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NATIONAL BOATING SAFETY PROGRAM

GOVERNMENT

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HEARING

BEFORE THE

MERCHANT MARINE SUBCOMMITTEE

OF THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

S. 696

TO PROVIDE FOR A COORDINATED NATIONAL BOATING
SAFETY PROGRAM

MARCH 22, 1971

Serial No. 92-9

Printed for the use of the Committee on Commerce



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NATIONAL BOATING SAFETY PROGRAM

MONDAY, MARCH 22, 1971

UNITED STATES SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE,
Washington, D.C.

The Subcommittee met at 10:15 a.m. in room 5110, New Senate Office Building, Hon. Russell B. Long (chairman of the subcommittee) presiding.

Present: Senator Long.

Senator LONG. The hearing will come to order. This morning we take up S. 696, a bill to provide a coordinated national boating safety program.

S. 696 is a comprehensive boating safety bill involving both the Federal Government and the States. There are now almost 9 million recreational boats in our Nation, and the number is increasing at about the rate of 4,000 per week.

It is estimated that at least 40 million Americans go boating each year. This legislation provides authority to establish minimum safety standards for boats and associated equipment, provides for the uniform numbering of boats, and is intended to promote greater uniformity of boating laws and casualty reporting systems, and authorizes financial assistance for State boating safety programs.

Senator Hatfield, who is a member of this subcommittee, has expressed a deep interest in this legislation. Because he could not be here today, he has asked that the following statement and letter be placed in the record.

STATEMENT OF HON. MARK O. HATFIELD, U.S. SENATOR FROM OREGON

Mr. Chairman, I wish to express my strong support for S. 696, a bill to improve and promote recreational boating safety.

In Oregon, the number of recreational boaters has increased dramatically in recent years. In a state blessed with an abundance of lakes, reservoirs, and rivers—plus the Pacific Ocean—Oregonians flock to the water the year around. Fishing, water skiing, and just plain pleasure boating are a part of many Oregonians' recreation plans.

This legislation has wide support in my state, and I would think that many other states would echo support for the bill.

When I was notified of the hearing on this bill, I contacted Mr. Robert F. Rittenhouse, the Director of the Oregon Marine Board, and asked him for a

Staff member assigned to this hearing: Emanuel Rouvelas.

letter expressing his thinking on the merits of this legislation. Bob Rittenhouse is a recognized leader among state marine administrators. He was active during the last Congress on legislation similar to this.

Mr. Rittenhouse's comments express very lucidly his broad support for S. 696. His letter contains statistics of interest to the Committee, and I ask that it be placed in the record after my statement.

Enclosure

STATE MARINE BOARD,
OFFICE OF THE DIRECTOR,
Salem, Oreg., March 16, 1971.

File #192
Hon. MARK O. HATFIELD,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HATFIELD: First, let me say that when I read in the local papers that you are now a member of the Senate Committee on Commerce I was quite pleased, as this committee will soon be considering legislation in which we are interested and support.

It is my understanding that the Subcommittee on Merchant Marine will be holding a hearing on S. 696 on March 22. As you know, S. 696 is identical to H.R. 15041, which passed the House of Representatives shortly before last year's adjournment. Considerable work went into the preparation of H.R. 15041 by representatives of the various states through the National Association of State Boating Law Administrators, representatives of industry and the Coast Guard. I know of no serious opposition to this legislation in its present form, and we believe it is a very definite improvement over the Federal Boating Act of 1958 by which we are now guided.

There are several specific features of this bill which we feel are important and would benefit the Oregon boaters as well as those throughout the country. For example, Sections 5 and 6 would provide for passenger and maximum weight load capacity plates; require improved stability in design and construction as well as installation of floatage materials in such manner as to keep boats upright when filled with water.

Last year 27 fatalities occurred in Oregon, caused by capsizing of small, open boats. The 1970 national statistics are not yet available; however, during 1969 there were 587 fatalities throughout the country that were caused by capsizing, out of a total of 1,350 fatalities. This indicates that on a nationwide basis, capsizing contributes to nearly 50 percent of the total boating fatalities. I personally believe that this is one of the most important parts of the bill.

Another desirable feature of the bill is Section 27 which covers the allocation of Federal funds to encourage and assist the states in the development of boating safety programs. This financial assistance will very definitely stimulate and improve boating safety in Oregon and throughout the country.

We also strongly endorse Section 33 which provides for a Boating Safety Advisory Council, of which one-third of the members will be state officials responsible for boating safety programs. It is altogether proper that the states have a strong voice in a national boating safety program for the states will have a lion's share of the responsibility in administering the new law and programs at the state level.

We do hope that the Senate Committee on Commerce will act on this bill as speedily as possible. Oregon and many of the other states will have to enact some legislation at state level to be compatible with this new Federal Act. As you well know, many of the state legislatures are now in session. Hopefully, we will be able to act at the state level prior to adjournment.

Very truly yours,

ROBERT F. RITTENHOUSE,
Director.

Senator LONG. I believe, Admiral Bender, you are going to testify on this bill, S. 696. I will proceed to hear your statement with regard to S. 696.

(The bill and agency comments follow:)

92^d CONGRESS
1st SESSION

S. 696

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10 (legislative day, JANUARY 26), 1971

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To provide for a coordinated national boating safety program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Boat Safety Act
4 of 1971".

5 DECLARATION OF POLICY AND PURPOSE

6 SEC. 2. It is hereby declared to be the policy of Congress
7 and the purpose of this Act to improve boating safety and
8 to foster greater development, use, and enjoyment of all the
9 waters of the United States by encouraging and assisting
10 participation by the several States, the boating industry, and
11 the boating public in development of more comprehensive

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★(Star Print)

1 boating safety programs; by authorizing the establishment
2 of national construction and performance standards for boats
3 and associated equipment; and by creating more flexible
4 regulatory authority concerning the use of boats and equip-
5 ment. It is further declared to be the policy of Congress to
6 encourage greater and continuing uniformity of boating laws
7 and regulations as among the several States and the Federal
8 Government, a higher degree of reciprocity and comity
9 among the several jurisdictions, and closer cooperation and
10 assistance between the Federal Government and the several
11 States in developing, administering, and enforcing Federal
12 and State laws and regulations pertaining to boating safety.

13 DEFINITIONS

14 SEC. 3. As used in this Act, and unless the context other-
15 wise requires—

16 (1) "Boat" means any vessel—

17 (A) manufactured or used primarily for noncom-
18 mercial use; or

19 (B) leased, rented, or chartered to another for the
20 latter's noncommercial use; or

21 (C) engaged in the carrying of six or fewer pas-
22 sengers.

23 (2) "Vessel" includes every description of watercraft,
24 other than a seaplane on the water, used or capable of being
25 used as a means of transportation on the water.

1 (3) "Undocumented vessel" means a vessel which does
2 not have and is not required to have a valid marine docu-
3 ment as a vessel of the United States.

4 (4) "Use" means operate, navigate, or employ.

5 (5) "Passenger" means every person carried on board
6 a vessel other than—

7 (A) the owner or his representative;

8 (B) the operator;

9 (C) bona fide members of the crew engaged in
10 the business of the vessel who have contributed no con-
11 sideration for their carriage and who are paid for their
12 services; or

13 (D) any guest on board a vessel which is being
14 used exclusively for pleasure purposes who has not con-
15 tributed any consideration, directly or indirectly, for
16 his carriage.

17 (6) "Owner" means a person who claims lawful posses-
18 sion of a vessel by virtue of legal title or equitable interest
19 therein which entitles him to such possession.

20 (7) "Manufacturer" means any person engaged in—

21 (A) the manufacture, construction, or assembly of
22 boats or associated equipment; or

23 (B) the manufacture or construction of components
24 for boats and associated equipment to be sold for subse-
25 quent assembly; or

1 (C) the importation into the United States for sale
2 of boats, associated equipment, or components thereof.

3 (8) "Associated equipment" means—

4 (A) any system, part, or component of a boat as
5 originally manufactured or any similar part or com-
6 ponent manufactured or sold for replacement, repair, or
7 improvement of such system, part, or component; and

8 (B) any accessory or equipment for, or appurte-
9 nance to, a boat; and

10 (C) any marine safety article, accessory, or equip-
11 ment intended for use by a person on board a boat.

12 (9) "Secretary" means the Secretary of the Depart-
13 ment in which the Coast Guard is operating.

14 (10) "State" means a State of the United States, the
15 Commonwealth of Puerto Rico, the Virgin Islands, Guam,
16 and the District of Columbia.

17 (11) An eligible State means one that has an accepted
18 State boating safety program.

19 **APPLICABILITY**

20 **SEC. 4. (a)** This Act applies to vessels and associated
21 equipment used, to be used, or carried in vessels used, on
22 waters subject to the jurisdiction of the United States and
23 on the high seas beyond the territorial seas for vessels owned
24 in the United States.

25 (b) Sections 5 through 11 and subsections 12(a) and

1 12 (b) of this Act are applicable also to boats moving or
2 intended to be moved in interstate commerce.

3 (c) This Act, except those sections where the content
4 expressly indicates otherwise, does not apply to—

5 (1) foreign vessels temporarily using waters sub-
6 ject to United States jurisdiction;

7 (2) military or public vessels of the United States,
8 except recreational-type public vessels;

9 (3) a vessel whose owner is a State or subdivision
10 thereof, which is used principally for governmental pur-
11 poses, and which is clearly identifiable as such;

12 (4) ships' lifeboats.

13 BOAT AND ASSOCIATED EQUIPMENT STANDARDS

14 AND USE

15 SAFETY REGULATIONS AND STANDARDS

16 SEC. 5. (a) The Secretary may issue regulations—

17 (1) establishing minimum safety standards for
18 boats and associated equipment, and establishing proce-
19 dures and tests required to measure conformance with
20 such standards. Each standard shall be reasonable, shall
21 meet the need for boating safety, and shall be stated,
22 insofar as practicable, in terms of performance;

23 (2) requiring the installation, carrying, or using
24 of associated equipment on boats and classes of boats
25 subject to this Act; and prohibiting the installation,

1 carrying, or using of associated equipment which does
2 not conform with safety standards established under this
3 section. Equipment contemplated by this clause in-
4 cludes, but is not limited to, fuel systems, ventilation
5 systems, electrical systems, navigational lights, sound
6 producing devices, fire fighting equipment, lifesaving
7 devices, signaling devices, ground tackle, life and grab
8 rails, and navigational equipment.

9 (b) A regulation or standard issued under this section—

10 (1) shall specify an effective date which is not
11 earlier than one hundred and eighty days from the date
12 of issuance, except that this period shall be increased in
13 the discretion of the Secretary to not more than eighteen
14 months in any case involving major product design, re-
15 tooling, or major changes in the manufacturing process,
16 unless the Secretary finds that there exists a boating
17 safety hazard so critical as to require an earlier effective
18 date; what constitutes major product redesign, retooling,
19 or major changes shall be determined by the Secretary;

20 (2) may not compel substantial alteration of a boat
21 or item of associated equipment which is in existence, or
22 the construction or manufacture of which is commenced,
23 before the effective date of the regulation; but within that
24 limitation may require compliance or performance that

1 the Secretary considers appropriate in relation to the
2 degree of hazard that the compliance will correct; and
3 (3) shall be consistent with laws and regulations
4 governing the installation and maintenance of sanitation
5 equipment.

6 PRESCRIBING REGULATIONS AND STANDARDS

7 SEC. 6. In establishing a need for formulating and
8 prescribing regulations and standards under section 5 of
9 this Act, the Secretary shall, among other things—

10 (1) consider the need for and the extent to which
11 the regulations or standards will contribute to boating
12 safety;

13 (2) consider relevant available boat safety stand-
14 ards, statistics and data, including public and private re-
15 search, development, testing, and evaluation;

16 (3) consider whether any proposed regulation or
17 standard is reasonable and appropriate for the particular
18 type of boat or associated equipment for which it is
19 prescribed;

20 (4) consult with the Boating Safety Advisory
21 Council established in compliance with this Act regard-
22 ing all of the foregoing considerations.

23 DISPLAY OF LABELS EVIDENCING COMPLIANCE

24 SEC. 7. The Secretary may require or permit the dis-

1 play of seals, labels, plates, insignia, or other devices for
2 the purpose of certifying or evidencing compliance with
3 Federal safety regulations and standards for boats and asso-
4 ciated equipment.

5 DELEGATION OF INSPECTION FUNCTION

6 SEC. 8. The Secretary may, subject to regulations,
7 supervision, and review as he may prescribe, delegate to
8 any person, or private or public agency, or to any employee
9 under the supervision of such person or agency, any work,
10 business, or function respecting the examination, inspection,
11 and testing necessary to carry out his responsibilities under
12 sections 5 and 6 of this Act.

13 EXEMPTIONS

14 SEC. 9. The Secretary may, if he considers that boating
15 safety will not be adversely affected, issue exemptions from
16 any provision of this Act or regulations and standards estab-
17 lished thereunder, on terms and conditions as he considers
18 appropriate.

19 FEDERAL PREEMPTION

20 SEC. 10. Unless permitted by the Secretary under sec-
21 tion 9 of this Act, no State or political subdivision thereof
22 may establish, continue in effect, or enforce any provision of
23 law or regulation which establishes any boat or associated
24 equipment performance or other safety standard, or which
25 imposes any requirement for associated equipment, except,

1 unless disapproved by the Secretary, the carrying or using
2 of marine safety articles to meet uniquely hazardous condi-
3 tions or circumstances within the State, which is not identical
4 to a Federal regulation issued under section 5 of this Act.

5 ADMISSION OF NONCONFORMING FOREIGN-MADE BOATS

6 SEC. 11. The Secretary of the Treasury and the Secre-
7 tary may, by joint regulations, authorize the importation of
8 a nonconforming boat or associated equipment upon terms
9 and conditions, including the furnishing of bond, which will
10 assure that the boat or associated equipment will be brought
11 into conformity with the applicable Federal safety regula-
12 tions and standards before it is used on waters subject to the
13 jurisdiction of the United States.

14 PROHIBITED ACTS

15 SEC. 12. (a) No person may manufacture, construct,
16 assemble, introduce, or deliver for introduction in interstate
17 commerce, or import into the United States, or if engaged in
18 the business of selling or distributing boats or associated
19 equipment, may sell or offer for sale, any boat, associated
20 equipment, or component thereof to be sold for subsequent
21 assembly, unless—

22 (1) it conforms with regulations and standards pre-
23 scribed under this Act, or

24 (2) it is intended solely for export, and so labeled,

1 tagged, or marked on the boat or equipment and on the
2 outside of the container, if any, which is exported.

3 (b) No person may be held liable for a violation of this
4 section if he establishes that he did not have reason to know in
5 the exercise of due care that a boat or associated equipment
6 does not conform with applicable Federal boat safety stand-
7 ards, or who holds a certificate issued by the manufacturer of
8 the boat or associated equipment to the effect that such boat
9 or associated equipment conforms to all applicable Federal
10 boat safety standards, unless such person knows or reasonably
11 should have known that such boat or associated equipment
12 does not so conform.

13 (c) No person may affix, attach, or display a seal, label,
14 plate, insignia, or other device indicating or suggesting com-
15 pliance with Federal safety standards on, in, or with a boat
16 or item of associated equipment, which is false or misleading.

17 (d) No person may use a vessel in violation of this
18 Act or regulations issued thereunder.

19 (e) No person may use a vessel, including one otherwise
20 exempted by subsection 4 (c) of this Act, in a negligent
21 manner so as to endanger the life, limb, or property of any
22 person. Violations of this subsection involving use which
23 is grossly negligent, subject the violator, in addition to any
24 other penalties prescribed in this Act, to the criminal penal-
25 ties prescribed in section 34.

1 (f) No vessel equipped with propulsion machinery of
2 any type and not subject to the manning requirements of
3 the vessel inspection laws administered by the Coast Guard,
4 may while carrying passengers for hire, be used except in
5 the charge of a person licensed for such service under regu-
6 lations, prescribed by the Secretary, which pertain to quali-
7 fications, issuance, revocation or suspension, and related
8 matters.

9 (g) Subsection 12 (f) of this Act shall not apply to any
10 vessel being used for bona fide dealer demonstrations fur-
11 nished without fee to business invitees. However, if on the
12 basis of substantial evidence the Secretary determines, pur-
13 suant to section 6 hereof, that requiring vessels so used to be
14 under the control of licensed persons is necessary to meet the
15 need for boating safety, then the Secretary may promulgate
16 regulations requiring the licensing of persons controlling such
17 vessels in the same manner as provided in subsection 12 (f) of
18 this Act for persons in control of vessels carrying passengers
19 for hire.

20 SEC. 13. If a Coast Guard boarding officer observes a
21 boat being used without sufficient lifesaving or firefighting
22 devices or in an overloaded or other unsafe condition as de-
23 fined in regulations of the Secretary, and in his judgment
24 such use creates an especially hazardous condition, he may
25 direct the operator to take whatever immediate and reason-

1 able steps would be necessary for the safety of those aboard
2 the vessel, including directing the operator to return to
3 mooring and to remain there until the situation creating the
4 hazard is corrected or ended.

5 INSPECTION, INVESTIGATION, REPORTING

6 SEC. 14. (a) Every manufacturer subject to the provi-
7 sions of this Act shall establish and maintain records, make
8 reports, and provide information as the Secretary may rea-
9 sonably require to enable him to determine whether the
10 manufacturer has acted or is acting in compliance with this
11 Act and the regulations issued thereunder. A manufacturer
12 shall, upon request of an officer, employee, or agent author-
13 ized by the Secretary, permit the officer, employee, or agent
14 to inspect at reasonable times factories or other facilities,
15 books, papers, records, and documents relevant to determin-
16 ing whether the manufacturer has acted or is acting in com-
17 pliance with this Act and the regulations issued thereunder.

18 (b) All information reported to or otherwise obtained
19 by the Secretary or his representative pursuant to subsection
20 (a) containing or relating to a trade secret or other matter
21 referred to in section 1905 of title 18 of the United States
22 Code, or authorized to be exempted from public disclosure
23 by subsection 552(b) of title 5, United States Code, shall
24 be considered confidential for the purpose of that section of
25 title 18, except that such information may be disclosed to

1 other officers, employees, or agents concerned with carrying
2 out this Act or when relevant in any proceeding under this
3 Act.

4 NOTIFICATION OF BOAT DEFECTS

5 SEC. 15. (a) Every boat manufacturer shall furnish
6 notification of a defect in any boat produced by the manu-
7 facturer, which he determines in good faith relates to safe
8 use of the boat, to the dealer to whom the boat was delivered
9 and to the purchaser (when known to the manufacturer) of
10 the boat, within a reasonable time after the manufacturer has
11 discovered the defect.

12 (b) Notification shall be accomplished—

13 (1) by certified mail to the first purchaser (not
14 including any dealer of the manufacturer) of the boat
15 containing the defect, and to any subsequent purchaser
16 to whom has been transferred any warranty on the boat;
17 and

18 (2) by certified mail or other more expeditious
19 means to the dealer to whom the boat was delivered.

20 (c) Notification shall contain a clear description of the
21 defect, an evaluation of the risk to boating safety reasonably
22 resulting from the defect, and a statement of measures to be
23 taken to repair the defect.

24 (d) Every manufacturer shall furnish to the Secretary
25 a true or representative copy of all notices, bulletins, and

1 other communications to purchasers or dealers required under
2 this Act. The Secretary may publish so much of the informa-
3 tion contained in the communication as he deems will contrib-
4 ute to boating safety.

