cliches for names — just like the ones he's stopped for having too many passengers.

The yachts usually look safe and cost a fortune. So why don't the owners just get them inspected?

"It's a lot of time and money," he said.

Herring oversaw a 22-foot skiff get overhauled to meet Coast Guard standards a couple of years ago. It cost the owner more than \$20,000 in upgrades on a boat valued at \$25,000.

It's cheaper to break the rules and hope you don't get caught.

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Frugal buyers go online seeking the cheapest boat for their family's cruise.

"People are referring clients, they're searching online, they're going to hotels and picking pamphlets in kiosks," Knapp said.

"So, if I'm from Ohio, I generally don't know anything. I'm out here for vacation, and you're the operator, then I guess you're the captain, and I'm not going to think twice about it."

The six-person limit is meant to control the distractions for a lower-level captain; it also means fewer people on a boat that, for example, hasn't had its electrical work inspected or its crew drilled by officers on how to escape an onboard fire or handle a drowning.

The Coast Guard needs to see a captain actively overloading to fine him or her, investigators said. Mainly, they try to educate rather than penalize first-time offenders.

Fines can range up to \$37,500. The highest one Herring said his team has given out for having too many people on board this year was about \$6,000.

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The Coast Guard preaches a simple message: Before your charter leaves the port, ask for the captain's credentials.

"We talk about it all the time here," Knapp said from his office on Davis Islands in Tampa. "We wouldn't get on a airplane with a captain who isn't a certified pilot. You certainly wouldn't get on a passenger boat as a passenger with a captain that doesn't have a license."

Usually bookings are made over the phone. That family from Ohio isn't meeting their captain until the morning they're about to go fishing, and at that point, the cooler is packed and the kids are ready to go.

Captains' licenses look similar to passport booklets, meaning they all look the same from the outside regardless of what level each captain has listed on the inside.

That's why the Coast Guard pushes education so hard, because if a party is more than six, a consumer then needs to know to ask for the boat's certificate of inspection.

The most savvy consumers can look up captains online before ever meeting them, but they'd need full names and the reference numbers printed on the credentials.

Even then, a captain's boating record — like a list of their past citations or suspensions — isn't public, according to the Coast Guard.

It's hard to know which captains are the ones getting fined.

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After the Jaguar deaths, Peretz — a licensed captain and sailing instructor — along with a small group of local operators reached out to the Small Passenger Vessel Association, which has been working with the Coast Guard to come up with ways to better tackle illegal charters.









Dan Peretz, 68, Charter Boat Captain, aboard one of his sailing yachts at Dolphin Landings Charter Boat Center where he has been running charter boats since 1972, on St. Pete Beach. DIRK SHADD | Times

Eric Christensen, the association spokesman, said after local operators reached out, they asked Sector St. Petersburg to share how they've handled the problem. The sector sent the group a two-page rundown that the association shared with the Times, showing some day-to-day cases:

Investigators used social media to put a stop to one vendor saying his boat could carry up to 40 people for Gasparilla, they found a boat carrying more than 12 people during the Grand Prix, and they busted a sunset cruise for having 14 people onboard and steered by a captain who was not enrolled in mandatory drug testing.

Moore said illegal charter dealings cross his desk every day. Generally, he said, the Coast Guard does a "very good job enforcing these laws."

"But when you start to think about what the Coast Guard is asked to do and the resources they have to do it? Forget about it," he said. "It's impossible."

Peretz also took concerns about the Jaguar to U.S. Rep. Charlie Crist's office. The Coast Guard responded to Crist in a letter, writing it takes reports seriously.

"The Coast Guard understands your constituent's desire to know what action is being taken. However, the Coast Guard will not release information regarding open investigations."

The illegal boats have always been a problem, Peretz said, but as Tampa Bay grows, he sees more luxury boats, more owners breaking the law as they take on more passengers without the costs his company spends keeping up on its six inspected vessels.

"I just wonder why," he said. "Why is that they're still going out and not shut down?"

Times researcher Caryn Baird contributed to this report. Contact Sara DiNatale at sdinatale@tampabay.com. Follow @sara_dinatale.

Terms you need to know before chartering a boat

Bare boat charter: As the charterer you are considered the owner of the vessel for an agreed upon period of time. You select a crew and have to pay that crew directly as the charterer. You provide all fuel, food and operating costs. You also need to obtain insurance for carrying passengers. You take on all liability. You are not allowed to bring more than 12 passengers on board with you.

Uninspected passenger vessel: You are going on a boat with a licensed captain, but the vessel has never been inspected by the Coast Guard. At least one of the passengers is paying as a "passenger for hire." The boat can likely only carry six people. This is the most common type of charter when going on a fishing charter.

Passenger for hire: You're paying to be onboard a boat, which makes it so certain laws have to be followed that help protect you.

Inspected passenger vessel: Your captain is manning a boat that is allowed to take on more than six people. The boat has a certificate of inspection that shows when the Coast Guard last looked at the boat. You are a passenger for hire and are not taking on any added liability because you are not in charge of the vessel.