



SB606 - “Boating Safety Act of 2022” whitepaper

Overview

The Boating Safety Act of 2022 was intended to increase safety, educational standards and compliance required to rent or lease vessels in the state of Florida. A clear goal of the law was to filter out bad operators by increasing the requirements to operate a livery. The law clearly defines the expectations for liveries and the penalties that will be implemented to enforce its adoption. Unfortunately, there are some additional unintended consequences that will affect good operators more so than bad. The side effects span across insurance, safety incentives and compliance burden. This whitepaper breaks down all components to be aware of as a livery operator in the state of Florida heading into 2023.

The Fish and Wildlife Commission (FWC) will be in charge of the adoption, revision and enforcement of SB606. They are establishing a permitting system that will set the standards and requirements for liveries in renting or leasing out their vessels. The bill declares that if certain requirements are violated it results in fines, punishments and even non-criminal misdemeanors.

SB606 is made up of the following components:

- Boating safety education (Section 3) - **effective October 1, 2022**
- Vessel Safety Regulations (Section 4) - **effective October 1, 2022**
- Liveries; Safety Regulations (Section 5) - **effective Jan 1, 2023**
- Non-Criminal Infractions of Regulations (Section 6)
- Mandatory Education for Violators of the Law (Section 7)
- Certificate of Title Requirements (Section 8)
- Certificate of Title Requirements and Fees (Section 9) - **effective July 1, 2023**
- Vessel registration, application, cert, number, decal, duplicate cert (Section 10)
- Except otherwise expressly stated, the act shall **take effect July 1, 2022** (Section 11)

As you read through this whitepaper you will notice a few main buckets that will affect what is required of liveries heading into 2023. Those buckets are:

- Educational Standards
- Compliance - Operations, Procedures, and Vessel Safety
- Insurance
- Penalties

These requirements greatly affect the current insurance and compliance landscape in Florida. We forecast a mass exodus of insurance availability for liveries and any capacity left will see significant premium increases.

Educational Standards (Section 3):

A commission approved boating safety education course or temporary certificate examination developed or approved by the commission must include the following components:

- Diving vessels, awareness of divers in the water and divers-down warning devices
- Danger of a passenger riding on a seat back, gunwale, transom, bow, motor cover or any other vessel area not designed and designated by the manufacturer for seating
- Danger of a passenger falling overboard
- Danger of operating a vessel with a person in the water near the vessel
- Danger of starting a vessel with the engine in gear
- Danger of leaving the vessel running when a passenger is boarding or disembarking
- The proper use and lifesaving benefits of an engine cutoff switch for motorboats and PWCs

Any person delivering instruction regarding the safe operation of vessels or pre-rental or pre-ride instruction must have successfully completed a boating safety education course approved by NASBLA and this state.

Compliance - Operations, Procedures and Vessel Safety

The operator of a vessel used in the instruction of a water sport or activity must use an engine cutoff switch and wear an operative link to the switch when a person participating in the water sport is in the water

A livery may not offer a vessel for lease or rent without first being issued a no-cost livery permit by the commission. The permit is annually renewed.

- In order to qualify for the permit, you must do the following:
 - Provide commission with a list of all vessels within your fleet
 - Have valid insurance in accordance with the guidelines in the “Insurance” section below
 - Have an amount of USCG approved personal flotation devices on site equivalent to the capacity of all vessels offered by the livery
 - Have on site all safety equipment required by Code of Federal Regulations sufficient to equip all vessels offered by the livery.
 - All changes regarding fleet and/or anything related to the permitting process must be reported to the commission within 10 days after the change
 - If you violate the permitting system you commit a misdemeanor of the first degree

A livery may not knowingly lease, or rent a vessel to anyone according to the following principles:

- The number of persons intending to use the vessel cannot exceed the maximum safety load according to the vessel’s capacity plate
- The horsepower of the motor can not exceed the capacity of the vessel
- The vessel must contain the safety equipment required under s. 327.50 (USCG CFR)
- The vessel must be seaworthy and cannot be a derelict vessel or at risk of becoming derelict