5 RENDERING OF ASSISTANCE IN CASUALTIES

6 SEC. 16. (a) The operator of a vessel, including one
7 otherwise exempted by subsection 4 (c) of this Act, involved
8 in a collision, accident, or other casualty, to the extent he can
9 do so without serious danger to his own vessel, or persons
10 aboard, shall render all practical and necessary assistance to
11 persons affected by the collision, accident, or casualty to save
12 them from danger caused by the collision, accident, or
13 casualty. He shall also give his name, address, and the iden-
14 tification of his vessel to any person injured and to the owner
15 of any property damaged. The duties imposed by this sub-
16 section are in addition to any duties otherwise imposed by
17 law.

18 (b) Any person who complies with subsection (a) of
19 this section or who gratuitously and in good faith renders
20 assistance at the scene of a vessel collision, accident, or other
21 casualty without objection of any person assisted, shall not
22 be held liable for any civil damages as a result of the render-
23 ing of assistance or for any act or omission in providing or
24 arranging salvage, towage, medical treatment, or other assist-
25 ance where the assisting person acts as an ordinary, reason-

1 ably prudent man would have acted under the same or similar
2 circumstances.

3 NUMBERING OF CERTAIN VESSELS

4 VESSELS REQUIRING NUMBERING

5 SEC. 17. An undocumented vessel equipped with pro-
6 pulsion machinery of any type shall have a number issued
7 by the proper issuing authority in the State in which the
8 vessel is principally used.

9 STANDARD NUMBERING

10 SEC. 18. (a) The Secretary shall establish by regulation
11 a standard numbering system for vessels. Upon application
12 by a State the Secretary shall approve a State numbering
13 system which is in accord with the standard numbering sys-
14 tem and the provisions of this Act relating to numbering and
15 casualty reporting. A State with an approved system is the
16 issuing authority under the Act. The Secretary is the issuing
17 authority in States where a State numbering system has not
18 been approved.

19 (b) If a State has a numbering system approved by
20 the Secretary under the Act of September 2, 1958 (72 Stat.
21 1754), as amended, prior to enactment hereof, the system
22 need not be immediately revised to conform with this Act
23 and may continue in effect without change for a period not
24 to exceed three years from the date of enactment of this Act.

25 (c) When a vessel is actually numbered in the State of

1 principal use, it shall be considered as in compliance with the
2 numbering system requirements of any State in which it is
3 temporarily used.

4 (d) When a vessel is removed to a new State of prin-
5 cipal use, the issuing authority of that State shall recognize
6 the validity of a number awarded by any other issuing
7 authority for a period of at least sixty days before requiring
8 numbering in the new State.

9 (e) If a State has a numbering system approved after
10 the effective date of this Act, that State must accept and
11 recognize any certificate of number issued by the Secretary,
12 as the previous issuing authority in that State, for one year
13 from the date that State's system is approved, or until its
14 expiration date, at the option of the State.

15 (f) Whenever the Secretary determines that a State is
16 not administering its approved numbering system in accord-
17 ance with the standard numbering system, or has altered its
18 system without his approval, he may withdraw his approval
19 after giving notice to the State, in writing, setting forth
20 specifically wherein the State has failed to meet the stand-
21 ards required, and the State has not corrected such failures
22 within a reasonable time after being notified by the Secretary.

23 EXEMPTIONS

24 SEC. 19. (a) The Secretary, when he is the issuing
25 authority, may exempt a vessel or class of vessels from the

1 numbering provisions of this Act under such conditions as
2 he may prescribe.

3 (b) When a State is the issuing authority, it may ex-
4 empt from the numbering provisions of this Act any vessel
5 or class of vessels that has been exempted under subsection
6 (a) of this section or otherwise as permitted by the Sec-
7 retary.

8 DESCRIPTION OF CERTIFICATE OF NUMBER

9 SEC. 20. (a) A certificate of number granted under this
10 Act shall be pocket size, shall be at all times available for
11 inspection on the vessel for which issued when the vessel is
12 in use, and may not be valid for more than three years. The
13 certificate of number for vessels less than twenty-six feet in
14 length and leased or rented to another for the latter's non-
15 commercial use of less than twenty-four hours may be re-
16 tained on shore by the vessel's owner or his representative
17 at the place from which the vessel departs or returns to the
18 possession of the owner or his representative. A vessel which
19 does not have the certificate of number on board shall be
20 identified while in use, and comply with such other require-
21 ments, as the issuing authority prescribes.

22 (b) The owner of a vessel numbered under this Act
23 shall furnish to the issuing authority notice of the transfer of
24 all or part of his interest in the vessel, or of the destruction

1 or abandonment of the vessel, within a reasonable time
2 thereof, and shall furnish notice of any change of address
3 within a reasonable time of the change, in accordance with
4 prescribed regulations.

5 DISPLAY OF NUMBER

6 SEC. 21. A number required by this Act shall be painted
7 on, or attached to, each side of the forward half of the vessel
8 for which it was issued, and shall be of the size, color, and
9 type as may be prescribed by the Secretary. No other number
10 may be carried on the forward half of the vessel.

11 SAFETY CERTIFICATES

12 SEC. 22. When a State is the issuing authority it may
13 require that the operator of a numbered vessel hold a valid
14 safety certificate issued under terms and conditions set by the
15 issuing authority.

16 REGULATIONS

17 SEC. 23. The issuing authority may prescribe regula-
18 tions and establish fees to carry out the intent of sections
19 17 through 24 and section 37 of this Act. A State issuing
20 authority may impose only terms and conditions for vessel
21 numbering which are prescribed by this Act or the regula-
22 tions of the Secretary concerning the standard numbering
23 system.

24 FURNISHING OF INFORMATION

25 SEC. 24. Manufacturers may request from an issuing
26 authority vessel numbering and registration information

1 which is retrievable from vessel numbering system records of
2 the issuing authority. When the issuing authority is satisfied
3 that the request is reasonable and related to a boating safety
4 purpose, the information shall be furnished upon payment
5 by the manufacturer of the cost of retrieval and furnishing
6 of the information requested.

7 STATE BOATING SAFETY PROGRAMS

8 ESTABLISHMENT AND ACCEPTANCE

9 SEC. 25. In order to encourage greater State participa-
10 tion and consistency in boating safety efforts, and particularly
11 greater safety patrol and enforcement activities, the Secre-
12 tary may accept State boating safety programs directed at
13 implementing and supplementing this Act. Acceptance is nec-
14 essary for a State to receive full rather than partial Federal
15 financial assistance under this Act. The Secretary may also
16 make Federal funds available to an extent permitted by sub-
17 section 27 (d) of this Act to national nonprofit public service
18 organizations for national boating safety programs and activ-
19 ities which he considers to be in the public interest.

20 BOATING SAFETY PROGRAM CONTENT

21 SEC. 26. (a) The Secretary shall accept a State boating
22 safety program which—

23 (1) incorporates a State vessel numbering system
24 previously approved under this Act or includes such a
25 numbering system as part of the proposed boating safety
26 program;

1 (2) includes generally the other substantive content
2 of the Model State Boat Act as approved by the National
3 Association of State Boating Law Administrators in
4 conjunction with the Council of State Governments, or is
5 in substantial conformity therewith, or conforms suffi-
6 ciently to insure uniformity and promote comity among
7 the several jurisdictions;

8 (3) provides for patrol and other activity to assure
9 enforcement of the State boating safety laws and regu-
10 lations;

11 (4) provides for boating safety education programs;

12 (5) designates the State authority or agency which
13 will administer the boating safety program and the allo-
14 cated Federal funds; and

15 (6) provides that the designated State authority
16 or agency will submit reports in the form prescribed by
17 the Secretary.

18 (b) The requirements of subparagraph (a) (2) of this
19 section shall be liberally construed to permit acceptance where
20 the general intent and purpose of such requirements are met
21 and nothing contained therein is in any way intended to dis-
22 courage a State program which is more extensive or compre-
23 hensive than suggested herein, particularly with the regard to
24 safety patrol and enforcement activity commensurate with the
25 amount and type of boating activity within the State, and

1 with regard to public boat safety education, and experimental
2 programs which could enhance boating safety.

3 ALLOCATION OF FEDERAL FUNDS

4 SEC. 27. (a) The Secretary shall allocate the amounts
5 appropriated to the several eligible States as soon as practi-
6 cable after July 1 of each fiscal year for which the funds
7 are appropriated.

8 (b) In order to encourage and assist the States in the
9 development of boating safety programs during the first three
10 fiscal years for which funds are available under this Act, the
11 funds shall be allocated among applying States having a
12 boating safety program, or which indicate to the Secretary
13 their intention to establish boating safety programs in ac-
14 cordance with section 25 of this Act. One-half of the funds
15 shall be allocated equally among the applying States. The
16 other half shall be allocated to each applying eligible State
17 in the same ratio as the number of vessels propelled by ma-
18 chinery numbered in that State bears to the number of such
19 vessels numbered in all applying eligible States.

20 (c) In fiscal years after the third fiscal year for which
21 funds are available under this Act the moneys appropriated
22 shall be allocated among applying States. Of the total avail-
23 able funds one-third shall be allocated each year equally
24 among applying States. One-third shall be allocated so that
25 the amount each year to each applying eligible State will be

1 in the same ratio as the number of vessels numbered in that
2 State, under a numbering system approved under this Act,
3 bears to the number of such vessels numbered in all applying
4 eligible States. The remaining one-third shall be allocated so
5 that the amount each year to each applying eligible State
6 shall be in the same ratio as the State funds expended or
7 obligated for the State boating safety program during the
8 previous fiscal year by a State bears to the total State funds
9 expended or obligated for that fiscal year by all the applying
10 eligible States.

11 (d) The Secretary may allocate not more than 5 per
12 centum of funds appropriated in any fiscal year for national
13 boating safety activities of one or more national nonprofit-
14 public service organizations.

15 ALLOCATION LIMITATIONS; UNOBLIGATED OR
16 UNALLOCATED FUNDS

17 SEC. 28. (a) Notwithstanding the allocation ratios pre-
18 scribed in section 27 of this Act, the Federal share of the
19 total annual cost of a State's boating safety program may not
20 exceed 75 per centum in fiscal year 1972, $66\frac{2}{3}$ per centum
21 in fiscal year 1973, 50 per centum in fiscal year 1974, 40
22 per centum in fiscal year 1975, and $33\frac{1}{3}$ per centum in fiscal
23 year 1976. No State may receive more than 5 per centum
24 of the Federal funds appropriated or available for allocation
25 in any fiscal year.

1 (b) Amounts allocated to an eligible State shall be
2 available for obligation by that State for a period of three
3 years following the date of allocation. Funds unobligated by
4 the State at the expiration of the three-year period shall be
5 withdrawn by the Secretary and shall be available with other
6 funds to be allocated by the Secretary during that fiscal year.

7 (c) Funds available to the Secretary which have not
8 been allocated at the end of a fiscal year shall be carried for-
9 ward as part of the total allocation funds for the next fiscal
10 year for which appropriations are authorized by this Act.

11 DETERMINATION OF STATE FUNDS EXPENDED

12 SEC. 29. In accordance with regulations prescribed by
13 the Secretary computation by a State of funds expended or
14 obligated for the boating safety program shall include the
15 acquisition, maintenance, and operating costs of facilities,
16 equipment, and supplies; personnel salaries and reimbursable
17 expenses; the costs of training personnel; public boat safety
18 education; the costs of administering the program; and other
19 expenses which the Secretary considers appropriate. The
20 Secretary shall determine any issues which arise in connec-
21 tion with such computation.

22 APPROPRIATIONS AUTHORIZATIONS FOR STATE BOATING

23 SAFETY PROGRAMS

24 SEC. 30. For the purpose of providing financial assist-
25 ance for State boating safety programs there is authorized to
26 be appropriated \$7,500,000 for the fiscal year ending June

1 30, 1972, and \$7,500,000 for each of the four succeeding
2 fiscal years, such appropriations to remain available until
3 expended.

4 PAYMENTS

5 SEC. 31. (a) Amounts allocated under section 27 of this
6 Act shall be computed and paid to the States as follows:

7 (1) During the first three fiscal years that funds are
8 available the Secretary shall schedule the initial pay-
9 ment to each State at the earliest possible time after
10 application and compliance with subsection 27 (b) of this
11 Act.

12 (2) For fiscal years after the third fiscal year for
13 which funds are available, the Secretary shall determine
14 during the last quarter of a fiscal year, on the basis of
15 computations made pursuant to section 29 of this Act
16 and submitted by the States, the percentage of the funds
17 available for the next fiscal year to which each eligible
18 State shall be entitled. Notice of the percentage and of the
19 dollar amount, if it can then be determined, for each
20 State shall be furnished to the States at the earliest
21 practicable time. If the Secretary finds that an amount
22 made available to a State for a prior year is greater or
23 less than the amount which should have been made
24 available to that State for the prior year, because of later
25 or more accurate State expenditure information, the

1 amount for the current fiscal year may be increased or
2 decreased by the appropriate amount.

3 (b) Notwithstanding any other provision of law, the
4 Secretary shall schedule the payment of funds consistent
5 with the program purposes and applicable Treasury regu-
6 lations, so as to minimize the time elapsing between the
7 transfer of funds from the United States Treasury and the
8 subsequent disbursement thereof by a State.

9 (c) Whenever the Secretary, after reasonable notice to
10 the designated State authority or agency, finds that—

11 (1) the boating safety program submitted by the
12 State and accepted by the Secretary has been so changed
13 that it no longer complies with this Act or standards
14 established by regulations thereunder; or

15 (2) in the administration of the boating safety pro-
16 gram, there has been a failure to comply substantially
17 with the standards established by the regulations;

18 the Secretary shall notify the State authority or agency that
19 no further payments will be made to the State until the
20 program conforms to the established standards or the failure
21 is corrected.

22 (d) The Secretary shall, by regulation, provide for such
23 accounting, budgeting, and other fiscal procedures as are
24 necessary and reasonable for the proper and efficient admin-
25 istration of this section. The Secretary and the Comptroller

1 General of the United States shall have access for the pur-
2 pose of audit and examination, to any books, documents,
3 papers, and records that are pertinent to Federal funds re-
4 ceived by the States under this Act.

5 CONSULTATION AND COOPERATION

6 SEC. 32. (a) In carrying out his responsibilities under
7 this Act the Secretary may consult with State and local gov-
8 ernments, public and private agencies, organizations and
9 committees, private industry, and other persons having an
10 interest in boating and boating safety.

11 (b) The Secretary may advise, assist, and cooperate
12 with the States and other interested public and private agen-
13 cies, in the planning, development, and execution of boating
14 safety programs. Acting under the authority of section 141
15 of title 14, United States Code, and consonant with the policy
16 defined in section 2 of this Act, the Secretary shall insure the
17 fullest cooperation between the State and Federal authorities
18 in promoting boating safety by entering into agreements and
19 other arrangements with the States whenever possible. Sub-
20 ject to the provisions of chapter 23, title 14, he may make
21 available, upon request from a State, the services of members
22 of the Coast Guard Auxiliary to assist the State in the pro-
23 motion of boating safety on State waters.

24 BOATING SAFETY ADVISORY COUNCIL

25 SEC. 33. (a) The Secretary shall establish a National
26 Boating Safety Advisory Council, which shall not exceed

1 twenty-one members, whom the Secretary considers to have a
2 particular expertise, knowledge, and experience in boating
3 safety. Insofar as practical, to assure balanced representa-
4 tion, members shall be drawn equally from (1) State officials
5 responsible for State boating safety programs, (2) boat and
6 associated equipment manufacturers, and (3) boating orga-
7 nizations and members of the general public. Additional per-
8 sons from those sources may be appointed to panels to the
9 Council which will assist the Council in the performance of
10 its functions.

11 (b) In addition to the consultation required by section
12 6 of this Act the Secretary shall consult with the Advisory
13 Council on any other major boat safety matters related to
14 this Act.

15 (c) Members of the Advisory Council or panels may
16 be compensated at a rate not to exceed the rate provided
17 for Federal classified employees of grade GS-18 when en-
18 gaged in the duties of the Council. Members, while away
19 from their home or regular places of business, may be allowed
20 travel expenses, including a per diem in lieu of subsistence as
21 authorized by section 5703 of title 5, United States Code,
22 for persons in the Government service employed intermit-
23 tently. Payments under this section shall not render members
24 of the Advisory Council employees or officials of the United
25 States for any purposes.

CRIMINAL PENALTIES

1
2 SEC. 34. Any person who willfully violates subsection
3 12 (d) of this Act or the regulations issued thereunder shall be
4 fined not more than \$1,000 for each violation or imprisoned
5 not more than one year, or both.

CIVIL PENALTIES

6
7 SEC. 35. (a) In addition to any other penalty pre-
8 scribed by law any person who violates subsection 12 (a)
9 of this Act shall be liable to a civil penalty of not more
10 than \$2,000 for each violation, except that the maximum
11 civil penalty shall not exceed \$100,000 for any related series
12 of violations.

13 (b) In addition to any other penalty prescribed by law
14 any person who violates any other provision of this Act or
15 the regulations issued thereunder shall be liable to a civil
16 penalty of not more than \$500 for each violation. If the
17 violation involves the use of a vessel the vessel, except as
18 exempted by subsection 4 (c) of this Act, shall be liable and
19 may be proceeded against in the district court of any district
20 in which the vessel may be found.

21 (c) The Secretary may assess and collect any civil
22 penalty incurred under this Act and, in his discretion, remit,
23 mitigate, or compromise any penalty prior to referral to the
24 Attorney General. Subject to approval by the Attorney Gen-
25 eral, the Secretary may engage in any proceeding in court for

1 that purpose, including a proceeding under subsection (d) of
2 this section. In determining the amount of any penalty to be
3 assessed hereunder, or the amount agreed upon in any com-
4 promise, consideration shall be given to the appropriateness of
5 such penalty in light of the size of the business of the person
6 charged, the gravity of the violation and the extent to which
7 the person charged has complied with the provisions of section
8 15 of this title or has otherwise attempted to remedy the con-
9 sequences of the said violation.

10 (d) When a civil penalty of not more than \$200 has
11 been assessed under this Act, the Secretary may refer the
12 matter for collection of the penalty directly to the Federal
13 magistrate of the jurisdiction wherein the person liable may
14 be found for collection procedures under supervision of the
15 district court and pursuant to order issued by the court
16 delegating such authority under section 636 (b) of title 28,
17 United States Code.

18 INJUNCTIVE PROCEEDINGS

19 SEC. 36. The United States district courts shall have
20 jurisdiction, for cause shown and subject to the provisions
21 of rule 65 (a) and (b) of the Federal Rules of Civil
22 Procedure, to restrain violations of this Act, or to restrain
23 the sale, offer for sale, or the introduction or delivery for in-
24 troduction, in interstate commerce, or the importation into
25 the United States, of any boat or associated equipment which

1 is determined not to conform to Federal boat safety stand-
2 ards, upon petition by the Attorney General on behalf of
3 the United States. Whenever practicable, the Secretary
4 shall give notice to any person against whom an action for
5 injunctive relief is contemplated and afford him an oppor-
6 tunity to present his views, and except in the case of knowing
7 and willful violation, shall afford him a reasonable oppor-
8 tunity to achieve compliance. The failure to give notice and
9 afford such opportunity does not preclude the granting of
10 appropriate relief.

11 CASUALTY REPORTING SYSTEMS

12 SEC. 37. (a) The Secretary shall prescribe a uniform
13 vessel casualty reporting system for vessels subject to this
14 Act, including those otherwise exempted by terms (1),
15 (3), and (4) of subsection 4 (c).

16 (b) A State vessel numbering system and boating safety
17 program approved under this Act shall provide for the re-
18 porting of casualties and accidents involving vessels. A State
19 shall compile and transmit to the Secretary reports, informa-
20 tion, and statistics on casualties and accidents reported to it.

21 (c) A vessel casualty reporting system shall provide
22 for the reporting of all marine casualties involving vessels in-
23 dicated in subsection (a) of this section and resulting in the
24 death of any person. Marine casualties which do not result
25 in loss of life shall be classified according to the gravity there-

1 of, giving consideration to the extent of the injuries to per-
2 sons, the extent of property damage, the dangers which
3 casualties create, and the size, occupation or use, and the
4 means of propulsion of the boat involved. Regulations shall
5 prescribe the casualties to be reported and the manner of
6 reporting.

