

The DIVE BOAT Act: FAQs

As a new Speaker of the House takes office and Congress gets back to work, the following Frequently Asked Questions may provide more context about the legislative history and possible next steps for DEMA's DIVE BOAT Act.

Q: What is the current status of The DIVE BOAT Act?

A: With delays caused by the House Speaker shakeup, all pending legislation has been on hold. We are hopeful that as Congress gets back to work, more progress will be made. While legislation was stalled, DEMA continued to work with Congress and educate policymakers about the unintended consequences of the original law.

DEMA is encouraged by the bipartisan support we've had for the DIVE BOAT Act. Our approach to holding overnight operators to a higher standard while working to provide small day boat operators with some much-needed insurance relief has been well received. <https://conta.cc/443EqQu>

The DIVE BOAT Act was originally introduced as an amendment to the US Coast Guard Reauthorization Act (USCG) by Congressman Aaron Bean (R-FL-04). While the USCG and other legislative vehicles stalled, DEMA began exploring other options. With the resumption of Congress, DEMA will continue to pursue every avenue to get the changes contained in The DIVE BOAT Act enacted.

Q: DEMA has indicated that The DIVE BOAT Act should help curb the drastic increase in vessel liability and dive-related insurance rates. What are some examples of these rate hikes?

A: Many dive operators are reporting massive increases. Within weeks after enactment, DEMA began hearing an outcry from the dive community – especially day boat operators. One such operator in West Palm Beach, Florida reported a *\$160,000 increase* in their store and vessel liability coverage. They are now paying nearly 10% of their annual cash receipts on insurance. Another reported a *\$25,000 increase* for his two vessels – more than double what he paid last year. An operator in Hawaii reported a *\$40,000 insurance increase*, and a dive and travel shop with no vessels in Washington, DC reported a *\$40,000 increase*. These insurance increases are having a dramatic impact on our livelihood, especially in the face of inflation and rising economic uncertainty.

Q: Why are fishing vessels – including sport fishing vessels – exempt from the liability insurance rate hikes?

Fishing vessels were exempted from the changes in liability limits in the original statute (see 46 USC Chapter 305—EXONERATION AND LIMITATION OF LIABILITY) and remain exempt. From the statute (Section 30524(a)): “This section applies only to seagoing vessels, but **does not** apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.”

Q: Are cruise ships exempt from the reduced limitations of liability?

A: Cruise ships are exempt from the liability limitation based on their size, since the language covers “small vessels” within a defined size range.

The language that was enacted in the 2023 NDAA created a new definition for a “covered small passenger vessel.” [From the U.S. Code:](#)

§30501. Definitions

In this chapter:

- (1) Covered small passenger vessel.—The term “covered small passenger vessel”—
 - (A) means a small passenger vessel, as defined in section 2101, that is—
 - (i) not a wing-in-ground craft; and
 - (ii) carrying—
 - (I) not more than 49 passengers on an overnight domestic voyage; and
 - (II) not more than 150 passengers on any voyage that is not an overnight domestic voyage;
 - and
 - (B) includes any wooden vessel constructed prior to March 11, 1996, carrying at least 1 passenger for hire.

Q: DEMA indicated that there were “no safety requirements or compensation for Conception victim families included in the Fiscal Year 2023 National Defense Authorization Act (NDAA).” Didn’t Congress mandate new passenger vessel safety requirements in 2022 following the Conception tragedy?

A: Both are correct, which is part of the reason it is so confusing. It is the case that Congress created new U.S. Coast Guard safety standards in [the 2021 NDAA](#) (adopted in 2020). However, there were no safety standards in the amendments included in the 2023 NDAA. DEMA’s concerns are with the 2023 NDAA. There was also *additional* [proposed legislation](#) introduced by Representative Salud Carbajal and the late Senator Dianne Feinstein, which would have provided compensation to the families. While the media and others often combine the various proposals as if they were one bill, the legislation providing compensation to victims’ families never became law. Instead, alternative policy language was drafted behind closed doors and added to the 2023 NDAA, which was adopted in December 2022. The final language included in that law **did not** include any new safety protocols. It did create a new retroactive liability standard of two years for all accidents from the date of enactment, but the families who tragically lost their loved ones in the Conception fire (September 2019) were not eligible to qualify for assistance.

See: https://www.congress.gov/bill/117th-congress/house-bill/7776/text

Section 11503 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023

DEMA’s social media awareness campaign cites the 2023 NDAA, which was signed into law and created significant unintended consequences for all American dive boat operators and dive centers chartering boats for their customers.

It is certainly worth noting that new U.S. Coast Guard (USCG) rules were implemented following the Conception accident, which included changes to vessel fire systems, better escapes from below deck and the use of devices on vessels with overnight passengers that make sure a night watchman is alert and making frequent rounds. The USCG also issued a sensible marine bulletin cautioning operators about the charging of lithium batteries (MSIB 008-19). DEMA supported these changes.

The latest National Transportation Safety Board investigation seems to indicate that charging lithium batteries had little or nothing to do with the Conception fire. It has been alleged that the fire started in a non-compliant trash container onboard the Conception and that there was no night watch person on duty the night of tragedy. If found to be true, both would be clear violations of the USCG safety protocols already in place at the time of the fire.

Q: DEMA supports the removal of day-boats from the current law. Would removing day boats from the current law reinstate the old law regarding limits to liability for these small vessels?

A: Removing day boats would return them to the liability limitations in the original underlying law and put them on a level playing field with pleasure yachts, tugs, towboats, fishing vessels, and others.

Overnight vessels carrying fewer than 150 passengers and wooden vessels constructed prior to March 11, 1996, would be subject to expanded liability standards. Therefore, overnight dive vessels would continue to be held to higher standards under our compromise bipartisan language. Day boat operators would receive much needed insurance premium relief.