

## DIVISION OF BOATING AND WATERWAYS

### YACHT AND SHIP LICENSING & ENFORCEMENT UNIT



---

# YACHT & SHIP NEWSLETTER

---

December 2020

VOL. 4

## ALL ABOARD

The 2020 finish line is finally in sight, and what a year it has been! As we prepare to get away from 2020, the Yacht and Ship Licensing and Enforcement Unit has a few announcements, as well as reminders concerning your brokerage responsibilities and regulations.

First, the Division of Boating and Waterways (DBW) faced a few unexpected changes within our staff. Marinda Isley, our most experienced investigator retired in June. In addition, Fahim Buksh, one of our licensing experts accepted a promotion and is no longer with DBW. We wish them both a bright new future. On a positive note, we would like to introduce Michael Beals, our new investigator assigned to the Yacht and Ship Enforcement Program. Michael's strong foundation in the justice field will be an asset to this program, as well as to the industry. He earned a bachelor's degree in criminal justice from the California State University of Sacramento, and a Master of Justice Management degree from the University of Nevada, Reno. Michael's experience includes a variety of law enforcement positions, and he is certified in crisis intervention and peer support counseling. He is looking forward to bringing his knowledge, skills and abilities in conflict resolution to his position as an investigator and establishing good working relationships with the recreational boating industry.

Michael has a great love and admiration for the outdoors and to recreational opportunities provided and supported by the California Department of Parks and Recreation. He is proud to be part of a program that supports consumer protection in the recreational boating industry. Michael can be reached at (916) 327-1839 or by email at [Michael.Beals@Parks.ca.gov](mailto:Michael.Beals@Parks.ca.gov).

DBW is currently in the process of backfilling a position that supports the salesperson licensing duties. Monique Cabral continues to administer both the broker and salespersons licensing process. She can be reached at (916) 327-1847, or by email at [Monique.Cabral@parks.ca.gov](mailto:Monique.Cabral@parks.ca.gov).

One key success of this Unit is the leadership of Corrina Dugger as the unit manager. She can be reached at (916) 327-1834 or by email at [Corrina.Dugger@parks.ca.gov](mailto:Corrina.Dugger@parks.ca.gov).

## BROKERAGE INSPECTIONS

On Dec. 4, 2020, California issued a Regional Stay at Home Order to stop the surge of COVID-19 cases and prevent a strain on the health care system. During this time, in person inspections are temporarily on hold. However, pursuant to Harbors and Navigation Code Section 735.1 Records retention, availability; the division can request records for inspection. When in person inspections return, DBW will do its best to

provide advanced notice of an inspection, but if we are already in your area during your posted business hours, unannounced visits may occur. During the inspection, we will expect to see copies of broker-salesmen relationship agreements, all listings, deposit receipts, cancelled checks, trust accounts, and any other documents connected to a transaction which requires a broker's license. All records are required to be retained for a period of four years.

Many brokers are starting to go paperless for their business transactions and record keeping. Though having paper copies of everything makes auditing easier, DBW is supportive of businesses modernizing and reducing their use of paper. That being said, brokers who go digital will have to provide inspectors access to their computer system, and they will have to show that their record retention goes back four years.

## COVID-19 PROTOCOLS

For your protection and the protection of our employees, DBW will adhere to strict COVID-19 protocols during brokerage inspections and ask that businesses have a COVID-19 policy in place for business operations. For example, the proper use of masks by everyone while in your business will be required, as well as the proper physical distance. We will bring our own hand sanitizer and at your request, we will wear gloves, allow our temperatures to be taken and will sign a waiver upon entry if your business has a waiver protocol in place.

Please stay up to date on the state's requirements and recommendations for office operations, which can be found online through the California Department of Public Health at [www.cdph.ca.gov](http://www.cdph.ca.gov) or at [www.covid19.ca.gov](http://www.covid19.ca.gov).