7 (d) The owner or operator of a boat or vessel indi-
8 cated in subsection (a) of this section and involved in
9 casualty or accident shall report the casualty or accident to
10 the Secretary in accordance with regulations prescribed under
11 this section unless he is required to report to a State under
12 a State system approved under this Act.

13 (e) The Secretary shall collect, analyze, and publish
14 reports, information, or statistics together with findings and
15 recommendations he considers appropriate. If a State acci-
16 dent reporting system provides that information derived from
17 accident reports, other than statistical, shall be unavailable
18 for public disclosure, or otherwise prohibits use by the State
19 or any person in any action or proceeding against an indi-
20 vidual, the Secretary may utilize the information or material
21 furnished by a State only in like manner.

22 APPROPRIATIONS AUTHORIZATION

23 SEC. 38. There is authorized to be appropriated amounts
24 as may be necessary to administer the provisions of this Act.

1 MISCELLANEOUS PROVISIONS

2 SEC. 39. (a) The following are repealed:

3 (1) Section 7, as amended, and sections 13 and 14
4 of the Motorboat Act of 1940, Public Law 76-484,
5 April 25, 1940 (54 Stat. 165);6 (2) The Federal Boating Act of 1958, Public Law
7 85-911, September 2, 1958 (72 Stat. 1754), except
8 subsections 6 (b) and 6 (c) thereof;9 (3) The Act of March 28, 1960, Public Law 86-
10 396 (74 Stat. 10); and11 (4) The Act of August 30, 1961, Public Law 87-
12 171 (75 Stat. 408).13 (b) Subsection (c) of section 6 of the Federal Boating
14 Act of 1958, September 2, 1958 (72 Stat. 1754), is
15 amended to read as follows:16 “(c) Such Act of April 25, 1940 (46 U.S.C. 526-
17 526t), is further amended by adding at the end thereof the
18 following new section:19 “SEC. 22. (a) This Act applies to every motorboat or
20 vessel on the navigable waters of the United States, Guam,
21 the Virgin Islands, the Commonwealth of Puerto Rico, and
22 the District of Columbia, and every motorboat or vessel
23 owned in a State and using the high seas, except that the

1 provisions of this Act other than sections 12, 18, and 19
2 do not apply to boats as defined in and subject to the Boat
3 Safety Act of 1970.

4 “(b) As used in this Act—

5 “The term “State” means a State of the United States,
6 Guam, the Virgin Islands, the Commonwealth of Puerto
7 Rico, and the District of Columbia.’”

8 (c) Any vessel, to the extent that it is subject to the
9 Small Passenger Carrying Vessel Act, May 10, 1956 (70
10 Stat. 151), or to any other vessel inspection statute of the
11 United States, is exempt from the provisions of this Act.

12 (d) Nothing contained in this Act shall be deemed to
13 exempt from the antitrust laws of the United States any
14 conduct that would be unlawful under such laws, or to pro-
15 hibit under the antitrust laws of the United States any
16 conduct that would be lawful under such laws.

17 (e) Regulations previously issued under statutory pro-
18 visions repealed, modified, or amended by this Act continue
19 in effect as though promulgated under the authority of this
20 Act until expressly abrogated, modified or amended by the
21 Secretary under the regulatory authority of this Act.

22 (f) A criminal or civil penalty proceeding under the
23 Motorboat Act of 1940, as amended, or the Federal Boating

- 1 Act of 1958, as amended, for a violation which occurred
- 2 before the effective date of this Act may be initiated and
- 3 continue to conclusion as though the former Acts had not
- 4 been amended or repealed hereby.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 24, 1971.

B-123775

The Honorable WARREN G. MAGNUSON,
Chairman, Committee on Commerce, United States Senate.

DEAR MR. CHAIRMAN: This is in reference to your letter of March 5, 1971, requesting our views on S. 696, 92d Congress, entitled: "A BILL To provide for a coordinated national boating safety program."

The subject bill would incorporate the substance of the Federal Boating Act of 1958 and much of the substance of the Motorboat Act of 1940. The 1958 act except for section 6 would be repealed while the 1940 act would no longer be applicable to boats as defined in this bill. The bill would also authorize the Secretary (as defined in the bill) to issue safety regulations governing boat and associated equipment standards, provide for Federal financial assistance to the States in the form of grants-in-aid to encourage greater State participation in boating safety programs, and establish a National Boating Safety Advisory Council to advise the Secretary on boat safety matters.

Inasmuch as the proposed legislation involves a matter of policy for determination by the Congress, we make no recommendations concerning its enactment. However, we offer the following comments for your consideration.

Section 12(d) of the bill provides that "No person shall operate any motorboat or any vessel in a negligent manner so as to endanger the life, limb, or property of any person." This language is substantially the same as that used in the Motorboat Act of 1940. In the past, however, there has been some question as to whether the language "any person" means any *other* person, or should be read to include the operator of the vessel. If the section is meant to cover the operator, the committee may wish to consider clarifying the term by adding appropriate language at the end of the section to make it clear that negligent use endangering the life, limb, or property of the operator is also a prohibited act.

The National Transportation Safety Board, in its "Study of Recreational Boat Accidents, Boating Safety Programs and Preventive Recommendations," dated February 13, 1969, recommended that the Coast Guard be given authority to stop boaters from proceeding into adverse weather or sea conditions when it can be reasonably anticipated that an accident will result. Section 13 of the bill provides for summary termination of use of any boat or associated equipment which is used in violation of the act so as to create in the judgment of a Coast Guard boarding officer an especially hazardous condition, and that the boat may not be subsequently used until the condition creating the violation is corrected.

The Coast Guard considers section 13 as being applicable to hazardous conditions caused by defects in the boat or required associated equipment. However, the negligent operation of a vessel so as to endanger the life, limb, or property of any person is a prohibited act under proposed section 12(d) of the bill. It appears, therefore, that section 13 may also include authority for the Coast Guard to prevent boaters from negligently endangering their lives by venturing into adverse weather or sea conditions. Since the extent of the authority granted by this section is unclear, the committee may wish to specify whether or not such authority is intended to be limited to hazardous conditions caused by defects in the boat or required associated equipment.

Section 27(b) of the bill would allocate Federal funds to the States during the first two fiscal years after enactment of the bill on the basis of the numbered vessels in each State propelled by machinery of more than 10 horsepower. This allocation recognizes the existing Federal requirement for numbering only those boats with more than 10 horsepower. At the present time there are about 35 States which in the development of their boating safety programs went beyond the Federal requirement and included unpowered as well as vessels powered by machinery of less than 10 horsepower in their State numbering systems. The basis of allocation therefore bears no relation to the boats actually numbered under existing State numbering systems. The committee may wish to consider the desirability of allocating Federal funds on the basis of boats which have been numbered under existing State systems. It appears, that an allocation procedure based on all numbered boats would be more consistent with the incentive-based procedure provided in subsection (c) for allocating available funds to States in years subsequent to the first two fiscal years after enactment of the bill.

We also suggest several language changes. On page 20, line 10, the word "allocation" should be "allocated." The word "to" on page 13, line 6, should be "of," and the word "brade" on page 25, line 18 should be "grade."

Sincerely yours,

ROBERT F. KELLER,
Assistant Comptroller General of the United States.

DEPARTMENT OF STATE,
Washington, D.C., March 26, 1971.

The Honorable WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
United States Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of March 5, 1971 requesting comment on S. 696, a bill "To provide for a coordinated national boating safety program".

The Department has no objection to the proposed legislation from the standpoint of foreign policy and would defer to the views of other government agencies more directly concerned.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

DAVID M. ABBSHIRE,
Assistant Secretary for Congressional Relations.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., March 29, 1971.

HON. WARREN. G. MAGNUSON,
*Chairman, Committee on Commerce
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reference to S. 696, 92nd Congress, 1st Session, a bill to provide for a coordinated national boating safety program, cited as the Federal Boat Safety Act of 1971.

Section 5(a) of the bill would empower the Secretary of the Department in which the U.S. Coast Guard is operating to issue regulations with respect to minimum safety standards for boats and vessels and associated equipment and to establish procedures and tests required to measure conformance with such standards. Regulations may also require the installation of associated equipment meeting the required safety standards. The term "associated equipment" as defined in Section 3(8) of the bill is sufficiently broad that it might be construed to include radio equipment, and might be interpreted as empowering the Secretary of the Department of Transportation to issue regulations requiring radio equipment to be installed on certain classes of vessels and establishing criteria for its acceptability.

Pursuant to the statutory provisions of Title III, Parts II and III of the Communications Act of 1934, as amended, and the treaty provisions of the Great Lakes Agreement and the Safety of Life at Sea Convention (SOLAS, London 1960), approximately 3,500 U.S. cargo ships and passenger vessels are compulsorily required to carry radio equipment, and at the present time have ship radiotelegraph and/or radiotelephone station licenses issued by this Commission.

Under the present pattern of responsibility virtually all compulsory radio installations aboard vessels are under the jurisdiction of the Commission. By Title III, Parts II and III of the Communications Act of 1934, as amended, Congress specifically grants authority to the Commission, with certain exceptions not pertinent here, over radio installations aboard the following classes of vessels:

(a) All U.S. cargo vessels not less than 300 gross tons and all U.S. passenger vessels irrespective of size navigating either in the open sea or on an international voyage;

(b) All foreign cargo vessels not less than 300 gross tons and all foreign passenger vessels irrespective of size that leave a U.S. port for the open sea; and,

(c) All U.S. vessels carrying more than six passengers for hire that are navigating in the open sea or on any tidewater within the jurisdiction of the U.S.

In addition, pursuant to Section 507 of the Act responsibility of the Commission for vessels subject to the Great Lakes Agreement is recognized.

Further, if "associated equipment" is interpreted to include radio equipment, it would go counter to the intent of Section 1 of the Communications Act, of 1934, as amended, in which the Commission is created "for the purposes of promoting safety of life and property through the use of wire and radio communication, and for the purpose of security a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies. . . ."

In order to avoid possible conflict or overlap in jurisdiction between the agencies and the problems that may result therefrom, it is recommended that the term "associated equipment" be redefined to clearly exclude radio equipment. This could be accomplished by amending the first portion of Section 3(8) to read as follows:

(8) "Associated equipment" does not include radio equipment, and means—

(A) XXX

With appropriate language to take care of the above suggested change, the bill would not affect the functions of this Commission and we would have no further comments to offer.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report to your Committee.

Sincerely,

DEAN BURCH, *Chairman.*

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 12, 1971.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
United States Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: Your Committee has asked for the comments of this Department on S. 696, a bill "To provide for a coordinated national boating safety program", which would be cited as the "Federal Boat Safety Act of 1971".

This Department endorses the objectives of S. 696 and recommends that it be enacted with the amendments suggested herein.

S. 696 is the House-passed version of legislation proposed to the 91st Congress by the Department of Transportation and comprises a consolidation and revision of existing small boat safety legislation, including the Motorboat Act of 1940 and the Federal Boating Act of 1958, as amended. S. 696 would declare it to be the policy of Congress and the purpose of the Act to improve boating safety and to foster greater use and enjoyment of all the waters of the United States by encouraging and assisting participation by the several States, the boating industry and the boating public in development of more comprehensive boating safety programs; by authorizing establishment of national construction and performance standards for boats and associated equipment; by encouraging more uniformity in State and Federal boating laws; and a higher degree of reciprocity and cooperation among the several government jurisdictions.

The bill would provide for Federal regulations and minimum safety standards to be established by the Secretary of the Department in which the Coast Guard is operating, for inspections, for numbering of certain vessels, and for allocation of funds to States to encourage their development of boating safety programs. It includes a substantial extension of Federal regulatory control over the construction and outfitting of boats used primarily for noncommercial purposes and would establish a 21-member National Boating Safety Advisory Council with representatives from the various levels of government, boat and associated equipment manufacturers, boating organizations and the general public. It would establish criminal and civil penalties for violation of the Act, and a uniform vessel casualty reporting system. In short, the bill provides for a comprehensive and coordinated Federal-State undertaking to cope with the rising number of small boat accidents.

Non-commercial boating is becoming an increasingly popular form of outdoor recreation, as attested by the number of such boats now in use (approximately

8.4 million) and a weekly increase of 4,000 units. Safe operation of these craft depends not only upon the manner in which they are constructed or equipped, but also upon the skill with which they are operated. We are advised that only half the boats now in use are registered, and that 51.8 percent of drowning victims in 1968 failed to make use of lifesaving equipment to which they had access. These statistics underscore the need for a two-pronged approach to the problem of boating safety, which we believe to be the intent of S. 696. Its enactment would have a clearly beneficial impact upon the safe recreational use and enjoyment of the Nation's waterways.

We recommend that the definition of "State" in section 3(10) be revised to include American Samoa, and that "1970" be changed to "1971" on line 3, page 33.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HARRISON LOESCH,
Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 24, 1971.

Hon. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate.*

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 696, a bill "To provide for a coordinated national boating safety program."

This Department would have no objection to the enactment of S. 696. We feel that this type of legislation is needed.

S. 696 would declare that it is a policy of Congress to improve boating safety and to foster greater development, use, and enjoyment of all the waters of the United States by encouraging and assisting participation by the several States, the boating industry, and the boating public, in development of more comprehensive boating safety programs; by authorizing the establishment of national construction and performance standards for boats and associated equipment; and by creating more flexible regulatory authority concerning the use of boats and equipment. It would be further declared to be the policy of Congress to encourage greater and continuing uniformity of boating laws and regulations as among the several States and the Federal Government, a higher degree of reciprocity and comity among the several jurisdictions, and closer cooperation and assistance between the Federal Government and the several States in development, administering, and enforcing Federal and State laws and regulations pertaining to boating safety. The Secretary of the Department in which the Coast Guard is operating would be authorized to actuate this policy.

We are particularly interested in improving boating safety because the National Forest System, administered by the Forest Service of this Department, includes over 18,000 natural lakes and impoundments covering over two million acres and many miles of streams and estuaries. These areas are heavily used by the boating public.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

T. K. COWDEN, *Assistant Secretary.*

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., June 24, 1971.

Hon. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 696, "To provide for a coordinated national boating safety program," which may be cited as the "Federal Boat Safety Act of 1971."

The proposed bill would permit the Secretary of the Department in which the Coast Guard is operating (at present, the Secretary of Transportation) to issue, and prescribe boat and associated equipment standards.

Section 12 of this bill would prohibit any person from manufacturing, constructing, assembling, introducing, or delivering for introduction in interstate commerce, or importing into the United States, or if engaged in the business of selling or distributing boats or associated equipment, or its components, from selling or offering to sell any boat, associated equipment, or components for subsequent assembly unless it conforms with regulations and standards prescribed under this Act, or unless it is intended solely for export and so labeled, tagged, or marked on the boat or equipment and on the outside of the container, if any, which is exported.

Section 11 of the bill would allow the Secretary of the Treasury and the Secretary of the Department in which the Coast Guard is operating to authorize, by joint regulations, the importation and nonconforming foreign-made boats or associated equipment, including the furnishing of a bond, with the assurance that these items would be brought into conformity with applicable Federal Safety regulations and standards before they are used on waters subject to the jurisdiction of the United States.

In view of the difficulties experienced in the efficient implementation of joint regulations, authorized under other statutes, and their amendment, we suggest that section 11 be altered to read:

"The Secretary of the Treasury in consultation with the Secretary (of the Department in which the Coast Guard is operating) may issue regulations authorizing the importation of a nonconforming boat . . ."

United States is defined in section 3, part 10, to consist of the States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands (sic-Virgin Islands of the United States), Guam, and the District of Columbia. This would extend the coverage of the Act to a greater geographical area than that comprising the Customs territory of the United States (the States, District of Columbia, and Puerto Rico). Therefore, it is assumed that the provisions of the bill concerning importation and exportation into and from the Virgin Islands of the United States, and Guam would be enforced by agencies other than the Bureau of Customs.

As indicated above, section 12 would prohibit, among other things, the introduction or delivering for introduction in interstate commerce, or importing into the United States any boat, associated equipment, or components for subsequent assembly unless it conforms with the required standards or regulations or is intended solely for export and so labeled, tagged, or marked. We assume that the Department of the Treasury through the Bureau of Customs would be concerned only with prohibiting the importation of such items into the United States. The prohibition on the introduction or delivery for introduction in interstate commerce would be viewed as applying only to items entered in domestic trade and would be handled by another Federal agency.

In section 3 of this bill, the term boat is defined generally as vessel to be used for noncommercial purposes or to be used in the carrying of six or less persons. Customs would be able to control only the importation of those boats which are required to be entered as merchandise under the Tariff Schedules of the United States (19 U.S.C. 1202), and not those which may come within the scope of General Headnote 5(e) to the Tariff Schedules, which provides that vessels which are not "yachts or pleasure boats" within the purview of subpart D, part 6, of schedule 6 are not articles subject to the provisions of the Tariff Schedule and are not therefore required to be entered as merchandise.

The terms "associated equipment," or "component thereof to be sold for subsequent assembly" are not clearly defined in the Act so that Customs could apply these items. For instance, there is no standard as to length or size set for associated equipment. Furthermore, we are unable to determine whether the regulations would apply only to associated equipment or components imported at the same time as the boat or whether it would apply to associated equipment or components imported at a different time than the boat. If the bill applied to the latter, Customs would have an impossible task to identify equipment or components for boats covered by the Act.

We suggest that this bill be amended to state that the prohibition regarding the importation of associated equipment or components would apply only to those items specifically listed by the Coast Guard in their regulations.

The Department takes no position on the merits of enactment of the bill. It is our view, however, that the additional tasks which would undoubtedly be required of Customs in aiding the enforcement of the proposed law could not be absorbed with present staffing limitations without serious adverse effects on other Customs enforcement responsibilities.

The Department was advised by the Office of Management and Budget that there was no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

ROY T. ENGLERT,
Acting General Counsel.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., June 29, 1971.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your request for comment on S. 696, a bill "To provide for a coordinated national boating safety program," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

The purpose of this bill is to improve boating safety and to foster greater development, use, and enjoyment of the waters of the United States by encouraging and assisting in the development of more comprehensive boating safety programs. Under the bill, the Secretary of the department in which the Coast Guard is operating would be authorized to formulate and administer boat and equipment safety regulations. In order to encourage State participation and consistency in boating safety efforts, Federal financial assistance could be given to States having acceptable boating safety programs. A National Boating Safety Advisory Council would be established to consult with the Secretary in the formulation of safety standards and regulations and to assist him on any other boating safety matters. The bill also provides for criminal and civil penalties and for injunctive proceedings to restrain the sale, introduction in interstate commerce, or importation into the United States of any boat or equipment not conforming to Federal boating safety standards.

Section 4 of S. 696, as presently drafted is of concern in terms of international law since there are specific and recognized limits on the exercise of jurisdiction by a nation. The present language of section 4, standing alone, does not adequately treat the issues of internationally recognized rights of passage through international straits, innocent passage, and sovereign immunity of public vessels. This problem can be solved by addition of the following clarifying phrase at the end of section 4(a). "Nothing in this Act shall be construed as acting, and does not act, in derogation of the internationally recognized right of innocent passage, passage through international straits or the sovereign immunity afforded certain vessels under international law."

In addition to the above clarification, it is noted that section 4(a) of the bill states that the bill will apply to areas beyond the territorial sea of the United States for "... vessels owned in the United States." This phrase could be misinterpreted as extending provisions of the bill to U.S. beneficially owned vessels which fly foreign flags. A review of the substantive portions of the bill negates any intention to apply it in this fashion. In light of this fact, and the use of the quoted term in past similar legislation applicable to motorboat safety, the Department of Defense does not object to continued use of the language. However, it is strongly suggested that it be made clear in consideration of this bill that it is not intended to be applied on the high seas to foreign flag vessels.

