

Law You Can Use: Consumer Information Column

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Reducing Risk of Piracy: What You Should Know

Q: *How is piracy defined today?*

A: While it may have been considered commercial capitalism along the southern Mediterranean in the 18th Century, piracy is now merely a fanciful name for criminal activity at sea. The United Nations Convention on the Law of the Sea (UNLOS) defines piracy, in part, as illegal acts of violence or detention, or any act of destruction, committed for private ends by the crew or the passengers of a private ship or a private aircraft and directed against persons or property on board that or another ship or aircraft on the high seas or at a place outside the jurisdiction of any state.

Q: *I sail on Lake Erie. In the unlikely event that I am attacked on the Great Lakes, is it considered piracy? If not, what laws apply to criminal behavior on the lake, and what can I do if I'm attacked?*

A: Because piracy only refers to criminal activity occurring outside a state's or country's legal authority, a criminal act on a boat or aircraft on the Great Lakes or inland waters is not classified as piracy. While criminal activity against boaters on the Great Lakes is very rare, Ohio law would apply to criminal activity on Ohio waters of Lake Erie.

If possible, you should call for help and retreat from a perceived threat. However, many changes were made to the self-defense law in Ohio last year, and that law also applies to the use of force on inland waters or Ohio waters of the Great Lakes. The law now states that, if you are in your own vehicle (defined as a conveyance of any kind that transports people or property, whether or not it is motorized), you do not have to retreat before using force if you are acting in self-defense or in defense of another person.

Q: *If I'm planning a trip abroad, how can I prevent or minimize the risk of piracy on the high seas?*

A: First and foremost, you should avoid high-risk waters. The Office of Naval Intelligence provides public reports that describe areas where boardings, kidnapping and robbery of boats, ships and persons occur. To find these up-to-date reports, visit www.nga.mil/portal/site/maritime.

Q: *Can I defend myself and family from attacks on the water with weapons?*

A: Yes, within certain, well-established laws. On the high seas, international law applies, and when on territorial waters, the law of that coastal state applies. Therefore, you must know the law of the port

that you're visiting regarding the types of weapons that you may carry and that state's use-of-force law. Civilians are generally discouraged from carrying and using weapons for many reasons, including the special training required, the probability of accidents, and the risk that attackers may be more likely to use force when seafarers brandish weapons.

In many circumstances, retreat may be the most appropriate response to a threat. In a well-publicized event several years ago, a small cruise ship transiting near the northeast coast of Africa was able to avoid capture and injuries to any crew or passengers merely by raising the alarm and heading back out to sea at high speed.

Q: *What else should I do to reduce risk from criminal activity on the water?*

A: Even though criminal activity on the Great Lakes is not classified as piracy, you must use common sense when planning your next excursion. If you anchor your vessel close to shore in a high crime area overnight, you can expect that the risk of a criminal attack will be greater than if you moored your vessel in a marina with many other vessels nearby and a 24-hour marina security.

Finally, you should always draft a float plan and give it to a reliable person before you leave on your voyage. The U.S. Coast Guard Auxiliary has a draft plan that you may download from: www.floatplancentral.org. It is much more likely that the police, fire, Department of Natural Resources, or Coast Guard authorities will be able to respond to your emergency in time if you have provided accurate information about where you will be at a particular time, and where you are headed. This is true whether your emergency is a result of criminal activity or an accident at sea.

This "Law You Can Use" column was provided by the Ohio State Bar Association. It was prepared by attorney and retired Coast Guard Lieutenant Commander Thomas E. Cafferty, of the Law Office of Thom Cafferty in Toledo. The column offers general information about the law. Seek an attorney's advice before applying this information to a legal problem.