



October 25, 2022

The Honorable Senator Dianne Feinstein
331 Hart Senate Office Building
Washington DC 20510

Via email: Rachel Bombach, Legislative Director
rachel_bombach@feinstein.senate.gov

Dear Senator Feinstein,

I am writing to ask for your help on behalf of the members of the Diving Equipment and Marketing Association (DEMA).

DEMA is the international trade association for the recreational scuba diving and snorkeling industries. DEMA has more than 1,400 business members worldwide, more than 300 business members in California, and represents the interests of diving manufacturers, diver training organizations, diving-related magazines and media, diving retailers, dive travel providers, and dive boat charter operators, as well as millions of divers, especially in California. DEMA's mission is to bring businesses together to grow the diving industry worldwide, and our goals include helping our member businesses, while promoting recreational scuba diving and snorkeling, and protecting the underwater environment.

Recently, language has been inserted into the National Defense Authorization Act for Fiscal Year 2023 that would dramatically change maritime liability laws and substantially increase insurance costs for owners of small passenger-carrying vessels.

Under current U.S. Maritime Liability laws ([46 USC Ch 305 Subtitle III, §30511](#)), which have been in effect since 1851, after an accident the owner of any seagoing vessel, of any size, can bring a civil action in a district court of the United States to limit damage claims to the value of the owner's interest in the vessel. The limitation is typically acted upon after a claimant gives the owner written notice of a claim and currently must be acted upon by the owner within six months of that notice.

The language recently inserted into the National Defense Authorization Act removes the liability limitation for vessels **carrying not more than 49 passengers on an overnight domestic voyage; and not more than 150 passengers on any voyage that is not an overnight domestic voyage**. Under this inserted language, owners of small vessels (including dive vessels), could be held legally responsible for compensating accident victims and their families regardless of the value of the boat after the incident.

The inserted language also includes an extension to the notice time for bringing action. Under this new language the owner (or master, manager, or agent) of a vessel transporting passengers or property may not use a contract or other instrument to limit the period for giving notice of (or filing a claim for), personal injury or death, to less than two years (currently, 6 months) after the date of the injury or death. The owner may not limit the time for bringing a civil action for personal injury or death to less than two years (currently, one year) after the date of the injury or death.

Currently, owners of small passenger-carrying vessels, including owners of dive vessel, pay large fees for liability insurance. The current limitation to liability is factored into these insurance rates. **A change in**

this liability limit – targeted only at owners of small passenger-carrying vessels - will necessarily cause a substantial increase in liability insurance rates for these small businesses.

Through the efforts of associations like the Diving Equipment and Marketing Association, and various boating, fishing, and other recreation trade organizations, as well as the U.S. Coast Guard, boating safety in the U.S. is better than it has ever been. Higher insurance premiums stemming from this new regulation will be damaging to these industries. **Changing this liability limitation would likely benefit plaintiff's personal injury attorneys and insurance companies but is unlikely to further improve small passenger vessel safety.**

The increase in vessel owner liability comes at a time when Congress continues to limit the liability of other businesses. For example, [current federal regulations allow motor carriers \(trucking companies\) to carry liability insurance policies valued as low as \\$750,000](#) to protect trucking accident victims (even if there are multiple victims), while trucking accident damages can often be in the multi-millions of dollars. There are over 15 million trucks operating on U.S. roadways each day, a number much larger than the number of passenger-vessels carrying divers. These very low trucking insurance coverage requirements have been in effect (and unchanged) since 1980. If such liability policy is appropriate for motor carriers, even after 42 years, the U.S. Maritime Liability Laws should still be good policy as well.

The inserted language can currently be found in the House version of the Defense Authorizations Act (HR 7900): <https://www.congress.gov/117/bills/hr7900/BILLS-117hr7900pcs.pdf> (see pages 3468-3470).

The language is not yet inserted in the Senate companion version of the bill, but is likely to be by the conference committee, during the amendment process.
(Senate Bill S. 4543): <https://www.congress.gov/117/bills/s4543/BILLS-117s4543rs.pdf>.

We do not believe you want to increase liabilities for small business at a time when fuel, maintenance, necessary services, and other costs are rapidly rising. **We ask that you help these small businesses by keeping this language out of the final Defense Authorization Act.**

Thank you in advance for your attention to this critical issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Ingram", with a stylized flourish at the end.

Tom Ingram
President and CEO