The suggested amendment to the Motorboat Act of 1940 (46 U.S.C. 526-526t) contained in section 39(c) of the bill is subject to the same general objection set forth in paragraph 3, above. The problems can be solved by modifying section 22(a) of the amendment to read as follows:

"Section 22(a) This Act applies to every motorboat or vessel on the navigable waters of the United States, Guam, the Virgin Islands, the Commonwealth of Puerto Rico, and the District of Columbia, and boats owned in the United States or United States flag vessel, except that the provisions of this Act other than sections 12, 18, and 19 do not apply to boats as defined in and subject to the Boat Safety Act of 1971. Nothing in this Act shall be construed as acting, and does not act, in derogation of the internationally recognized right of innocent passage, passage through international straits or the sovereign immunity afforded certain vessels under international law."

Modification of this legislation as recommended above would not do violence to the intended purpose of the bill and would render it unobjectionable from

the standpoint of international law. Subject to the foregoing recommendations, the Department of the Navy, on behalf of the Department of Defense, defers to the views of the Department of Transportation as to enactment of S. 696.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on S. 696 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,

LANDO W. ZECH, Jr.

Captain, U.S. Navy, Deputy Chief.

STATEMENT OF ADM. CHESTER R. BENDER, COMMANDANT, U.S. COAST GUARD; ACCOMPANIED BY REAR ADM. A. C. WAGNER, CHIEF, OFFICE OF BOATING SAFETY; CAPT. J. B. HAYES, CHIEF, PLANNING AND EVALUATION STAFF; AND COMDR. CLIFFORD DE WOLF, LEGAL STAFF

Admiral BENDER. All right, sir. I would like to have with me as possible backup witnesses Admiral Wagner, Chief of the Office of Boating Safety, Captain Hayes, Chief of the Planning and Evaluation Staff of that office, and Commander DeWolf on my legal staff.

Mr. Chairman, it is privilege and a pleasure to appear before you in support of S. 696, which provides for a coordinated national boating safety program. This bill provides authority to establish minimum safety standards for boats and associated equipment; authorizes financial assistance to the States; establishes a boating safety advisory council; provides for numbering of all undocumented vessels equipped with propulsion machinery; repeals the Federal Boating Act of 1958, and amends the Motorboat Act of 1940. It also contains a number of other important safety provisions.

I have separately provided your committee with a more detailed statement on the need for this legislation, and how we propose to implement its provisions. I would like to summarize that statement now, Mr. Chairman, with your concurrence.

First, I would like to address myself to the need for this legislation. Yes, there is a boating safety problem. Next to highway travel, recreational boating and general aviation share about equally in the greatest number of accidents and fatalities among the transportation modes.

Recreational boating is also by far the greatest contributor to the demand on Coast Guard search and rescue forces. We believe that promulgation of Federal safety standards as authorized in this bill will not only help to reduce accidents but also reduce our search and rescue activities related to recreational boating incidents.

A number of factors support the need for greater State participation in boating safety programs. Over one-third of all accidents occur on waters under sole State jurisdiction, while almost half of all fatalities occur on those waters.

In addition, States have certain responsibilities on waters under concurrent Federal/State jurisdiction. Thus, to attack the boating safety problem adequately, State participation is vital. The financial assistance provision of this proposed legislation will provide needed funds for boating safety programs to all States who wish to participate. Also of great importance is the need to promote uniformity

among the various State boating laws and this legislation will help greatly in achieving that uniformity.

Now let me comment briefly on our existing statutory authority. This consists of the Motorboat Act of 1940, and the Federal Boating Act of 1958.

The Motorboat Act of 1940 was responsive to the specific safety problems of recreational boating of that era. Thirty years of advances in engineering design and boat construction, however, coupled with the increase in numbers of recreational boats from about 1.8 million to almost 9 million, have made the 1940 rules wholly inadequate. They are simply not broad enough in scope to meet modern needs, and we are legislatively unable to protect against the range of today's hazards.

Another problem is that the 1940 act places responsibility for compliance with regulations solely upon the boat owner/operator. For instance, a backfire flame control device, which is almost always sold as an integral part of the inboard boat engine, is mandatory equipment under the act of 1940.

Yet, if upon inspection, a new device is found to be faulty, we must charge the operator, not the responsible manufacturer, with a violation. Responsibility for providing the boatman with a boat and equipment meeting Federal safety standards, we feel, should properly lie with the manufacturer.

The Federal Boating Act of 1958 has been a strong cornerstone of the boating safety program. Policy expressed in that act has resulted in greatly increased State involvement in boating safety programs, as well as improved coordination between the Coast Guard and the several States. This coordination is evidenced by the 42 cooperative agreements that have been made between the 54 various States or other jurisdictions and the Coast Guard.

Through such agreements we are able to work together closely, eliminate redundancy and achieve uniform enforcement. Most of the States have boating safety laws which include the numbering system required by the 1958 act. In fact, only three States and the District of Columbia do not have an approved numbering law. We are optimistic and hopeful that they too will soon join the others.

We now see the need to extend numbering requirements to all vessels equipped with propulsion machinery, and to improve the Federal/State casualty reporting system. This bill accomplishes these goals.

We need more flexible and realistic penalty administration. Under present statutory authority, the Coast Guard must assign the mandatory maximum penalty to a boatman cited in violation of regulations implementing the provisions of the Motorboat Act of 1940. This legislation corrects this shortcoming by authorizing fines of "not more than" in certain figures in civil and criminal penalty sections, and mitigation can be administered without resort to present burdensome administrative procedures.

This legislation includes a "Good Samaritan" provision which protects the boatman who goes to the assistance of his fellow boatman from fear of legal responsibility, assuming reasonable, prudent action is taken.

Although the Coast Guard can cite boatmen for certain unsafe practices, no authority short of actual arrest presently exists to stop boats from operating on the water. Under the authority contained in this bill, if the degree of hazard warrants, we may direct action to remedy

the violation immediately, including requiring the boat to return to its mooring, if necessary.

The establishment of a Boating Safety Advisory Council, consisting of State boating officials, industry representatives, and members of the general public, with demonstrated expertise in boating safety, is authorized by this act. This will be a most important advisory arm in our efforts to improve boating safety, and we will consult with the council for advice on major boating safety decisions affecting the industry, States, and the boating public.

Looking to the future, the respective roles of Federal and State governments, the industry, and the general public, seem clear.

The Coast Guard will prescribe only those standards necessary to provide the boatman with a boat and associated equipment manufactured to such a level of safety that, assuming proper use, he may reasonably expect to avoid disaster.

Presently, the Federal Government cannot preempt the boating standards field. It is even possible for States independently to establish safety standards and equipment requirements so varied as to make it difficult for the manufacturer to comply with all of them, and, of course, for the boatman to comply with the law when he moves between jurisdictions.

This legislation will provide a solution to this problem by providing the Coast Guard with preemptive authority.

We believe the boatowner should be regulated only to the extent that his boating actions affect the safety of himself or others.

The boatman will be responsible for the maintenance of the safety standards provided on his boat, particularly where failure to do so may have impact on his fellow boatmen or on his passengers. Compliance with principles of safe operation will still remain his most important responsibility.

I am convinced that adequate safeguards have been included in this bill to assure industry and the public reasonable relief from arbitrary safety regulation. Our response to boat safety problems will be tempered by the requirement to consider the need and reasonableness of a proposed safety regulation or standard and to consult with the Boating Safety Advisory Council on these or other major boat safety matters.

An important function of the council will be to assure that the unique problems of the smallest manufacturer are adequately weighed.

The administration strongly urges you to report favorably on S. 696.

This completes my prepared statement, and I am prepared, together with the staff assembled, to answer such questions as you may have.

Senator LONG. I note that you have no flotation standards in this bill.

Admiral BENDER. The standards will not be established in the bill, but will follow from the bill.

Senator LONG. Well, just this weekend, I observed a small boating accident that could have been a lot worse than it was. The accident involved a simple inexpensive boat and was of the type that I am sure is quite common. The fellow goes out on the water in the boat, wrapped in warm winter clothing, with perhaps boots on, clothing that is difficult to swim in. And there is an outboard motor at the rear of the boat, and perhaps he is sitting back by that motor, and is only about 2 inches above the water.

Someone comes by and gives him a wave, and his boat takes water on, and the boat sinks. With that much clothing on, a person could have difficulty swimming and he could perhaps drown.

It would be easy enough to manufacture those kinds of boats so they won't sink. Is that one of the things envisioned in this bill?

Admiral BENDER. I think I will ask Admiral Wagner to respond as to whether or not we intend to provide flotation in the boats as one of our standard regulations.

Admiral WAGNER. Yes, sir; there are really three major standards we would go after first, Mr. Chairman. One is flotation, one is loading and overloading, and one is fire and explosion. These are the three major reasons for fatalities and accidents. They are already in the works.

Senator LONG. It occurs to me that it costs a little more, but not a great deal more, to fix these simple boats so they won't sink. Oftentimes a fellow who owns a boat can swim, but as often as not he might have someone along with him who can't.

And it's easy enough to manufacture the boats so that they would float, at least for a while; at least an hour so, long enough to get help to the people when the boat went under. You anticipate that such a requirement will be incorporated in the standard?

Admiral BENDER. Yes, sir; flotation provisions are provided in the standard.

Senator LONG. How many people were killed in boating accidents last year?

Admiral BENDER. About 1,400—and, Mr. Chairman, fatalities seem to have been rather level for the preceding several years.

Senator LONG. Do you have any idea as to how much you think that figure might be reduced by safety measures involved in this legislation?

Admiral BENDER. I would hope, Mr. Chairman, that the figure might be substantially reduced. I would see it as a progressive thing. As the standards come into effect and the boats are improved over the years, the figure would fall off appreciably over the period. I can't give you a precise figure.

Senator LONG. One thing I think might be helpful in boating as well as driving, whether the Government pays for it or requires the television stations to do it as a public service, is to simply telecast certain simple rudiments of boat handling and safety.

That would save a lot of lives. Otherwise, you have to find some way to require someone to do his homework at one time or another.

What do you think is the best way to bring this about?

Admiral BENDER. We are concerned that not enough people are getting education before going into the boats. Through the Coast Guard Auxiliary and other agencies that engage in training, such as power squadrons, we have probably reached in the last 40 years about 20 percent of the people that go out in boats.

We would like to raise that to 100 percent. There will be, of course, in those provisions relating to State activities, additional opportunities for education to be promulgated and established by the States, and we would see this as being an important step forward in the direction we wish to go.

Senator LONG. To what extent do you think these standards that you will promulgate will increase the retail price of boats?

Admiral BENDER. Unquestionably, Mr. Chairman, there will be an increase in the price of the boats. If we add on additional stipulations and requirements and standards, then the manufacturer must be more careful in the construction of his boats.

I would defer to others more knowledgeable on the extent or size of the increase, but we know that it will be measurable, this increase.

Senator LONG. How much of an increase will there be—10 percent—20 percent? What do you think?

Admiral BENDER. I would think 10 percent would be an adequate maximum figure to cover these improvements, sir.

Senator LONG. If it saves a considerable number of lives, and makes boating safer for these people, it would undoubtedly be worth the expenditure, I think.

Now what will be the cost of this legislation to the Government if it is enacted?

Admiral BENDER. Initially and for the first 5 years, it is \$7.5 million, to be employed by the States, and to be distributed among the States. There will be certain small increases in the Coast Guard operation, but immediately we don't have any substantial increase in sight for that purpose.

Senator LONG. I believe you are aware of certain changes in the bill that have been suggested by our counsel, and I'd like to know what your comments on those changes are.

Admiral BENDER. I think I will ask Admiral Wagner to respond to that one, with your concurrence, sir.

Admiral WAGNER. We worked, as you know, Mr. Chairman, with your counsel. We feel that the changes your committee desires are in the interest of boating safety, and at the same time are putting on the manufacturer very little additional work that was not in the original bill.

Since they will contribute to boating safety, we are in favor of those changes.

Admiral BENDER. Mr. Chairman, I would like to respond further to an earlier question—I am advised that the increased Coast Guard operating costs would be about \$3 million a year, to handle the provisions of this bill.

Senator LONG. I see.

Now this bill would not require the licensing of an operator, but would permit the States to license operators according to their own standards. What is your view on that?

Admiral BENDER. We have been considering the questions of licensing for motorboat operation for a number of years. We haven't been able to see a direct correlation between the licensing of operators and safety.

Several of the States do have provision for licensing and the 1958 act provides for this. Nevertheless, recognizing that there is considerable interest in licensing, and there may be some merit in it, we think it is advantageous for the States to have the authority to issue licenses, and recognizing further, Mr. Chairman, that the requirements for licensing may differ vastly from, well, say, a lake in Minnesota to one of the bays on the west coast, in other words, various States may have different requirements for licenses.

We would like to observe over a period of years the effect of these

licenses and reach further conclusions in time as to whether there should be some Federal standardization.

Senator LONG. That gets to another question, not directly related to this legislation, but which I'd like to ask you while you are here. We have a lot of waterways in Louisiana, probably more, for the size of the State, than any other State in the Union. We have a lot of beautiful rivers, and relatively shallow areas, which are closed to boating to a large extent by trees, and snags in the river.

In some respects they are a danger, but in other respects they are just a nuisance, simply making it difficult to navigate the streams.

Do you have any suggestion of a way to best approach this, of clearing the snags and fallen trees, and things like that that make these streams nonnavigable, or at least impede navigation, making them unaccessible to a great number of pleasure boats?

Admiral BENDER. I think it would be simple for the State to look into a program whereby important channels might be cleared instead of clearing the entire area. Boats might then pass safely through these channels into open areas where they could operate without fear of hitting snags and obstructions.

Senator LONG. One way occurred to me. I have to think about these things since I am also on the committee that has to try to find the money to pay for all these appropriations, that is, the easiest way to pay for them. The tough way is through the Finance Committee where you have to put a tax on it to pay for it.

It occurs to me it might be worth putting a tax on these small boats and earmarking some of that money of clearing up some of these water highways, clearing the snags, removing the navigational hazards for the general benefit.

I know the commercial users are very much opposed to tolls on the waterways. I am not particularly thinking about that. But it might be well to put a tax on small boats, particularly pleasure boats, to pay for some of the facilities we provide to them, such as opening up navigational opportunities to them and making them available for more recreational use of their boats.

That is something you didn't come to testify on, but I might get your reaction to it.

Admiral BENDER. It might well be that in most areas where the boaters are restricted by these obstructions, they would be happy to pay some fee in order to have better facilities made available to them.

Senator LONG. My administrative assistant was the only fellow I knew of that seemed to enjoy paying a tax. However, I don't at all object to paying one if I think it is essential, and where I am enjoying the benefit of something, I am willing to pay my fair share to obtain it.

I hope that others feel the same way about it. Some do, some don't. It seems to me very unfair to expect some few people to pay for and provide others with free benefits.

Generally speaking, people who enjoy pleasure boating are a relatively small percentage of our population, are they not? What is the percentage?

Admiral BENDER. We don't know exactly how many are enjoying boating now, but probably about 40 million, which is a very substantial percentage. I would expect that will increase in the next several years at least to 50 million people.

Senator LONG. We have a definite principle with regard to the highways and airways, that those that enjoy them ought to be willing to come forward and pay a tax to help assure safety. I know we have done it for the airways.

Thank you very much, Admiral. I have a number of written questions prepared that I would like to submit and ask if you would please, after consulting with your advisers, provide answers for these.

Admiral BENDER. We will be happy to provide that for the record, sir.

Senator LONG. Thank you very much. I have just one more point, Admiral. With regard to this boating safety advisory council, what sort of people do you intend to appoint to this? Do you intend to appoint technicians or executives of companies or associations that participate in manufacturing equipment? Just what kind of credentials would you be looking for?

Admiral BENDER. We would choose them carefully. I believe there will be three categories—the public at large, State boating administrators, and representatives of the boating industry.

Senator LONG. How about the technical people? To what extent would you be seeking technical people to serve on this council?

Admiral BENDER. We would feel that those from the boating associations as well as from the industry, would have the technical competence to advise us with regard to these standards or regulations, and in fact, we would seek just those particular people. I am sure that we would have a good technical background to get the responses we need.

Senator LONG. Thank you very much.

Admiral BENDER. Thank you, Mr. Chairman.

(The statement and questions and answers follow:)

STATEMENT OF ADM. CHESTER R. BENDER, COMMANDANT, U.S. COAST GUARD

Mr. Chairman, members of the committee. It is a privilege and a pleasure to appear before you in support of S. 696 which provides for a coordinated national boating safety program. This bill provides authority to establish minimum safety standards for boats and associated equipment, authorizes financial assistance to the states, directs that a Boating Safety Advisory Council be established, provides for the numbering of all undocumented vessels equipped with propulsion machinery, repeals the Federal Boating Act of 1958, and amends the Motorboat Act of 1940. It also contains a number of important safety provisions.

INTRODUCTION

Since enactment of the Federal Boating Act of 1958, and particularly during the last 3 years, the Federal Government, the States and industry have made significant progress in defining and accepting their roles and responsibilities for boating safety. The 1958 act aided greatly by recognizing the need and establishing a basis for active State participation and it clearly set forth the policy that Congress desires uniform laws relating to the boatman.

The legislation before you now would assist greatly in our efforts to improve boating safety by providing the boatman with a boat built and equipped in accordance with standards developed by the Coast Guard; by educating him in safe operation and proper maintenance of his boat; and by giving him good information on the marine environment. As well, it provides for even greater uniformity of boating laws. Keeping in mind these broad objectives, and in the context of the bill's provisions, I will discuss deficiencies in our present authority, how the proposed bill will remedy these deficiencies, and how we propose to implement the legislation.

1940 act inadequate

The Motorboat Act of 1940 was responsive to the specific safety problems of recreational boating of that era. Thirty years of advances in engineering design and boat construction coupled with the increase in numbers of recreational boats from 1.8 million to almost 9 million have made the 1940 rules wholly inadequate. They are simply not broad enough in scope to meet modern needs and we are legislatively unable to protect against the range of today's hazards.

Some safety equipment such as lifesaving devices and backfire devices are approved by the Coast Guard and bears our approval number. For the present, at least, I feel that Coast Guard approval is warranted for these critical safety items. But we feel that other safety requirements for boats, engines and associated equipment can best be met by compliance with performance-type standards, since that will allow a maximum of design flexibility. This will permit the manufacturer to take advantage of new technology, provide the boatman with safety equipment at minimum cost and still retain a competitive market.

The 1940 act places responsibility for compliance with regulations *solely* upon the boat owner/operator. For instance, a backfire flame control device, which is almost always sold as an integral part of the inboard boat engine, is mandatory equipment under the act of 1940. Yet, if upon inspection a new device is found to be faulty, we must charge the operator, not the responsible manufacturer, with a violation. Responsibility for providing the boatman with a boat and equipment meeting Federal safety standards we feel should properly lie with the manufacturer.

The Federal Government cannot now preempt the boating standards field. Thus, it is possible for States independently to establish safety standards and equipment requirements so varied as to make it difficult for the manufacturer to comply with the law, or, of course, for the boatman to comply when he moves between jurisdictions. These varying requirements tend to raise the cost to the boatman, since the manufacturer must tailor his production for the area of boat use. These are some of the problems associated with safety standards. This legislation will correct these problems.

Development of standards

How do we propose to implement provisions of the bill that correct these shortcomings? The most effective boat safety standards are those developed jointly by Government, the public, and industry. We intend to obtain this broad-based input to our standards making program by pursuing the following course. The need for a standard will first be evaluated by the Coast Guard, based upon reports from within the Coast Guard, the public or from the States. The need will be documented, including a statistical analysis of accidents and search and rescue assistance cases, or when pertinent an evaluation which clearly identifies a hazard. The contribution the proposed standard will make to boating safety will then be evaluated and a recommended method for developing the required Coast Guard standard will be determined.

