

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



## The 2023 Passenger Vessel Act has Unintended Consequences and is Harming Small Businesses, Employees & Consumers

Section 11503 of the 2023 National Defense Authorization Act, the Small Passenger Vessel Act (SPVA) removed longstanding liability limits and created retroactive liability exposure (2 years) for a subset of small businesses. It is already disrupting insurance markets and having dramatic consequences on small businesses with passenger vessels and those that rely on them – especially dive centers, day-boat operators, dive training organizations, dive travel providers and more.

On behalf of over 1,400 dive businesses, the Diving Equipment and Marketing Association (DEMA) is asking Congress to modify the SPVA to mitigate the unintended impact and surging insurance costs for retail stores, manufacturers, training organizations, and dive travel providers.

The American SCUBA diving industry employs more than 350,000 workers. We assist nearly 2.6 million divers and 11 million snorkelers as they participate in these safe and exciting sports here in the United States. Our members' businesses depend on their reputations for safe operations. Dive vessels are subject to rigorous annual inspections and standards by the U.S. Coast Guard, and they must meet certain standards to maintain industry and community requirements. Consumers are not shy about using third-party online review systems to express operational or safety concerns or frustrations. Each of these small businesses, their employees, and consumers are substantially impacted by any cost increases – including the insurance spikes resulting from the SPVA.

Just three months after enactment, dive boat and shop owners are already feeling the impact. One 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*. All of these reports come from “day-boat” operators or stores with no vessels of their own. These insurance increases are having a dramatic impact on their livelihood, especially in the face of inflation and rising economic uncertainty.

The genesis of the SPVA, the tragic and horrific loss of life resulting from a fire aboard the overnight vessel *Conception*, appears to have been caused by crew members' violations of U.S. Coast Guard rules. No law or regulation can stop bad behavior, and bad actors should face consequences for their decisions. We understand Congress was trying to incentivize good behavior. Unfortunately, the broad scope of the SPVA language is harming the entire dive industry. It is diverting hard-earned and limited resources from necessary boat maintenance, safety equipment, and staff training to pay for exponential increases in insurance premiums in the event of a lawsuit.

We believe bad actors should be held responsible, but not at the expense of thousands of small businesses and employees who operate safely and responsibly every day. We ask Congress to work for a compromise that does not unfairly punish an entire industry.

### Solution:

In consultation with the insurance actuaries, DEMA has developed language that would help to ensure vessels operating safely and lawfully are not unduly burdened with the threat of unlimited liability for an incident that may have occurred two years prior. The DIVE BOAT Act will:

- Reduce the lookback period for claims from two years to one year for liveaboards (overnight vessels), which is more in line with how insurance premiums are assessed. (Up from the historic period of six months)
- Remove “day-boats” from the types of vessels subject to heightened liability standards – reverting them back to the same standards as all other vessel operators, e.g., sport fishing and tow boats.