- The livery must provide pre-rental (or pre-ride) instruction in compliance with the rules established by the commission (Info must be visible to renting public and in accordance with the size and contents of the safety information dictated by commission):
 - Must include operational characteristics of the vessel to be rented
 - Safe vessel operation and vessel right of way
 - The responsibility of the vessel operator for the safe and proper operation of the vessel
 - Local characteristics of the waterway where the vessel will be operated, the presence of boating-restricted areas, and water depths
 - Emergency procedures, such as appropriate response to capsizing, falls overboard, taking on water, and vessel accidents.
- Any person receiving instruction in the safe handling of the livery vessels must provide the livery with a written statement attesting to each component of the instruction (commission to establish the content).
 - The statement form must be signed by the individual providing the instruction as well
 - The livery must maintain the statement form for no less than 90 days and make the form available for inspection by law enforcement upon request
- The livery must have a written agreement with the renter or lessee. The agreement must include the following:
 - Name
 - Address
 - DOB
 - Number of people aboard the vessel
 - Time the vessel is required to be returned to livery
 - Location of vessel return
 - Emergency Contact Name, Address, Phone number
- The livery must make each agreement available for inspection by law enforcement for no less than 1 year
- The livery may not knowingly rent or lease a vessel to a person born after January 1, 1988 unless such person has in his or her possession aboard the vessel the following:
 - Photo ID
 - Florida boating safety identification card issued by the commission
 - International certificate of competency
 - A boating safety card or certificate from another state or US territory
 - A canadian pleasure craft operator card
- These forms of identification must show that they meet the requirements dictated by the commission and NASBLA.
- Any vessel rented or leased that is overdue by more than 4 hours requires the livery to notify law enforcement
- The minimum age to rent a vessel is 18 years old.
- If a rented or leased vessel is involved in an accident, the livery must report the accident to the division

- A livery shall make its facilities and records available for inspection upon request by law enforcement on a 24 hour notice.

Insurance

Unfortunately, as it's written today, they have transferred the law that was updated for PWC's a few years ago to now apply for all vessels. It is now required for liveries to obtain and carry a policy from a licensed carrier in Florida that insures both the livery and the renter against any accident, loss, injury, property damage, or other casualty caused by or resulting from the operation of the livery vessel.

The policy must provide coverage of **at least \$500,000 per person and \$1,000,000 per event that covers the livery and the renter.**

The livery must have proof of insurance available for inspection at the location where the livery is renting out their vessels

The livery must also provide every renter or lessee the insurance carrier's name, address and their policy number

This section is not applicable to human-powered vessels

As it is written today, the livery is automatically responsible for all actions of their renters through the joint insurance policy. This will single handedly cause many carriers to leave Florida completely and others to significantly raise their premiums given the new exposure.

Penalties

For violating the educational and compliance requirements set out by the bill there are the following penalties:

- If you are a first time offender within a 3 year period, it is a **misdemeanor of the second degree** punishable according to 775.082
- If you have 2 violations within a 3 year period, it is a **misdemeanor of the first degree** punishable according to 775.082 with a minimum mandatory fine of \$500
- If you have 3 violations within a 5 year period, it is a **misdemeanor of the first degree** punishable according to 775.082 with a minimum mandatory fine of \$1,000
- **If you commit more than 1 violation of these sections within a 3 year period you may not act as a livery during a 90-day period immediately after being charged with that violation. The commission may revoke or refuse to issue a permit based on repeated violations.**

A person convicted of a criminal, a noncriminal infraction that led to a reportable boating accident or had 2 noncriminal infractions that occurred within a year are subject to:

- Enroll in, attend and successfully complete at his or her own expense, a classroom or online boating safety course that is approved by and meets the minimum standards established by commission rule
- File with commission within 90 days proof of successful completion of the course
- Refrain from operating a vessel until he or she has filed proof of successful completion of the course with the commission
- Pay a fine of \$500

The commission will create a program to track citations, convictions and other items regarding violations of the law. They will also send specific notices to persons required to take a mandatory boating safety education course after an infraction.

Key Effective Dates

July 1, 2022 - Unless otherwise stated, the act is effective

October 1, 2022 - All Boating safety educational and vessel safety requirements are effective

January 1, 2023 - All permitting, compliance and safety requirements are effective

July 1, 2023 - Title transfer requirements and fees are effective