All the documents will be referred to the Boating Safety Advisory Council (BSAC) for review. Their recommendations will assist in the ultimate decision as to whether to establish a standards project, and just what the guidelines for development of the standards should be. In this regard, documentation of need will be available at any time for public perusal.

In most cases we will work with the broad-based standards groups. If, for instance, and American Boat and Yacht Council (ABYC) advisory standard contains the essentials of what is needed in a mandatory Coast Guard standard, our staff will work with them to modify the format and content as necessary. If no standard exists, we may work with them in developing one. We fully expect to consult with all interested standards groups, boating associations and individuals in developing standards. Once the draft standard is completed, BSAC will review it. After this final review, the standard will be processed under the provisions of the Administrative Procedures Act for inclusion in the Code of Federal Regulations.

I would like to emphasize that we will make every effort to solicit and take fully into account the view of individual boat manufacturers. Generally their opinions will, no doubt, be well presented by industry organizations, but there may be instances in which boat manufacturers, particularly the smaller ones, wish to directly present their own special problems and circumstances. Not only will we be pleased to have these expressions, but we welcome and encourage their submission at every stage of the standards-drafting process so that we

will be certain the rules ultimately promulgated will be reasonable, feasible, and insofar as practicable, compatible with the situation of all boat producers.

In the final analysis, the purpose of this legislation is to enable us to promulgate standards that will enhance the safety of boating. Our overriding concern is to make boating safer and to this end the needs of safety clearly must govern. In most cases, we are confident that rules can be devised that will afford greater safety for the public and present no serious compliance problems for the industry. Where a conflict appears to exist, it can usually be resolved with appropriate attention and discussion.

Compliance with standards

Once mandatory standards are promulgated, there must be a compliance system to assure that they are met. The boating industry has nearly 1,000 boat manufacturers, many accessory and equipment manufacturers, and thousands of distributors and dealers across the Nation. A complete Federal inspection program would be undesirable, impractical, and costly. A "manufacturer's responsibility" system, however, can be effective and practical, and still keep the paperwork to an absolute minimum for us and for the public and industry. In recognition of the advance planning required for a particular model year, we will give manufacturers adequate time to comply with any new safety standard as set forth in the bill. We will have a modest program of factory visits—on a random basis and on request—to assist the manufacturer in his compliance efforts and to observe his certification procedures. Each of our 12 districts will have sufficient staff to service the small manufacturer as well as the backyard builder. We will also use testing laboratories, under contract to the Coast Guard, which will test boats and equipment purchased on the open market. We will bring any instance of failure to meet standards of these tested units to the manufacturer's attention. When a manufacturer makes timely disclosure of a defect in boat or associated equipment which he has certified to meet Federal regulations, and provides prompt notifications, such action will receive consideration in remission, mitigation or compromise of any penalty.

Each standard will be complete in itself and will normally have with it a test specification. This specification will tell the manufacturer how we will check compliance with the standard. It will establish in detail the requirements the product must meet. In most cases where testing would be an excessive financial burden to the low volume manufacturer, there will be a practical empirical equivalent for the test specification.

Chain of responsibility

With any boat which is not the product of a single manufacturer—that is, where any system or any item of associated equipment installed in or provided with a boat is not produced by the prime manufacturer—a chain of responsibility needs to be established. The manufacturer of each such system or item will be required to certify compliance with pertinent standards by appropriate statement on the invoice under which the system or item is shipped. Thus at any level in the chain there will be evidence that any item delivered down the line, and ultimately to the consumer, meets Coast Guard standards.

Each boat will have a plate or label attesting the fact that it meets Coast Guard safety standards. In addition to informing the buyer, the boat plate will show enforcement personnel that the boat was built to the required standards. It will still be the owner/operator's responsibility to maintain the boat properly and carry the required portable safety equipment. This is a continuation of his responsibility under present statutes. Enforcement personnel will continue to check portable equipment, and additionally will be able to spot check certain of the construction standards. Where, as part of the enforcement process, an action for injunctive relief is contemplated against a domestic manufacturer, the Secretary will give notice to the manufacturer and afford him an opportunity to present his view before seeking the injunction.

Existing boats exempt

Boats and associated equipment built prior to the effective date of any standard will, in general, not be required to meet that standard. However, the Secretary may require existing boats to meet a new standard which does not involve "substantial alteration"—for example the addition of a capacity or warning plate.

Priorities for standards

We have already identified those standards and regulations we are initially planning to develop. State boating administrators have strongly endorsed the

need for boatload capacity standards. Indeed, many States have already enacted laws requiring such standards, and requiring capacity plates. The need for capacity standards is well documented. Most of the boating fatalities result from capsizings, while a substantial number occur from falls overboard, overloading, improper loading or excessive power. Ninety percent of capsizing fatalities occur in boats 18 feet or under. We intend, therefore, to develop regulations requiring capacity plates in those types of boats where the need has been demonstrated.

We also are convinced—as are the States—that lifesaving devices should be required on nearly all watercraft. At present, the Federal law requires such devices only on motorboats. Yet 25 percent of drownings occur from boats not having propulsion machinery and therefore presently not required to carry lifesaving devices.

In a recent analysis of Coast Guard assistance reports, we found that 48 percent of recreational boating assistance cases could be attributed either to engine breakdown or system failures. It seems clear that system reliability on some recreational boats is not entirely satisfactory, since in fiscal year 1969 there were over 31,000 Coast Guard responses to assistance calls from recreational boats. In the marine environment, breakdown is frequently a contributing cause to accidents. Thus, safety and reliability go hand in hand. Although we have no intention of regulating general quality, since this is essentially self-policing in the market place, the system quality needed for safety will help us to meet the problem. Performance safety standards should substantially reduce accidents and at the same time reduce demands on Coast Guard search and rescue forces.

Statistics can be misleading at times. Our accident statistics show that about 70 percent of accidents are attributable to “fault of operator.” But when we examine narrative accident reports, we can often see a chain of avoidable circumstances leading to the accident. This is especially clear in our investigations of fuel fires and explosions. It is startling to realize that 1 inboard boat out of 1,900 has a reportable fuel fire or explosion each year. The boatman who fuels his boat and then tries to start the engine without checking the engine compartment for fumes makes a serious mistake—one that can cost his life. All that is needed for disaster are fuel vapors in the boat and an ignition source. His error—turning the ignition key—could complete the chain of events leading to an accident. We believe that safety standards which would improve fuel and electrical systems could provide the boatman with a better, safer boat and equipment, thereby reducing the consequences of human error or neglect.

Standards to be minimums

The proposed bill provides that safety standards will be minimums—and one of the criticisms often leveled at any safety program is that the minimums become the norm. However, we are interested only in providing the boatman with a boat and accessory equipment produced to such a level of safety that, assuming proper use, he may reasonably expect to avoid disaster. We are fortunate in having both Government sponsored and industry programs to assist us in encouraging a general upgrading of safety. The Coast Guard auxiliary courtesy motorboat examination program and the boating industry association boat certification program are among those which contain standards probably not necessary to be covered by mandatory Coast Guard standards. Continuation and expansion of these programs will certainly be in the interest of boating safety.

SAFETY PROGRAMS

The Federal Boating Act of 1958 has been a strong cornerstone of the boating safety program. Policy expressed in that act has resulted in greatly increased State involvement in boating safety programs as well as improved coordination between the Coast Guard and the several States. This coordination is evident by the 42 cooperative agreements that have been made between the various States or other jurisdictions and the Coast Guard out of a total of 54 existing jurisdictions. Through such agreements we are able to work together closely, eliminating redundancy and achieving uniform enforcement. Most of the States have boating safety laws which include the numbering system required by the 1958 act. In fact, only three States and the District of Columbia do not have an approved numbering law. We are optimistic and hopeful that they will soon join the others.

A number of factors support the need for greater State participation in boat-

ing safety programs. Over one-third of all accidents occur on waters under sole State Jurisdiction, while nearly half of all fatalities occur on those waters. States have responsibility on waters under concurrent Federal/State jurisdiction too, of course.

Law enforcement policy

While Federal preemptive measures are necessary to assure uniformity of safety standards, quite the contrary is true of enforcement and education. Historically, the concept of a Federal police force has been repugnant and has been consistently rejected. Our goal, therefore, is to minimize Federal involvement in law enforcement actions directly involving the individual. On waters of the United States where both Federal and State authorities have jurisdiction, we look to State and local jurisdictions to enforce safety requirements. Police activity related to the individual should remain a State function. Federal enforcement should be provided only where reasonable State capabilities are unavailable—particularly in coastal waters—or when safety violations are observed by Coast Guard forces. From a purely economic viewpoint, it is less costly to enforce the law on internal waters with State and local officials than with Coast Guard personnel. However, immediately after passage and for several years until the States update their laws, a heavy burden will probably fall on Coast Guard enforcement personnel to assure compliance with the new law.

Education in boating safety

As for education, we all recognize that educating the boatman is a key element of any boating safety program. It presents a most difficult problem because an estimated 40 million people are involved. Even if we assume that, on the average, only two persons operate a given boat, we are still talking about some 18 million people. In sheer magnitude it is a staggering task, but many thousands of dedicated people are working at it. Indeed, the educational role is one we all share—industry, Federal and State governments—together with the many fine nonprofit public organizations.

Support for State programs

Considering these various factors, the National Association of State Boating Law Administrators passed a resolution requesting the Congress to “* * * Give immediate consideration and support to a Federal matching grant program for enforcement of recreational boating safety laws and directly related safety programs. * * *” They noted that State programs must be increased quantity and quality.

The States estimate that they are now spending about \$12 million annually on boating safety programs. We feel that the financial assistance provision in this bill will encourage greater State participation and improve uniformity among the various States’ laws, since full participation after the third year is dependent on the financial effort a State makes in the area of boating safety as well as its program’s substantial conformity with the Model State Boat Act.

Under S. 696 full eligibility to receive grants over the first 3 years of the program accrues to *all* applying States having an accepted boat safety program or indicating an intention to establish such a program. After 3 years, such a State, if it does not adopt an accepted boat safety program, shares in only one-third of available funds.

The bill also provides for a descending maximum Federal share of the total annual cost of a State program over each of the given years. No more than 5 percent of the total appropriation for any year may go to one State, or to one or more national nonprofit public service organizations.

The bill also seeks improvement in two other areas of Federal/State program efforts—numbering and casualty reporting. Under present law, motorboats of more than 10 horsepower are required to be numbered. Since the major portion of our safety problem consists of all undocumented vessels equipped with propulsion machinery. The next step in increasing the number of vessels to be covered by numbering provisions logically should cover this entire group.

Casualty reporting provisions of the Federal Boating Act of 1958 suffer from the same problem of specificity as the standards provisions of the Motorboat Act of 1940. Broadened authority is needed to achieve uniform reporting and an adequate statistical base. This would improve our ability to analyze program effectiveness and evaluate the need for safety standards. At the request of the States, we intend to provide accident report copies to the State of registration when the accident occurs in some other State.

BOATING SAFETY ADVISORY COUNCIL

I am anticipating a healthy and productive relationship with the Boating Safety Advisory Council. We intend to make maximum use of the council for advice on important boating safety matters, not just safety standards and those regulations which must be referred to the council. For example, I would expect to request the advice of the council on major legislative proposals or regulations that would have substantial impact upon boating safety. At the same time, I do not consider it wise that the Coast Guard be bound by a requirement to consult with the council on every matter, such as those of minor or administrative nature, nor is it reasonable to burden the BSAC with such administrative detail. Otherwise, the orderly administration of the boating safety program could be hindered.

It is our plan that the capability of the council may perhaps benefit by the establishment of panels to the council. Such panels might be oriented toward boat and associated equipment standards, boating safety education, law enforcement, and environmental concerns. Panel members may or may not be members of the council, but will be persons with special interest or expertise in the panel program. We will suggest to the council that it designate and prescribe procedures for such panels as the council considers desirable.

MISCELLANEOUS PROVISIONS

Penalty administration.—Penalty administration at present is cumbersome and often arbitrary. Presently, the Coast Guard *must* assign the mandatory maximum penalty to any boatman cited in violation of regulations implementing the provisions of the Motorboat Act of 1940. Mitigation can only result through additional correspondence including a specific request from the boatman for such mitigation. Also, uncollectible penalties and criminal violations must be taken to a U.S. attorney whose higher priority problems often delay prompt action.

By use of the words "not more than" in civil and criminal penalty sections of this bill, complete flexibility over the range of zero-to-maximum is provided. Mitigation can be administered without resort to present burdensome administrative procedures. Authority to refer certain civil penalties to a Federal magistrate for prompt action similarly overcomes the delays inherent in the system of referral I noted a moment ago.

Summary termination.—Although we can now cite boatmen for certain unsafe practices (including reckless or negligent operation), no authority short of actual arrest exists to direct these boatmen to return to mooring if they violate a regulation or standard that creates an especially hazardous condition. The nature of the marine environment makes arrest procedure cumbersome and somewhat impractical. Illustrative of the problem is the overloaded condition. Under the authority contained in this bill, if the degree of hazard warrants, we may direct action to remedy the violation immediately, including requiring the vessel to return to mooring, if necessary.

Rendering assistance.—This legislation includes a "Good Samaritan" provision which protects the boatman who goes to the assistance of his fellow boatman from fear of future legal responsibility, assuming reasonable, prudent action is taken.

Coast Guard Auxiliary.—Section 32 authorizes Coast Guard Auxiliary assistance for promotion of boating safety on State waters at the request of a State government. This is a further step to encourage greater State participation in boating safety programs, particularly education and patrol activities in this instance.

SUMMARY

In summary, I look at the respective roles of Federal and State governments, industry and the general public in the following manner.

The Coast Guard will prescribe only those minimum standards necessary to ensure that a reasonably safe, reliable boat and associated equipment reach the boatman. The manufacturer will be responsible for building to these standards. For the reasons stated earlier, this form of regulation should preempt State and local jurisdictions as their laws might affect the manufacturer.

The Coast Guard should regulate the individual only to the extent that his actions may affect the safety of himself or others, and then only to the extent that State and local enforcement capabilities are inadequate on waters of joint jurisdiction. We are not withdrawing from enforcement, and we will continue efforts to cooperate to the fullest extent and to provide enforcement where

needed. But the principle seems well established that law enforcement should primarily be the concern and responsibility of State and local jurisdictions.

The boatman will be responsible for the maintenance of safety standards provided on his boat, particularly where failure to do so may have impact on his fellow boatmen or on his passengers. Compliance with principles of safe operation will remain his important responsibility.

I am convinced that adequate safeguards have been included in this bill to assure industry and the public reasonable relief from arbitrary safety regulation. Our response to boat safety problems will be tempered by the requirement to consider the need and reasonableness of a proposed safety regulation or standard and to consult with the Boating Safety Advisory Council on these or other major boat safety matters. An important function of the council will be to assure that the unique problems of the smallest manufacturers are adequately weighed.

With respect to Federal/State activities on waters of concurrent jurisdiction, we expect this legislation to result in even greater coordination of effort, particularly in operations.

The administration strongly urges you to report favorably on S. 696.

Question. With respect to each of calendar years 1966 through 1970, please provide the following: a) the number of reported accidents on boats to which S. 696 would apply; b) the number of fatalities; c) the number of serious injuries; d) the estimated property damage resulting from such accidents.

Answer. The requested data are provided in tabular form. Fatality data are comparatively accurate, but recent Coast Guard studies indicate that reported accidents, injuries and property damage are substantially below what is actually occurring. For example, we estimate that less than ten percent of property damage is being reported.

Question. Do you have an analysis of fatalities and injuries by type of accident (e.g. capsizing, collision)? If so please provide it.

Answer. The requested data are provided in tabular form. These are extracts from the Coast Guard publication CG-307, entitled "Boating Statistics".

REPORTED ACCIDENTS (NUMBER OF VESSELS INVOLVED)

	1966	1967	1968	1969	1970
Powered boats.....	4,518	4,264	4,410	4,218	3,826
Nonpowered.....	502	422	408	392	394
Propulsion unknown.....	547	588	609	629	542
Total.....	5,567	5,274	5,427	5,239	4,762

FATALITIES

	1966	1967	1968	1969	1970
Powered boats.....	885	879	928	923	928
Nonpowered boats.....	297	286	298	258	271
Propulsion unknown.....	136	147	116	169	219
Total.....	1,318	1,312	1,342	1,350	1,418

INJURIES

	1966	1967	1968	1969	1970
Powered boats.....	1,401	1,205	1,164	910	719
Nonpowered boats.....	58	70	35	25	24
Propulsion unknown.....	96	90	85	69	37
Total.....	1,555	1,365	1,284	1,004	780

ESTIMATED PROPERTY DAMAGE

	1966	1967	1968	1969	1970
Powered boats.....	\$7,017,000	\$5,751,000	\$6,018,100	\$6,053,500	\$7,855,300
Nonpowered boats.....	160,400	150,700	113,300	100,600	133,600
Propulsion unknown.....	157,100	152,400	500,200	217,800	184,100
Total.....	7,334,500	6,054,100	6,631,600	6,371,900	8,173,000

BOATING ACCIDENTS

Types of casualty	Total					Fatal					Injury					Property damage				
	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970
BOATING ACCIDENTS																				
Types of casualty	Total					Fatal					Injury					Property damage				
	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970
Grounding.....	283	203	239	204	190	14	6	5	13	6	51	39	36	29	20	218	158	197	162	164
Capsizing.....	674	609	597	597	591	471	445	442	396	433	36	44	34	39	20	167	120	121	152	137
Flooding.....	97	106	389	156	219	30	27	26	83	93	3	8	5	8	3	64	71	56	95	123
Sinking.....	184	190	239	173	132	70	62	73	30	33	5	4	10	9	8	109	124	156	136	194
Fire or explosion of fuel.....	333	282	335	320	336	18	1	12	12	12	131	97	111	88	70	184	174	212	220	251
Other fire or explosion.....	1	84	355	39	368	1	1	1	2	4	16	10	17	16	4	6	77	70	116	33
Collision with another vessel.....	1	304	1,236	1,274	1,067	42	17	45	32	34	302	208	283	165	144	953	1,011	998	1,073	829
Collision with fixed object.....	673	438	430	408	408	28	27	45	35	51	65	105	87	103	103	230	304	298	270	293
Striking floating object.....	190	200	162	179	197	9	13	21	20	18	11	20	19	21	13	170	167	122	135	161
Other casualty to vessel.....	89	112	82	90	79	23	23	24	17	15	15	17	12	12	30	51	70	46	61	57
Falls overboard.....	330	361	382	374	358	300	308	301	331	327	30	53	81	43	9	---	---	---	---	---
Falls within boat.....	25	16	16	6	9	2	2	1	---	---	---	---	---	---	---	---	---	---	---	---
Struck by boat or propeller.....	174	100	92	57	58	21	17	14	10	12	153	83	78	47	46	---	---	---	---	---
Other personnel casualty.....	139	178	151	200	148	29	61	50	107	85	110	117	101	93	59	---	---	---	---	---
Total.....	4,290	4,113	4,195	4,067	3,803	1,059	1,025	1,062	1,058	1,132	958	819	879	670	499	2,273	2,269	2,254	2,339	2,172

