Don’t Imperil Vessel Employees, Business Owners, and Tourism Act
(DIVE BOAT Act)

The 2022 Passenger Vessel Act had Unintended Consequences and is Unfairly Hurting Small Businesses, Employees, & Consumers

Section 11503 of the 2023 National Defense Authorization Act, the Small Passenger Vessel Act (SPVA), created retroactive liability exposure (2 years) for a subset of small U.S. businesses. However, insurance premiums are priced annually. Thus, the 2-year “look back” in the SPVA dramatically increased annual commercial insurance costs for law-abiding small businesses with passenger vessels and those that rely on them – i.e., dive centers, day-boat operators, dive training organizations, dive travel providers, dive equipment manufacturers, and other related businesses across the country.

On behalf of over 1,400 small American businesses, the Diving Equipment and Marketing Association (DEMA) implores the 119th Congress to modify the SPVA and provide much needed insurance premium relief.

The American SCUBA diving industry employs more than 350,000 workers. We help more than 13 million American divers and snorkelers participate in these safe and exciting sports here in the United States. Our members depend on their reputations for safe operations. Dive vessels are subject to rigorous annual inspections by the U.S. Coast Guard, and they must meet specific standards to maintain industry accreditation and community requirements. Consumers are also not shy about using third-party online review systems to express concerns or frustrations.

Dive businesses, their employees, and consumers are sensitive to any cost increases – including the insurance spikes caused by the SPVA. For their part, operators have struggled with disproportionate inflationary pressures versus the rest of the U.S. economy. As reported by the U.S. Bureau of Economic Analysis, “conventional water recreation” businesses, which include scuba diving and snorkeling, saw 39% increases in operating costs since 2022.

In the three years since SPVA’s enactment, DEMA has learned of paralyzing insurance increases across the country, e.g.:

- An operator in West Palm Beach, Florida reported a $165,000 *increase* in annual insurance costs; they now spend 10% of annual cash receipts on insurance.
- Several Texas and Florida operators closed/sold their businesses because of the heightened insurance costs.
- A Hawaiian operator reported $140,000 *annual* insurance increases, which precluded them from providing inflation-adjusted salary increases to employees and from upgrading their dock and equipment.
- Micro dive and travel businesses with <u>no vessels and in non-coastal states</u> report increases from $15,000-$40,000.

The genesis of the SPVA, the tragic and horrific loss of life caused by a fire aboard the overnight vessel *Conception,* was the result of owner and crew member violations of existing law and U.S. Coast Guard rules. The courts rightly ruled against those involved. DEMA fully supports penalties for bad actors who violate the law and put people at risk. DEMA also supports all safety provisions enacted in the wake of that horrific tragedy, and we understand that Congress was trying to incentivize good behavior when it adopted the SPVA. Unfortunately, the broad scope of the SPVA is harming the entire U.S. dive and snorkel community. DEMA believes bad actors should be held accountable, but not at the expense of thousands of small businesses and employees who operate safely and responsibly every day. We ask Congress to amend the law, so it does not unfairly punish the entire U.S. dive and snorkel community.

Solution:

In consultation with insurance actuaries, DEMA developed proposed language to help fix the broken insurance markets for those operating safely and lawfully. The proposed changes honor the spirit in which the SPVA was enacted by holding overnight vessels to a higher standard. If enacted, the DIVE BOAT Act would.

- Adjust the timeline for filing a claim against overnight vessels to better align with how business insurance premiums are assessed.
- Revert day boats back to the same standard as all other passenger vessel operators carved out of the SPVA (e.g., sport fishing, cruise lines, tow boats etc.).