

**Commission Meeting Background Material**

**April 19, 2017**

**Consent Agenda Item 4**

**Proposed Rule Language**

**Version 2**

**Some minor technical changes have been made in this version, when compared to the earlier version posted on the Commission Meeting Agenda Web Site. No substantive changes were made.**

**68D-36.108 Florida Boater Education Temporary Certificate Program.**

(1) Any person administering the Florida Boater Education Temporary Certificate examination test under contract with the Florida Fish and Wildlife Conservation Commission must: strictly

~~(a) Strictly~~ comply with all contract provisions.

(2) Any person administering the Florida Boater Education Temporary Certificate examination is prohibited from providing assistance of any kind to the examinee during the examination and must not allow, suffer, or permit any other person to assist the examinee during the examination. The term "assistance" does not include the provision of reasonable accommodations if required under the Americans with Disabilities Act or s. 501 of the Rehabilitation Act.

(3) Administration of the Florida Boater Education Temporary Certificate examination by paper test provided by the Commission:

(a) Any person administering the Florida Boater Education Temporary Certificate examination by paper test provided by the Commission must obtain

~~(b) Obtain~~ from an insurance carrier licensed to do business in this state and carry in full force and effect an insurance policy insuring against any accident, loss, injury, property damage, or other casualty caused by or resulting from any error, omission, negligence, or other act in the performance of any duty under the contract and must have proof of such insurance available for inspection at the location where the Florida Boater Education Temporary Certificate test is administered.

1. The insurance policy must:

a. Provide coverage of at least \$500,000 per person and \$1 million per event.

b. Name the Commission as an additional insured.

c. Stipulate that it cannot be revoked, rescinded, or otherwise cancelled without at least 30 days notice to the Commission.

2. This insurance requirement shall not be construed as a waiver of sovereign immunity nor shall it be construed to modify or enlarge the limited waiver of sovereign immunity provided in section ~~Section~~ 768.28, F.S.

3. This insurance requirement is separate from and in addition to the insurance required for personal watercraft liveries in Section 327.54(5), F.S.

~~(b)(2) Providing Temporary Certificate tests to other companies—~~ Florida Boater Education Temporary Certificate examination paper tests provided by the Commission are assigned to individual companies and must not be transferred, sold, borrowed, loaned, or shared.

~~(3) Providing assistance to examinee during testing—The contractor is prohibited from providing any assistance of any kind to the examinee during the testing and must not allow, suffer, or permit any other person to assist the examinee during the examination. The term "assistance" does not include the provision of reasonable accommodations if required under the Americans with Disabilities Act or s. 501 of the Rehabilitation Act.~~

(4) Administration of the Florida Boater Education Temporary Certificate examination online:

(a) Any person administering the Florida Boater Education Temporary Certificate examination online must:

1. Administer a Commission-approved boater education course that meets the minimum instruction

requirement established by the National Association of State Boating Law Administrators.

2. Administer the Florida Boater Education Temporary Certificate examination in an electronic format accessible by computer, tablet, smart phone, and other similar electronic devices.

3. Utilize a test bank of 100 questions available through the National Association of State Boating Law Administrators and 50 state specific questions approved by the Commission. Each administered examination must include a total of 25 questions.

4. Require that any 19 of the 25 examination questions be answered correctly before submitting an examinee's information to the Commission for issuance of the Temporary Certificate. Any score equal to or greater than 19 out of 25 questions answered correctly shall be a passing score.

5. Within 24 hours of an examinee's completion of the Florida Boater Education Temporary Certificate examination with a passing score, provide to the Commission electronically the examinee's first name, middle initial, last name, date of birth, current mailing address, email address, current telephone number, and the date of the examination with the passing score so the Commission can issue the Temporary Certificate.

6. Provide to an examinee who has received a passing score on the examination with either an emailed or printable proof of a passing score on the examination, including the date of the successful completion.

(b) The commission shall issue an electronic Temporary Certificate to an examinee who has received a passing score within 7 days following receipt of the examinee's information from the examiner.

(c) A person who has successfully completed the Florida Boater Education Temporary Certificate examination, and who has in his or her possession photo identification and the emailed or printed proof of a passing score on the examination provided in (4)(a)6., is exempt from subsection 327.395(1) for 7 days following successful completion of the online examination.

*Specific Authority 327.04, 327.395, 327.731 FS. Law Implemented 327.395, 327.54, 327.731 FS. History—New 6-9-05,\_\_\_\_\_.*