VESSELS INVOLVED IN ACCIDENTS

Types of casualty	Total					Fatal					Injury					Property damage				
	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970
VESSELS INVOLVED IN ACCIDENTS																				
Types of casualty	Total					Fatal					Injury					Property damage				
	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970	1966	1967	1968	1969	1970
Grounding.....	283	203	239	205	190	14	6	6	13	6	51	39	36	29	20	218	158	197	163	164
Capsizing.....	674	611	598	587	592	471	447	442	396	435	36	44	34	39	20	167	120	122	152	137
Flooding.....	97	107	89	156	220	30	27	28	53	94	3	8	5	8	3	64	72	56	95	123
Sinking.....	244	190	239	175	133	70	62	73	30	35	5	4	10	9	8	159	124	156	136	195
Fire or explosion of fuel.....	335	286	362	332	375	20	12	13	12	18	131	97	111	89	70	184	177	238	231	287
Other fire or explosion.....	103	95	66	39	73	2	4	2	2	4	16	10	18	4	6	85	81	58	33	63
Collision with another vessel.....	2,508	2,366	2,516	2,430	1,915	71	20	74	39	57	601	358	553	237	284	1,836	1,988	1,889	2,154	1,574
Collision with fixed object.....	374	441	430	408	411	28	27	45	35	51	65	106	87	103	64	231	308	298	270	296
Striking floating object.....	190	200	162	180	198	9	13	21	20	18	15	17	12	12	19	170	167	122	136	161
Other casualty to vessel.....	330	361	382	374	359	300	308	301	331	328	30	53	81	43	30	52	73	49	61	57
Falls overboard.....	25	16	16	6	9	2	2	1	---	---	---	---	---	---	---	---	---	---	---	---
Falls within boat.....	175	102	92	57	57	21	17	14	10	12	154	85	78	47	45	---	---	---	---	---
Struck by boat or propeller.....	139	180	151	200	150	29	61	50	107	85	110	119	101	93	61	---	---	---	---	---
Other personnel casualty.....	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Total.....	5,567	5,274	5,427	5,239	4,762	1,090	1,032	1,092	1,065	1,158	1,251	974	1,150	743	642	3,226	3,268	3,185	3,431	2,962

FATALITIES BY TYPE OF CASUALTY—Continued

	With casualty to vessel						Without casualty to vessel								
	Total fatalities	Grounding	Capsizing (with or without sinking)	Flooding (without sinking)	Sinking	Fire or explosion of fuel	Other explosion	Collision with another vessel	Collision with fixed object	Striking floating object	Other casualty to vessel	Disappearance of person	Falls overboard	Struck by boat or pier	Other personnel casualties
Operator's experience:															
Less than 20 hours.....	115	1	60	14	6	2	2	2	3	4	4	6	23	1	3
20 to 100 hours.....	201	2	86	25	12	8	1	8	4	9	2	10	68	3	48
100 to 500 hours.....	235	3	88	22	1	1	1	4	17	9	7	4	84	4	19
Over 500 hours.....	220	3	76	15	10	4	2	12	14	7	12	2	152	4	65
Unknown.....	642	1	259	52	31	7	7	30	24	5	12	2	3		
No operator.....	5														
Type of boat:															
Open motorboat.....	716	3	275	80	30	5	1	30	40	15	10	1	182	8	36
Cabin motorboat.....	127	2	32	10	3	13	4	10	3	7	1	1	31		10
Auxiliary sail.....	27	1	9		4			1			1		9		3
Sail.....	44		23	3	4				2	1	1		5		8
Rowboat.....	147		81	11	5				2	1	1		41		5
Canoe.....	58		43	4	1				4				3		3
Other.....	134		49	10	7	1		9	10	2	4		30		13
Unknown.....	165	1	57	10	6	2		5	3	2	7		47		22
Construction of boat:															
Wood.....	345	4	120	20	21	12	4	8	19	10	6	1	100	3	17
Aluminum.....	453		236	56	21	3		4	17	9		1	96		13
Steel.....	28		10	4	3	2			1				4		4
Fiberglass.....	308	2	98	33	9	3	1	29	16	6	8		74	6	23
Other.....	23		12	1	1				2	2			6		1
Unknown.....	261	1	93	14	6	4		13	7		10		68	3	42
Length of boat:															
Less than 16 feet.....	753	1	345	86	29	2		21	30	15	9	1	173	2	39
16 feet to less than 26 feet.....	296	3	98	23	5	5	4	24	20	6	6	1	69	5	17
26 feet to less than 40 feet.....	73	2	3	5	11	12	1	1	1	4	2		7		4
40 feet to less than 65 feet.....	3		4						1				4		3
65 feet and over.....	3		1						9		6		1		
Unknown.....	290	1	118	14	15	2		9	9		6		77	5	34
Propulsion of boat:															
Outboard.....	774	3	298	96	40	3	1	32	35	17	9	2	188	6	44
Inboard—gasoline.....	106	1	18	7		12	1	7	4	7	3		38	1	7
Inboard—diesel.....	13	2			4		1	1	1				4		3
Inboard—outboard.....	28		5		1	2	2		5				8	2	15
Other.....	278		172	11	9			2	12	1	4		52		3
Unknown.....	219	1	76	13	7	3		14	5		8		58	3	31

Horsepower of boat:

10 horsepower or less.....	316	149	43	22	1	2	12	7	67	13
11 to 25 horsepower.....	147	50	12	8	1	1	6	4	48	9
26 to 75 horsepower.....	211	64	51	4	1	12	12	5	64	12
Over 75 horsepower.....	182	30	13	3	12	26	14	8	44	15
Unknown.....	291	108	19	14	7	12	6	11	72	37
No engine.....	271	168	10	9	1	2	12	1	53	14
Operation at time of accident:										
Cruising.....	606	237	69	22	4	39	39	21	133	20
Maneuvering.....	47	13	7	3	1	3	3	1	16	1
Water-skiing.....	31	1	1	1	1	4	2	2	6	1
Racing.....	17	3	1	1	1	1	1	3	4	1
Towing.....	4	1	1	1	1	1	1	1	2	3
Being towed.....	5	1	1	1	1	1	1	1	2	1
Drifting.....	137	66	11	6	1	2	9	1	34	4
Fueling, under way.....	4	1	1	1	1	2	2	3	9	9
Fishing, under way.....	298	144	28	10	4	1	2	3	86	3
Hunting, under way.....	19	12	3	1	1	2	2	1	10	1
Other, under way.....	34	17	1	1	1	1	1	1	8	2
At anchor.....	34	15	2	3	2	1	1	1	7	5
Docked.....	15	5	1	1	4	1	1	1	1	2
Fueling, not under way.....	33	15	1	1	1	1	1	1	15	1
Fishing, not under way.....	3	1	1	1	1	1	1	1	1	1
Hunting, not under way.....	1	1	1	1	1	1	1	1	1	1
Skindiving, or swimming.....	23	10	2	1	1	1	1	1	1	1
Other, not under way.....	104	33	3	13	1	2	3	1	5	3
Unknown.....	1	1	1	1	1	1	1	1	14	34

Cause:

Excessive speed.....	18	3	37	16	1	1	10	3	2	10
Overloading.....	141	85	11	4	1	1	1	1	118	3
Improper loading.....	248	102	11	4	1	1	1	1	3	10
No proper lookout.....	33	3	1	1	1	9	10	3	3	3
Other fault of operator.....	394	171	49	20	17	2	20	6	54	24
Fault of other person.....	27	2	1	1	1	11	22	2	7	2
Fault of hull.....	1	1	1	1	1	1	1	1	1	1
Fault of machinery.....	5	2	2	2	1	1	1	1	1	1
Fault of equipment.....	4	1	1	1	1	1	1	1	1	1
Weather conditions.....	64	38	17	3	1	1	1	1	3	3
Hazardous waters.....	66	27	6	2	1	1	15	6	6	2
Excessive drinking.....	41	13	2	2	1	3	1	1	17	2
Not otherwise classified.....	107	24	5	3	2	4	1	3	48	2
Unknown.....	269	99	12	12	1	2	2	3	89	1

¹ Includes swimmers, divers, or persons overboard from other boats who were struck by the boat reporting. Persons who fell overboard from the reporting boat and then were struck by this boat.

INJURIES BY TYPE OF CASUALTY

	Total persons injured	With casualty to vessel					Without casualty to vessel					Other personal casualties				
		Cap-sizing (with or without sinking)	Flood-ing (without sinking)	Sinking	Fire or explo-sion of fuel	Other fire or explo-sion	Collision with another vessel	Collision with fixed object	Striking floating object	Other casualty to vessel	Falls over-board		Falls within boat	Struck by boat or pro-jectile	Crush-ing or pinching	
Total injuries.....	780	28	52	7	6	161	11	232	99	24	8	36	9	46	1	60
Waters:																
Oceans or Gulf of Mexico.....	38	5	14	1	-----	1	1	7	2	-----	1	1	3	-----	-----	2
Great Lakes.....	33	-----	2	-----	-----	14	2	5	5	-----	-----	-----	-----	-----	-----	4
Tidal waters.....	205	4	14	5	1	48	2	58	43	2	2	12	2	3	-----	9
Non-tidal waters.....	504	19	22	1	5	98	6	162	49	22	5	23	4	42	1	45
Age of operator:																
Under 12 years.....	8	-----	-----	-----	-----	-----	-----	5	3	-----	-----	-----	-----	-----	-----	10
12 to 18 years.....	90	4	2	2	-----	7	-----	32	9	5	-----	5	1	12	1	11
19 to 25 years.....	122	7	17	2	2	21	-----	23	7	5	2	13	-----	12	-----	24
26 to 30 years.....	390	9	21	3	4	91	8	118	51	10	4	16	7	19	-----	29
31 to 40 years.....	98	6	9	-----	-----	31	-----	32	9	-----	1	1	1	3	-----	5
Over 50 years.....	68	1	3	-----	-----	10	22	22	19	4	1	1	-----	-----	-----	5
Unknown.....	4	1	-----	-----	-----	1	1	-----	1	-----	-----	-----	-----	-----	-----	10
No operator.....																
Operator's experience:	63	2	4	2	-----	24	3	7	6	-----	-----	7	-----	3	1	4
Less than 20 hours.....	116	2	10	-----	-----	22	-----	18	17	6	-----	7	1	16	-----	17
20 to 100 hours.....	116	2	10	-----	-----	22	-----	18	17	6	-----	7	1	16	-----	17
100 to 500 hours.....	253	13	20	1	-----	36	2	86	36	7	4	8	2	14	-----	24
Over 500 hours.....	263	8	11	2	4	64	-----	98	29	9	1	9	5	10	-----	12
Unknown.....	81	2	7	2	2	14	4	23	10	2	3	5	1	3	-----	3
No operator.....																
Type of boat:	4	1	-----	-----	-----	1	1	-----	1	-----	-----	-----	-----	-----	-----	-----
Open motorboat.....	480	22	22	6	5	38	-----	168	69	21	2	29	3	39	-----	56
Cabin motorboat.....	200	4	14	-----	1	100	11	25	27	2	4	2	5	3	-----	2
Auxiliary sail.....	18	-----	4	-----	-----	2	-----	8	2	-----	-----	1	-----	1	-----	-----
Sail.....	9	-----	2	-----	-----	-----	-----	5	-----	-----	-----	-----	-----	-----	-----	-----
Rowboat.....	19	-----	4	1	-----	4	-----	8	-----	-----	-----	1	-----	1	-----	1
Canoe.....	5	-----	4	-----	-----	-----	-----	1	-----	-----	-----	-----	-----	-----	-----	-----
Other.....	37	2	1	-----	-----	16	-----	9	1	-----	2	2	1	2	-----	1
Unknown.....	12	-----	1	-----	-----	1	-----	8	-----	1	-----	1	-----	-----	-----	-----
Construction of boat:																
Wood.....	262	6	18	3	-----	115	6	58	24	5	1	9	4	6	-----	7
Aluminum.....	76	4	12	1	-----	3	-----	25	13	-----	1	6	-----	5	1	5
Steel.....	16	-----	5	-----	-----	5	5	2	-----	-----	-----	-----	-----	-----	-----	-----
Fiberglass.....	407	18	21	3	5	33	-----	141	62	18	4	18	5	33	-----	46
Other.....	1	-----	-----	-----	-----	-----	-----	1	-----	-----	-----	-----	-----	-----	-----	-----
Unknown.....	18	-----	1	-----	1	5	-----	5	-----	1	-----	3	-----	-----	-----	2

INJURIES BY TYPE OF CASUALTY—Continued

	With casualty to vessel						Without casualty to vessel						Other personnel casualties			
	Total persons injured	Grounding	Cap-sizing (with or without sinking)	Flooding (with or without sinking)	Sinking	Fire or explosion of fuel	Other fire or explosion	Collision with another vessel	Collision with fixed object	Striking floating object	Other casualty to vessel	Falls overboard		Falls within boat	Struck by boat or propeller	Crushing or pinching
Length of boat:																
Less than 16 feet.....	231	5	23	4	3	1	---	98	32	9	---	17	---	1	---	21
16 feet to less than 26 feet.....	380	15	20	3	1	85	---	110	52	12	6	14	5	27	---	34
26 feet to less than 40 feet.....	98	6	4	---	1	52	11	10	9	1	---	1	2	---	---	1
40 feet to less than 65 feet.....	9	---	---	---	---	4	---	---	2	1	---	---	---	---	---	---
65 feet and over.....	3	2	5	---	1	19	---	1	1	---	2	4	---	4	1	4
Unknown.....	59	---	---	---	---	---	---	13	3	---	---	---	---	---	---	---
Propulsion of boat:																
Outboard.....	396	17	23	6	4	11	2	147	65	11	5	24	2	37	---	42
Inboard—gasoline.....	218	5	11	---	2	123	5	24	15	10	---	7	4	3	---	9
Inboard—diesel.....	9	1	---	---	---	---	---	2	2	---	---	---	---	---	---	---
Inboard-outboard.....	89	5	4	---	---	18	2	25	14	1	1	4	2	6	---	7
Other.....	31	---	12	1	1	---	---	14	1	---	---	1	---	---	1	1
Unknown.....	37	---	2	---	---	9	---	20	2	1	2	---	---	---	---	---
Horsepower of boat:																
10 horsepower or less.....	25	---	6	---	---	2	---	12	3	---	---	1	---	1	---	---
11 to 25 horsepower.....	35	---	4	---	---	1	---	12	7	1	---	4	---	4	---	2
26 to 75 horsepower.....	219	8	12	4	3	1	2	89	41	5	4	13	1	20	---	16
Over 75 horsepower.....	397	18	16	2	2	134	7	86	43	14	2	13	6	17	---	37
Unknown.....	80	2	4	---	1	23	2	24	4	4	2	4	2	4	---	4
No engine.....	24	---	10	1	---	---	---	9	1	---	---	1	---	---	1	1
Operation at time of accident:																
Cruising.....	389	29	31	6	4	46	3	142	66	17	6	24	6	9	---	9
Maneuvering.....	55	---	2	---	---	27	---	7	7	1	---	4	---	4	---	2
Water-skiing.....	116	1	---	---	---	---	---	25	16	5	2	4	1	25	---	37
Racing.....	11	---	4	---	2	---	---	2	---	1	---	2	---	---	---	---
Towing.....	7	---	---	---	---	---	---	1	---	---	---	1	---	---	---	---
Being towed.....	59	2	3	---	---	21	---	23	3	---	---	1	---	2	---	4
Drifting.....	4	---	---	---	---	3	---	5	---	---	---	---	---	---	---	---
Fueling, underway.....	16	1	4	---	---	2	---	1	3	---	---	---	---	---	---	1
Fishing, underway.....	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Hunting, underway.....	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Other, underway.....	8	2	1	---	---	---	---	1	2	---	---	---	---	2	---	---
At anchor.....	14	1	---	---	---	2	---	9	1	---	---	---	---	---	---	---
Docked.....	28	---	---	---	---	18	6	1	1	---	---	---	---	---	---	---
Fueling, not underway.....	38	---	---	---	---	38	---	---	---	---	---	---	---	---	---	---
Fishing, not underway.....	17	---	4	---	---	1	2	10	---	---	---	---	---	---	---	---
Hunting, not underway.....	1	---	---	1	---	---	---	---	---	---	---	---	---	---	---	---
Skin-diving, or swimming.....	3	---	2	---	---	---	---	---	---	---	---	---	---	1	---	---

Question. Please indicate the type of hazards on which the Coast Guard plans to focus its initial efforts under section 5 of the bill, together with a brief summary of the proposed action.

Answer. The Coast Guard plans to focus its initial efforts under section 5 of the bill on two broad hazard areas. The first is to reduce the number of deaths due to drowning; the second, to reduce the deaths, injuries and property damage due to fire and explosion.

Concerning drownings, the Coast Guard intends that a new program for personal flotation devices (lifesaving devices) be developed. In addition to requiring the carriage of personal devices on almost all recreational craft, there will be major revisions to the present specification for the devices.

In order to reduce the number of capsizings and sinkings due to overloading or improper loading, the Coast Guard will pursue load capacity standards. Safe powering standards for boats will also be developed. In order to mitigate the consequences of those capsizings or swampings which do occur, the Coast Guard will pursue standards for flotation of boats in the swamped condition.

To respond to the problem of fire and explosion, a coordinated set of fire safety standards will be developed. These may include standards for fuel systems, electrical systems, compartment ventilation, back-fire flame control, and fire fighting equipment. The objective will be to provide a coordinated set of standards which will be responsive to the problem at minimum cost to the boat owner.

Question. Has the Coast Guard developed proposed regulations under this bill? If so, please provide them.

Answer. The Coast Guard is now restructuring 46 CFR Subchapter C. "Rules and Regulations for Uninspected Vessels," and 46 CFR Subchapter S. "Rules and Regulations for the Numbering of Undocumented Vessels and the Reporting of Boating Accidents." The new Subchapter C. will be "Rules and Regulations for Boating Safety." It will include the numbering and accident reporting requirements for recreational boats. The new Subchapter S. will contain "Rules and Regulations for the Miscellaneous Uninspected Vessels," which do not fall under the recreational boating category.

Good progress on this rule restructuring is being made, but the rules are not yet in "proposed regulation" form. We expect this to be completed before enactment of this bill.

Question. What is the estimated total number of boats manufactured in the United States last year to which the provisions of this bill would be applicable? What was the estimated total number of imported boats?

Answer. It is estimated that approximately 600,000 boats to which the provisions of the bill would be applicable were manufactured in the United States last year. Of these, over 300,000 were less than 16 feet long and 570,000 less than 26 feet long. Approximately 33,800 yachts or pleasure boats with a dollar value of \$35,675,000 were imported into the United States in calendar year 1970. This figure does not include pneumatic craft, canoes and miscellaneous craft for which no numerical figure is available.

Question. Using as a measure the number of boats manufactured in a recent calendar year, please provide in columnar form: a) the names of the 20 largest boat manufacturers; b) where the answer to (a) is a corporation a majority of the voting stock of which is owned by a corporation listed on a national securities exchange, the name of such listed corporation; c) the percentage of all boats manufactured in the United States which is manufacture by each of the companies listed in (a). If the information requested in the question is available with respect to separate types or classes of boats (e.g., outboards, inboards, under 20 feet), please provide that information.

Answer. A rank ordering of the largest boat manufacturers and their corporate involvement is not available to the Coast Guard. The following list is our estimate of the top 20 boat manufacturers. These are not arranged in order of size. Corporate involvement is indicated where it is known to us.

The percentage of boats manufactured in the United States by each of the companies is not known. However, concentration ratios in the boat building industry are available and those for the year 1967 are listed below. Comparing these figures with earlier data from the years 1954, 1958 and 1963, indicates that the 1967 figures can be projected to 1970 without significant error.