In addition, many counties have special certificates for businesses that follow COVID-19 protocols. For example, Yolo County has the COVID-19 Green Check Program and Santa Cruz County has the Blue Check program. DBW encourages all interested businesses to research and apply for the COVID-19 certification programs that are available in their counties.

## BROKER COMPLAINTS

Recently, DBW has received complaints from licensed brokers alleging other brokers, both from California and from other states, are committing violations of the Harbor and Navigation Codes (the Act). Upon our offer to contact the other brokers to investigate these allegations, the brokers declined. Brokers did not feel our involvement would be worth the possible repercussions.

Through our challenges this year, the division stands committed to investigate and resolve complaints, as violation of the Act may be both a civil and criminal offense. Section 739 of the Act provides for civil penalties of up to \$1,500, for each separate violation of the Act. Section 738 of the Act provides for a penalty of up to one year in the county jail for willfully and knowingly violating Section 700 et seq. of the Act.

Additionally, DBW has a legislative mandate to investigate any complaints that we receive. Your cooperation with us while we research these complaints is appreciated. Brokers can contact us with information about any unlicensed activity, including brokers from other states advertising and selling yachts in California without a having in place a shared listing agreement with a California Broker. Complaints sent to DBW will be investigated fairly and without bias.

## YACHT AND SHIP SALESPERSON'S (NEW) LICENSE APPLICATION REMINDERS

### Application Requests

DBW is experiencing a high volume of calls from applicants requesting a new license application. The Yacht and Ship Salesperson's License Application is a

**controlled document** and can only be mailed to the sponsoring broker. Please advise new salesperson applicants to refrain from calling our office and requesting new license applications. **ONLY the sponsoring broker** can request this document via email or telephone.

As the sponsoring broker, you must review, sign and date the application **after** it has been completed in its entirety by the applicant and is ready for mailing.

### **Application Process**

Pursuant to California Code of Regulations, Title 14, Article 8, Code §7606.1 (a), DBW shall notify the sponsoring broker, in writing, within 10 days from receipt of application, that the application is complete or that the application is deficient, and what information is required.

**NOTE:** Due to the many challenges of COVID-19, it may take up to 14 days to notify the sponsoring broker the application is complete or deficient and what additional information may be required.

Please allow the required time to process your application(s) before calling and checking on the status. As the broker of record, it is your responsibility to communicate with your salespersons and sales applicants. Once the application is approved, DBW will mail the study material and exam test date to the broker's principal office address of record. As the sponsoring broker, you are the first point of contact for your salespersons and applicants.

### **Application Requires the Disclosure of Criminal History (including expunged convictions)**

Applicants applying for a salespersons or broker's license are often failing to disclose ALL background convictions.

According to California Penal Code 1203.4, you must disclose ALL background convictions when applying for one of the following, even though you have successfully managed to obtain an expungement:

1. **Applying for a state license;**
2. Applying to become a peace officer;
3. Applying to work for the California Lottery Commission; or
4. Running for public office.

***All convictions that have occurred during an applicant's lifetime must be listed on the application.***

Omitting background convictions on the application can be construed as intentionally leaving critical information out; therefore, your application may be subject to denial. Brokers should inform salesperson applicants regarding this matter when hiring new salespersons.

### **SALESPERSON LICENSE: TRANSFERS BETWEEN BROKERAGES OR CANCELLATIONS**

Pursuant to the provisions of Harbors and Navigation Code §735(c), salesmen licenses are required to be under the control of the broker by whom the salesperson is employed until the license is cancelled or the salesperson leaves the employment of the broker. The broker shall then immediately return such salesperson's license to DBW for cancellation and shall notify DBW of the exact date of termination.

If the salesperson takes possession of his or her license, the broker shall communicate this to DBW.

In closing, we ask that the Broker of Record share this information with your salesperson employees and administrative staff.

If there are any topics of interest would like to see addressed in future editions, please let us know.

Thank you for your cooperation and dedication to boating safety on California's waterways.