Parent corporation	Boat manufacturer element	Craft produced fiberglass (FG)
American Photocopy Equipment Co.	IMP Boats	FG runabouts, ATV's.
Brunswick Corp.	Magnum Marine	FG deep-V cruisers.
Conroy Inc.	Owens Yacht Division	Cabin cruisers.
	Nautia-Line, Inc.	FG houseboats.
Larson Industries, Inc.	Glastron	FG runabouts.
	Glasspar	Do.
	Larson	Do.
North American Rockwell	Crestliner	Do.
	Hatteras	FG cabin cruisers.
Test Corp.	Concorde Yachts	Cabin cruisers.
The Fischer-Pierce Co., Inc.	Boston Whaler	FG runabouts.
Ray Industries, Inc.	Sea Ray Boats	Do.
American Machine & Foundry Co., Inc.	Slickcraft Boat Division	Do.
	AMF Alcott Division	Small sailboats.
Bangor Punta Corp.	Jensen Marine	FG runabouts.
	Star Craft Co.	FG and aluminum runabouts.
	Seagoing	Houseboats.
	Luhrs Co.	FG cabin cruisers.
	Duo	FG runabouts.
	O'Day	Small FG sailboats.
	Ulrichsen	Wood cabin cruisers.
Alpex Corp.	Aluma Craft Boats	Aluminum boats, fishing boats.
Wittaker Corp.	Trojan Yachts	Inboard cabin cruisers.
	Bertram Yachts	Inboard FG cabin cruisers.
Alliance Machine Co.	Thunderbird Products Division	FG runabouts.
	Drift-R-Cruz	FG houseboats.
	Formula	FG runabouts.
Crysler Corp.	Crysler Boats	Do.
Chris-Craft Industries	Chris-Craft Corp.	Cabin cruisers, houseboats, sailboats, FG inboard runabouts.
Grumman Allied Industries, Inc.	Pearson Yachts	Aluminum sailboats and yachts.
	Grumman Boats	Aluminum boats and canoes.
Fuqua Industries	Pacemaker	Wood inboard cabin cruisers.
	Algias	FG inboard cabin cruisers.
Correct Craft, Inc.	Correct Craft, Inc.	Inboard FG runabouts.
MonArk Boat Co.	MonArk Boat Co.	Aluminum boats, fishing boats, houseboats.
United Boat Builders, Inc.	Uniflite	FG inboard cabin cruisers.
Winner Boats, Inc.	Winner Boats, Inc.	FG runabouts.

CONCENTRATION RATIOS IN BOAT BUILDING, 1967¹

Classification	Total value	Percent of total produced by—			
		4 largest companies	8 largest companies	20 largest companies	50 largest companies
Inboard motor boats	\$259,000,000	39	53	73	90
Outboard motor boats	70,200,000	30	49	71	90
All other (sailboats, rowboats, canoes, etc.)	45,600,000	34	50	74	91

¹ These figures became available in 1971.

Question. Please provide a list of research projects that the Coast Guard has under section 5. Include in the list: (a) the boating hazard to which the project was related; b) a brief summary of the purpose of the project; c) the dates on which the project was commenced and completed or is expected or be completed; d) whether it was done in-house or under contract; e) if it was done under contract, the name of the contractor and the contract price.

Answer.

Boat Safety Standards Research Projects for Past 5 Years

1. *An In-Depth Study of Recreational Boat Fires & Explosions*
 - a. Fire and explosion hazard
 - b. To identify the components of fuel and electrical systems which cause fires and explosions on inboard powered gasoline boats
 - c. Project began 7-70, completed 9-70
 - d. In-house

2. *An investigation of Boat Ventilation Systems*
 - a. Fire and explosion hazard
 - b. To recommend a standard for ventilation of closed boat compartments containing flammable vapors
 - c. Project began 4-69, completed 4-70
 - d. Under Contract
 - e. Contractor: Marine Division, Underwriters' Laboratories
Contract Price: \$20,000
3. *Environmental Exposure of Sample Model Marine Fuel Tanks*
 - a. Fire and explosion hazard
 - b. To study the corrosion effects of a long term environmental exposure of a sample of marine fuel tanks
 - c. Project began 7-65, completed 2-70
 - d. Under contract
 - e. Contractor: Marine Division, Underwriters' Laboratories
Contract Price: \$18,000
4. *Standard Test Procedures for Temperature, Vibration and Shock*
 - a. General hazards
 - b. To develop standard testing procedures for conditions found in the marine environment.
 - c. Project began 1-69, completed 2-70
 - d. Under contract
 - e. Contractor: Marine Division, Underwriters' Laboratories
Contract price: \$10,000
5. *Personal Flotation Devices*
 - a. Reduction of drownings
 - b. To develop buoyancy and stability criteria for lifesaving device which will increase wearability.
 - c. Project began 2-69, estimated completed 12-73
 - d. Under contract
 - e. Contractor: A.D. Little Company
Contract Price: \$295,000
6. *A Report on a Study of Personal Flotation Devices*
 - a. Reduction of drownings
 - b. To analyze the performance of personal flotation devices
 - c. Project began 12-68, completed 1-69
 - d. Under contract
 - e. Contractor: Booze Allen Applied Research, Inc.
Contract Price: \$50,000

Question. Under section 15 of the bill, a manufacturer is required to give notice of a defect to a purchaser only "when known to the manufacturer." Do you believe that the efficacy of this section might be enhanced by requiring that notice be given to all first purchasers not for resale, thus imposing a reasonable burden on the manufacturer to keep record of purchasers?

Answer. The Coast Guard believes that the efficacy of this section would be enhanced by requiring that notice be given to all first purchasers not for resale.

Question. Section 15 does not apply to "associated equipment." This means that engines and other major items are not subject to the requirements relating to notification of defects. From a safety standpoint, do you believe that the section should be amended to include major equipment items to be determined by the Secretary?

Answer. From a safety standpoint, the Coast Guard believes that the section should include major equipment items to be determined by the Secretary.

Question. Section 15 does not contain explicit authority for the Secretary to require a manufacturer to give notification of a defect. Do you believe that such a provision would improve the bill?

Answer. The Coast Guard believes that authority for the Secretary to require a manufacturer to give notification of a defect would improve the bill. With adequate checks and balances, as proposed, it would allow the Secretary to initiate direct administrative action, where there is a difference of opinion between the manufacturer and the Government as to whether a defect is, in fact, related to boat safety.

Question. Under section 15, a manufacturer can completely satisfy his obligation to a purchaser by merely notifying the purchaser of the defect and advising him of the measures needed to repair the defect. Do you believe that the bill would be improved if the manufacturer were required to take such measures at his own expenses?

Answer. If this would mean early remedy of the safety defect, we would certainly be in favor of such a provision. Our principal concern naturally lies in identifying the safety defect and assuring that the purchaser receives early notification. Correction of the defect at an early date is clearly in the interest of boating safety.

Question. In effect, Section 22 provides that a state which is an issuing authority may engage in operator licensing. Is it your interpretation that Section 22 would, by negative implication, preclude a state which is not an issuing authority from engaging in operator licensing? If so, what is the rationale for that restriction of state power?

Answer. Section 22 is not interpreted as precluding a state which is not an issuing authority from engaging in operator licensing. It is our view that the substance of S. 696 does not preempt any state from the valid exercise of state authority with regard to boat operator qualifications within the state so long as the definition of those qualifications is not in conflict with the numbering provisions, construction standards, equipment requirements, or other provisions of the bill. Section 22, which is virtually identical to a like provision in the Federal Boating Act of 1958 [46 U.S.C. 527a(c)(11)], is intended only to clarify that the general rule of no preemption in this area applies equally to states which do elect to involve themselves in boat numbering and safety programs under the Act. Additionally, we interpret the language of Section 22 as going beyond the operator licensing issue and as permitting the states to engage in enforcement, such as boat or equipment inspection activities, for example, to assure compliance with federal and state requirements.

Question. An earlier bill proposed by the Coast Guard would have imposed criminal penalties for a willful violation of the construction standards. This bill is limited to civil penalties. In your view, would it be useful to provide that where the defendant is a corporation, officers, directors, or agents who knowingly and willfully cause a violation, are individually liable to the civil penalties in addition to the Corporation being liable?

Answer. In our view, language which expressly provides that corporate officers are liable for civil penalties in a personal as well as a corporate capacity, for knowing and willful violations, adds enforcement flexibility and could result in more effective enforcement.

Question. With respect to private actions and remedies, is it your views that compliance with promulgated standards would completely relieve a manufacturer from liability at common law or under state law? If not, do you believe that a section to that effect should be included in the bill?

Answer. We do not believe that compliance with promulgated standards under the Act has the effect of relieving a manufacturer from liability under the usual tort law concerning negligence or warranties. For many years the Coast Guard has required compliance with "standards" by inspected vessels. Courts have consistently held that a vessel owner's compliance with Coast Guard inspection requirements is not synonymous with "seaworthiness" under maritime law. Though the analogy is apparent we would have no objection to an express provision to clarify that a manufacturer's compliance with promulgated standards does not by itself relieve him of any tort liability which otherwise could pertain.

Question. Under section 33, the number of members of the Boating Safety Advisory Council who can be compensated is limited to 21. Members of panels are compensated at the same rate (GS-18). Why is there no limitation on the number of panel numbers?

Answer. It frankly did not occur to us that a maximum number should be defined, since it is doubtful that we will need to use panels extensively. Occasionally the BSAC may require a panel of up to twelve members to assist in coping with a technical or other special problems.

Question. The definition of associated equipment in Section 3, appears to include radio equipment. To what extent would Coast Guard involvement in that regard impinge into an area normally within the cognizance of the Federal Communications Commission?

Answer. The extent of Coast interest relates to the boating safety impact of whether a boat is or is not equipped with radio equipment. We can foresee that in the interest of boating safety there may be a need to require radio equipment on certain boats or classes of boats under some conditions. Even to that extent we could not proceed without close coordination with the Federal Communications Commission. In no case would we undertake to promulgate standards for type, installation or use which we view as clearly within the province of that agency. Accordingly, we foresee no infringement into an area of FCC concern.

Senator LONG. The next witness is Governor John H. Reed, chairman, National Transportation Safety Board, Department of Transportation, Washington, D.C.

STATEMENT OF GOVERNOR JOHN H. REED, CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY COMDR. ALAN BREED, DEPUTY CHIEF, MARINE SAFETY DIVISION, U.S. COAST GUARD

Mr. REED. Good morning, Mr. Chairman. I am John Reed, chairman of the National Transportation Safety Board, and I have with me Comdr. Alan Breed, U.S. Coast Guard, deputy chief of our Marine Safety Division.

We welcome this opportunity to testify on S. 696, the Federal Boat Safety Act of 1971, which we strongly support.

I have a long prepared statement. I would be happy to highlight it if it is your wish.

Senator LONG. We will print the statement in its entirety, and you can touch on the points you wish to.

Thank you very much, Mr. Chairman. A major recreational boating casualty which involved the capsizing of many small fishing boats in severe weather on Lake Michigan on September 22, 1967, illustrates the need for safety standards, and authority to regulate boating operations under hazardous conditions.

In a report of this accident, we supported the need for legislation similar to that under consideration here today.

Since the establishment of the Safety Board in 1967, the total number of fatalities in recreational boating has been three to four times the total number of fatalities reported in commercial vessel operations.

Over 1,300 fatalities per year do occur in recreational boating accidents. Our analysis of over 1,600 fatal boating accidents reflects the need for such standards as minimum stability criteria, capacity plates which would indicate the maximum safe loads and maximum horsepower for the boat, and minimum reserve buoyancy criteria for boats in a flooded condition.

Section 5 of the proposed bill would provide the Secretary the authority to promulgate such standards. This authority is considered vital to protect the uniformed boaters, and is consonant with the President's program to protect the consumer.

A large number of fatalities, over 1,250 per year, many involving rowboats and canoes and other craft, which are not motorboats, indicate the importance of including these boats under the provision of the proposed bill.

Section 13 of the bill will provide the Coast Guard with additional authority to cope with the growing problems in recreational boating. This will greatly assist in reducing the number of accidents which occur as a result of boats being operated in hazardous condition or in a manner beyond the capabilities of either the boat or the operator.

Another important provision of this bill provides Federal funds to eligible States to assist them in developing boat safety programs. Nearly 40 percent of boating fatalities occur on waters under exclusive State jurisdictions. If inroads are to be made in reducing fatalities,

strong State safety programs are essential. Many States do not have adequate personnel or facilities to cope with present boating safety problems. The Federal funds which are authorized by this bill will provide a strong incentive for States to develop effective boating safety programs.

The Safety Board believes that the new legislation is needed now. Unless the Federal Government establishes a uniform minimum safe boating program, the lack of uniformity between States will pose an increasing burden on the boating public.

It is for these reasons, Mr. Chairman, that we respectfully request that your committee give favorable consideration to S. 696.

We appreciate the opportunity afforded us to appear before this committee, and at this time will be pleased to attempt to answer any questions you may have.

Senator LONG. I was under the impression that there was a substantial decline in the number of boating fatalities this year, is that correct?

Mr. REED. Commander Breed, is that correct?

Commander BREED. No; we estimate about 1,350.

Mr. REED. The number of fatalities has been fairly constant in recent years. There have been between 1,300 and 1,400 fatalities per year for the last 5 years.

Senator LONG. Do you believe a minimum safety standard can prevent some of the capsizing or falling overboard which is presently a major factor in fatalities?

Mr. REED. Yes, Mr. Chairman, we feel minimum safety standards will. For example, a standard which will require sufficient flotation to keeping the boat afloat if it overturned or swamped, would greatly increase the occupants' chances of survival. The minimum safety standards alone would justify the enactment of the bill.

The bill certainly isn't going to eliminate all the accidents, but I agree with Admiral Bender that it will be a progressive operation. In the years subsequent to enactment of this bill, we will have safer craft and better informed boaters and we will see a reduction in overall fatalities.

Senator LONG. Of course you are aware that you can take a boat that will float on its own and you can put a big outboard motor on there and that motor will pull it under. Is it intended that you will try to design the boat so that it will float notwithstanding the heavy motor?

Mr. REED. It is my understanding that if the bill is enacted, one of the implementing regulations under consideration would require each boat to have a capacity plate attached which would indicate the maximum safe load and maximum safe horsepower motor for the boat.

Of course, someone could attach a higher horsepower to the boat, but if they were caught, they are in violation of the regulation.

Senator LONG. So it will be a violation of the law then if the boat would be designed for 25 horsepower and he put a 100-horsepower motor on there, and by virtue of doing that he so loaded the end of the boat that it would sink?

Mr. REED. Yes, sir; that is my understanding of the bill.

Senator LONG. Now you mentioned only three States that do not have boating laws. Washington, New Hampshire, and Alaska. Do you

know whether they are making progress, in adopting laws in those States?

Mr. REED. I recognize these three States do not have boating laws. Senator LONG. Those do not have them.

Mr. REED. I will ask Commander Breed if he is aware of pending legislation in these States.

Commander BREED. I understand Washington does have pending legislation for boating laws. The other two do not.

Senator LONG. Thank you very much.

Mr. REED. Thank you very much, Senator.

(The statement follows:)

STATEMENT OF JOHN H. REED, CHAIRMAN OF THE NATIONAL TRANSPORTATION
SAFETY BOARD

Mr. Chairman and Members of the Subcommittee:

I am John H. Reed, Chairman of the National Transportation Safety Board, and have with me Comdr. Alan Breed, U.S.C.G., Deputy Chief of our Marine Safety Division. We welcome this opportunity to testify on S. 696, the Federal Boat Safety Act of 1971, which we strongly support.

On March 24, 1970, I appeared before the House Merchant Marine and Fisheries Committee in support of H.R. 15041, a similar bill. This bill was passed by the House of Representatives on December 7, 1970. As you may recall, I wrote you on December 10 requesting that your Committee give early consideration to this House-passed bill. You replied that this Committee shared the Safety Board's views concerning the importance of this proposed legislation. Time did not permit the holding of Senate hearings prior to adjournment of the last session of the Congress. The prompt scheduling of hearings during the 92nd Congress attests to the priority you accord this bill.

This Committee is familiar with the functions of the Safety Board and its relationship with the Department of Transportation and the Coast Guard. We review Coast Guard reports of investigation of major marine casualties, determine the cause or probable cause, make recommendations to prevent recurrence of similar accidents, and evaluate the effectiveness of the investigation. The Coast Guard has investigated only one major recreational boating casualty by a Marine Board of Investigation since the Safety Board was established. This involved the capsizing of many small fishing boats in severe weather on Lake Michigan on September 22, 1967. We attended the Marine Board of Investigation as observer. In our final action on this report, we supported the need for such legislation as is under consideration here today. In addition, we made specific recommendations intended to preclude a similar disaster. It is gratifying to note that despite a marked increase in the number of fishermen and boats in quest of salmon on the Great Lakes corrective measures implemented by the Coast Guard, State boating safety organization, and the National Weather Service have prevented a repetition of such multiple capsizings.

In addition to our responsibility in major marine casualty reports, we review all Coast Guard narrative reports of investigation of marine casualties, which include reports of fatal accidents involving recreational boats. We also analyze the Coast Guard annual statistics on Commercial Vessel Casualties and Boating Statistics. The Safety Board soon became aware of the fact the preponderance of marine fatalities occur in recreational boating. Since the establishment of the Board in 1967, the total number of fatalities in recreational boating has been three to four times the total number of fatalities reported in commercial vessel operations. This comparison must be construed as only approximate, as the relative numbers of vessels, and the relative exposure factors of the two categories are not comparable.

Our concern over the relatively large loss of life in recreational boating prompted a special study of recreational boating safety. Copies of this report have been previously furnished to your Committee, and additional copies are available today. The recommendations made in this study were based primarily on our analysis of Coast Guard narrative reports of investigation of boating accidents. We have updated some of the summaries of our independent analysis of boating accident investigative reports through the end of calendar year 1970. A copy is attached for reference.

In our original study 385 fatal boating accidents were analyzed. Our latest summaries involve analyses of 1601 accidents. It is interesting to note that although over four times as many accidents have been analyzed, the trends are almost identical. In both analyses capsizings have accounted for 37 percent of all fatal accidents and falls overboard have accounted for an additional 37 percent. The primary causes of capsizings and falls overboard have also remained the same. Persons moving in the boat continues to be the cause of approximately 25 percent of all the accidents involving capsizings. Slightly over 25 percent of the fatalities resulting from falling overboard are caused by persons moving in the boat. Adverse weather conditions has been a major factor in nearly 48 percent of all capsizings. Overloading occurs in approximately 10 percent of all capsizings. The statistics also indicate that over 85 percent of all fatal boating accidents involve boats that are 25 feet or less in length. These figures reflect the need for such standards as: minimum stability criteria; capacity plates which would indicate the maximum safe load and the maximum power for the boat; minimum reserve buoyancy criteria for boats in a flooded condition. Section 5 of the proposed bill would provide the Secretary the authority to promulgate such essential minimum safety standards. This authority is considered vital to protect the uninformed boaters, and is consonant with the President's program to protect the consumer.

Section 13 of the bill will provide the Coast Guard with additional authority to cope with the ever growing safety problems encountered in recreational boating. This provision should greatly assist in reducing the number of accidents which occur as the result of boats being operated in a hazardous condition or manner beyond their capabilities.

Another very important provision of this proposed bill provides Federal funds to eligible States to assist the States in developing boating safety programs. Nearly 40 percent of boating fatalities occur on waters under exclusive State jurisdiction. If inroads are to be made in reducing recreational boating fatalities, strong state safety programs are essential. Many states do not have adequate personnel or facilities to cope with present boating safety problems. The Federal funds which would be authorized by this bill will provide a strong incentive for States to develop effective boating safety programs.

The Safety Board believes that new Federal boating safety legislation is needed now. With the rapid growth of the number and wide variety of types of boats and estimated 42 million boaters, the present leveling off of fatalities cannot be maintained without a balanced safety program such as is envisioned by this bill. The projected increase in our Gross National Product, population growth, and leisure time available to boaters will result in more use of recreational boats on our limited waterways. This can only lead to more accidents and unnecessary loss of life, unless substantial lifesaving improvements are made. All but three States now have boating legislation, and a number of States have boating laws which are more comprehensive than the present Federal laws governing boat registration and safety. Some States require capacity plates, some have implemented regulations to control pollution from recreational boats. Unless the Federal government establishes a uniform minimum safeboating program, the lack of uniformity between States will pose an increasing burden on the boating public. The mobility of trailered boats, and contiguity of some waters to several States now present serious problems to law abiding recreational boaters.

It is for these reasons that we respectfully request that your Committee give favorable consideration to S. 696.

Thank you for affording us the privilege of appearing before your Committee. If you have any questions, we will try to answer them to your satisfaction.

**SUMMARY OF NATIONAL TRANSPORTATION SAFETY BOARD—ANALYSIS OF C. G. FATAL RECREATIONAL BOATING
ACCIDENT REPORTS REVIEWED FROM JULY 1, 1967 TO DEC. 31, 1970**

	Capsized	Fall over- board	Sinking	Collision with boat	Collision with objects	Water skiing	Fire or ex- plosion	Miscel- laneous
Types of accidents:								
1967.....	49	44	20	3	8	4	6	12
1968.....	231	215	78	15	31	9	5	21
1969.....	219	241	62	17	18	11	11	23
1970.....	98	94	29	3	3	5	5	11
Total (1,601).....	597	594	189	38	60	29	27	67
Percent of total.....	37.3	37.1	11.8	2.4	3.7	1.8	1.7	4.2
Fatalities by types of accidents:								
1967.....	55	48	40	5	11	4	8	14
1968.....	300	216	105	17	35	7	5	24
1969.....	308	248	99	20	24	9	10	35
1970.....	146	104	45	4	2	5	7	11
Total deaths (1,371).....	809	616	289	46	72	25	30	84
Percent of total.....	41.0	31.3	14.7	2.3	3.7	1.3	1.5	4.2

	1967	1968	1969	1970	Total	Percent of total
Major factors in fatal capsizing cases:						
Rough water.....	15	64	12	13	104	18.2
Personal movement.....	14	54	49	23	140	24.6
Sea conditions.....	18	33	82	38	171	30.0
Overloading.....	4	16	26	11	57	10.0
Violent maneuver.....	5	20	17	7	49	8.4
Cut down transom.....	4	9	6	-----	19	3.2
Leak, flooding.....	11	8	-----	-----	20	5.4
Intoxication.....	-----	-----	5	5	10	0.2
Total.....	71	204	197	97	570	100.0
Major factors in fatal falls overboard cases:						
Standing, moving in boat, lost balance.....	18	55	66	24	163	26.1
Thrown out of boat, wave action.....	17	22	27	12	78	12.4
Intoxication.....	9	30	24	14	77	12.3
Sitting on gunwale, bow, etc.....	15	15	51	3	48	7.7
Thrown out by radical boat maneuver.....	9	25	20	8	62	9.9
Thrown out by sudden change of speed.....	4	13	11	12	40	6.4
Thrown out by collision.....	4	13	18	7	42	6.7
Cause undetermined, miscellaneous.....	10	26	56	24	116	18.5
Total.....	86	199	237	104	626	100.0

INSTANCES INVOLVING THE USE OF LIFESAVING DEVICES (PERSONS)

	On board, not used	Not available
1967.....	223	33
1968.....	402	87
1969.....	385	105
1970.....	188	63
Total.....	1,208	288
Percent of total.....	80.7	19.3

Senator LONG. The next witness will be Mr. Ralph Thacher, past president of the Government Relations Committee of the National Association of Engine and Boat Manufacturers and Mr. William Gaston, chairman of the Government Relations Committee of the Boating Industry Association, Washington, D.C.

STATEMENT OF RALPH THACHER, VICE PRESIDENT, BURR BROTHERS BOAT YARD, MARION, MASS.; ACCOMPANIED BY BILL GASTON, BOATING INDUSTRY ASSOCIATION; AND TOM BOGGS, COUNSEL

Mr. THACHER. Mr. Chairman, may I have permission for Mr. Boggs, our Washington counsel, to sit with us also?

Mr. Chairman, my name is Ralph Thacher. I am vice president of Burr Brothers Boat Yard of Marion, Mass., and a member and past chairman of the Government Relations Committee of the National Association of Engine and Boat Manufacturers, and also a vice president of American Boat Council.

Appearing with me today are Bill Gaston of the Boating Industry Association, on my left, and Tom Boggs, the Washington counsel of BIA and NAEBM, on my right.

We are testifying at this hearing on a joint basis and represent the Boating Industry Association of Chicago, Ill., and the National Association of Engine and Boat Manufacturers of Greenwich, Conn. Together we have as members in excess of about 800 boat builders, engine and motor manufacturers, accessory producers and firms servicing the industry. We are also sponsors of affiliated groups representing marine distributors, dealers, boat owners, and others involved in pleasure boating.

We have been testifying on this bill and its predecessors for nearly 3 years, now, and there is probably not very much that we could say either to this subcommittee or to the House committee, that hasn't already been said by us before. We have been at this, as I said, 3 years.

We don't intend to reiterate, therefore, all of the earlier testimony given by the associations. Instead, we will simply attempt to give you a thumbnail sketch of our industry and what we see as the need for regulation. We will then try to touch upon the industry's sore points regarding the bill as it now stands.

To begin with, I think it is appropriate to point out that the boating industry—unlike the automobile, tire, or textile industries—is composed primarily of very small companies whose resources, in money and in technical and administrative personnel, are quite limited.

I don't mean to indicate that we don't have any large companies, because we do have perhaps five or six that we consider large in relation to the others.

Even these, however, are tiny compared with the smallest of the automobile manufacturers or rubber companies. The companies considered small in our industry are really very tiny companies.

According to the Commerce Department, 1967 Census of Manufacturers, the most recent statistics available to us, over 90 percent of all boat manufacturing companies reporting, roughly 1,400, had less than 50 employees; 60 percent had seven or less employees.

The report also indicates that the average boat manufacturing company had gross sales of \$330,000 in that year. The net profit obviously is much less than that amount.

Based on our experience in administering voluntary industry standards compliance programs, it is the small company which has difficulty

in complying with safety standards, and the products of small companies more often create safety problems. This is not to say, however, that all small companies are suspect, because some very high quality products are turned out by highly skilled craftsmen who build only a few custom-made boats each year, perhaps one or two.

The point I am trying to make is that if the act which the subcommittee is considering, or the enforcement policies adopted by the Coast Guard, create additional administrative costs, additional risks of loss, or additional difficulties in complying with standards, it is the small company that will be most seriously hurt. The volume of the small company's sales is simply not great enough to support the expense of additional administrative and technical personnel, insurance coverage, legal fees, et cetera, which may result if the regulatory program adopted is complex and cumbersome, or if the obligation imposed on the manufacturer is excessively severe.

Now, we would agree that if the price of keeping the small companies in the boating industry in existence is the acceptance of hazardous conditions for boat purchasers, then it may be that the boating industry, like the automobile industry, has reached the point where the small company has no place.

We don't believe that such a circumstance exists. Traditionally boats have been built by small boat builders. They have gone on for centuries, and they will continue to do it.

The record of the industry as a whole with respect to boating safety has been excellent. Less than 6 percent of all boating accidents over the past 10 years have been attributable to fault of hull, machinery or equipment.

Accidents due to these causes contributed less than 10 percent of all injuries and less than 5 percent of all fatalities during the period. Moreover, a substantial portion of these accidents involving equipment failure were, in fact, due to inadequate or improper or nonexistent maintenance of the equipment, not the original manufacture.

With the improper equipment maintenance category segregated out, the accidents, injuries, and fatalities attributable to defects in vessels or equipment sold can be seen to be a very, very small part of the total boating safety problem.

Moreover, the frequency of accidents, as related to the total number of vessels in use, has significantly declined over the past several years.

We like to think that this safety record is due in major part to efforts by our associations and other industry organizations in developing and publishing safety standards, and in encouraging members of the industry to voluntarily comply with those standards.

The incidence of voluntary compliance with safety standards developed by such organizations as the American Boat and Yacht Council, the National Fire Protection Association, and the Boating Industry Association has been very high. The incidence of equipment defects in products certified to be in compliance with industry standards has been negligible.

The industry standards are not compulsory, however, and we must admit that there are a few manufacturers who have apparently been unwilling to devote the necessary financial and technical resources to their programs. It is because of these really few marginal operators that we cannot disagree with the Coast Guard's decision, and that of the House of Representatives, that Federal imposition of minimum

safety standards for boats and associated equipment is appropriate at this time.

We believe, however, that the goal of achieving uniform compliance with reasonable safety standards can be obtained without imposing substantial additional burdens and administrative expenses on those companies which now maintain adequate quality control programs.

It is in order to avoid such unnecessary burdens that we are testifying before this subcommittee today. We believe that the small boat yards and the individual craftsmen still have an important place in the boating industry, and we are doing everything that we can to ensure that these types of operations will not be rendered unfeasible or uneconomic by the imposition of an unnecessarily complex and burdensome regulatory scheme under this act.

To this end, we have attempted, throughout the period of our involvement in the consideration of the proposed boat safety legislation, to ensure that the act eventually will:

- (1) Give assurance that standards and regulations will be reasonable and practicable and will meet the demonstrated need for boating safety;

- (2) provide reasonable protection against arbitrary or misguided administrative action;

- (3) provide that the adoption of standards will be timed in such a manner as to avoid the necessity of expensive retooling during any model year or costly modification of existing vessels;

- (4) limit Federal administrative involvement in the manufacturers' activities to that which is necessary for the accomplishment of the act's purposes; and

- (5) limit the sanctions imposed by the act to those which are necessary and appropriate to enforce compliance.

Having given you this brief background sketch of the boating industry, and having laid out the rationale for the associations' comments on the Federal Boat Safety Act, I believe it would be appropriate for me to defer at this time to Mr. Gaston, who is vice president of a boat manufacturing company, for a discussion of the specific suggestions which we have made and continue to support, in order to achieve the goals which I have just outlined.

It's been a pleasure to appear before the subcommittee today, and I will be happy to respond to any questions, but I rather think they should come after Mr. Gaston's testimony.

STATEMENT OF WILLIAM GASTON, BOATING INDUSTRY ASSOCIATION AND NATIONAL ASSOCIATION OF ENGINE AND BOAT MANUFACTURERS.

Mr. GASTON. My name is William Gaston. I am executive vice president of Gaston Boats, of Austin, Tex., and president of Bill Gaston Boats, a marine dealership in Austin. I am also chairman of the Government Relations Committee of the Boating Industry Association, and it is primarily in the latter capacity that I appear before you today.

I have brought with me a prepared statement for the record. However, I will confine my remarks orally to a brief statement of its major points.

As Mr. Thacher has indicated, he and I are testifying here on a joint basis on behalf of the two major trade associations representing recreational marine industry; I concur in Mr. Thacher's remarks.

The purpose of my testimony is to make specific suggestions as to the method of achieving the goals which Mr. Thacher has enumerated.

First, we believe that the provisions of the bill as it is presently drafted will provide a framework for the adoption of adequate, reasonable and practicable safety standards. In formulating the standards under the act, the Secretary is required to consider the needs of boating safety, available, existing boating safety standards, statistics and data, and whether the proposed safety standard are reasonable and appropriate.

Through active consultation with the Boating Safety Advisory Council to be established under this bill, administrators will take advantage of the expertise of industry representatives, State officials, and other interested parties.

This procedure will result in better safety standards, and a minimized expense to the Government. We would hope that this subcommittee will make clear that the required consultation and the required consideration of the relevant factors I have mentioned will be given great weight in the standards making process.

Second, we would hope that some assurance could be provided against arbitrary administrative action in promulgating the safety standards. The boating industry was made particularly aware of the dangers of administrative abuse of discretion by a rule made 4 years ago by the Secretary of Transportation under the Motor Vehicle Safety Act.

The Secretary determined that trailer truck lighting requirements should be applied to large boat trailers, those over 80 inches wide. The rule, requiring 16 different lights and reflectors on a boat trailer, was unreasonable and unsupported by any evidence on the record.

This subcommittee should make clear in its report its intention that files be maintained of information and comments received or relied on in carrying out the required consideration and consultation and that the information in these files serve as a basis for the findings of fact to support the standards.

We have been assured by the Coast Guard that they intend to follow this procedure. If this can be clearly spelled out, in the legislative history of this act, there will be at least some basis for obtaining a review of the Secretary's exercise of his discretion.

In a technical area such as this one, mistakes can be made. We are attempting to assure that they can be corrected before an irreparable injury occurs.

Third, with reference to the timing of the adoption of standards to avoid retooling during the model year, we would prefer to see that section 5(b) (1) be amended to specify a minimum notification period of 365 days from the date standards are issued, for requirements involving major product redesign, retooling, or major changes in the manufacturing process.

A 365-day minimum period would avoid the possibility of hasty and unplanned product changes, and would thereby make a greater contribution to boating safety.

We are reasonably satisfied with the present language with respect to the modification of existing vessels, provided it is recognized that

modification of existing vessels is an extraordinary measure which will create great expense to manufacturers and boat owners, and therefore should be required only where necessary to avoid a substantial safety risk.

Finally, we believe that the notification and reporting requirements contemplated under the bill as presently drafted strike an optimum balance between the public's right to protection and the manufacturer's right to operate free from administrative interference.

In view of the good safety record of the industry, the bill's present system of spot checks by the Coast Guard, together with reports by the manufacturer if he discovers that his product contains a safety defect or does not comply with the standards, will be adequate to assure compliance.

Although there are other areas of the act where we would like to see some revisions made, our difficulties in those areas are not serious. We believe that the act as it now stands is a reasonable piece of legislation, and if the suggestions and clarifications which I have suggested are carried out, the act will be workable from the industry's point of view.

In order to permit the initial standards to be published a reasonable time in advance of the next model year, we would hope that the act will be passed as soon as is reasonably possible.

Thank you very much for your consideration. I will be happy to attempt to answer any questions that you may have.

Senator LONG. I have a number of questions; I think I will just submit them to you, and you can provide the answers for the record.

Thank you very much, gentlemen.

(The statement and questions and answers referred to follow:)

TESTIMONY OF BOATING INDUSTRY ASSOCIATION AND NATIONAL ASSOCIATION OF
ENGINE AND BOAT MANUFACTURERS

THE FEDERAL BOAT SAFETY ACT OF 1971

Mr. Chairman and members of the subcommittee: My name is William Gaston. I am Executive Vice President of Glastron Boats, of Austin, Texas and President of Bill Gaston Boats, a marine dealership in Austin. I am also Chairman of the Government Relations Committee of the Boating Industry Association, and it is primarily in the latter capacity that I appear before you today.

As Mr. Thacher has indicated, he and I are testifying here today on a joint basis, on behalf of the two major trade associations representing the recreational marine industry. I concur in Mr. Thacher's remarks. The purpose of my testimony is to make specific suggestions as to the method of achieving the goals which Mr. Thacher has enumerated. I should point out that many of the problems which the Boating Industry has had with this bill have been thoroughly discussed at similar hearings over the past several years. I won't reiterate previous testimony, but will confine myself to commenting on what we believe are the crucial issues.

First, with respect to the question of whether the standards and regulations adopted under the Act will be reasonable and practicable, we believe that the provisions of the existing bill, if properly implemented, will provide a good framework for assuring the adoption of good standards. Section 5 of the bill requires the standards to be reasonable, and to meet the need for boating safety. Section 6 requires the Secretary, in formulating and prescribing standards under Section 5, to consider the extent to which the proposed standards will contribute to boating safety; consider relevant available boat safety standards, statistics and data; and consider whether the proposed standard is reasonable and appropriate for the particular type of boat or associated equipment for which it is prescribed. He must also consult with the Boating Safety Advisory Council, to be established in compliance with the Act.

We believe that these provisions intend that the standards initially adopted and enforced will closely follow the voluntary standards now in existence and utilized by the vast majority of the manufacturers in the boating industry. After adoption of the initial standards, those charged with administration of the Act, through active consultation with the Boating Safety Advisory Council, are expected to take advantage of the expertise of the industry representatives, state law officials and other interested parties represented on the Council, whenever updating or revision of standards is indicated. If these two guidelines are followed, we believe that the result will be not only better standards but also a minimization of the expenditure of government time and expense in connection with the standards-making process. We are assuming that this process of consideration and consultation will be more than a *pro forma* matter and to assure that this is the case, we would hope that this committee's record of proceedings and its report to the Congress would make it clear that the required consideration and consultation under Section 6 will be given great weight in the standards making process.

The second point, that of providing assurance against arbitrary administrative action, is somewhat related to the point which I have just made. In discussing this matter, I should point out that we do not intend to question the ability and willingness of the Coast Guard to administer this Act in a reasonable manner. We have, however, had some real problems with the Department of Transportation, in which the Coast Guard is now operating, and it is the Secretary of Transportation who is empowered under this Act to promulgate standards. Our experience with the Department of Transportation is very relevant and illustrative of the criticisms which we have of this Act's provisions with respect to the reviewability of administrative actions. Back in 1967, the Department of Transportation, acting pursuant to authority granted under the Motor Vehicle Safety Act, adopted lighting requirements for large boat trailers (over eighty inches in width). The Motor Vehicle Safety Act, like the bill we are now discussing, required standards to be reasonable, practicable and appropriate for the particular class of vehicles to which they would be applied, and required consideration of available existing standards. In promulgating the lighting requirements, the Secretary carried out his obligation to consider "existing standards" by considering the ICC lighting regulations applicable to large commercial trailer trucks. After considerable deliberations, during which the only comments received with respect to boat trailers were the industry's comments as to the total impracticability of applying the standards for trailer trucks to boat trailers, the Secretary—on the basis of information known only to him—determined that the trailer truck lighting requirements were indeed reasonable, practicable, and appropriate when applied to boat trailers. This finding was never supported by any evidence in any record, but was based merely on the Secretary's assertion that adequate consideration had been given to the specific requirements of boat trailers. Inasmuch as all of the manufacturers in the industry subject to the proposed standards and all other experts with whom we talked agreed that a standard requiring sixteen different lights and reflectors on a boat trailer was unreasonable, we filed a petition for judicial review and duly presented all of our arguments as to why we thought the Administrator had failed to carry out his obligations under the Motor Vehicle Safety Act to adopt standards which were reasonable, practicable and appropriate. To our dismay, the court not only refused to consider the substance of the standards, but also refused to consider whether the Secretary's required statutory findings were supported by any record, based on any available information or made in accordance with the requirements of the Motor Vehicle Safety Act. We were advised that in order to obtain a reversal of the standards we would have to demonstrate that the Secretary's action was "arbitrary and capricious." Since there was no way of determining what the basis of the Secretary's action was, it was totally impossible to carry this burden of proof. We therefore lost the case, and in our opinion, the good intentions of the Congress in adopting requirements for specific findings and considerations in the Motor Vehicle Safety Act of 1965 were to no avail. We would hope to be able to avoid a similar situation under this Act.

The Coast Guard has informed us that it expects to maintain files containing the information and comments received or relied upon in carrying out the consideration and consultation required by Section 6 of the Boating Safety Act and in complying with the rule-making provisions of the Administrative Procedure Act. We understand that the information in these files is to serve as the basis for the statutorily required findings as to reasonableness, meeting the need for boat safety and, where applicable, of the necessity for an early effective date or the necessity for alteration of existing vessels. We believe that it would

be proper and appropriate for this Subcommittee in its report on this bill to express its intention of requiring the maintenance of such files and of requiring that standards promulgated under Section 6 of the bill will be based on findings of fact which are duly supported by the information received by the Secretary in carrying out the required consideration. If this can be clearly spelled out in the legislative history of this Act, there will be at least some limited basis for obtaining a review of the Secretary's exercise of the discretion granted by the bill. In a technical area such as this, mistakes can be made. We are attempting to assure that such mistakes can be corrected before an irreparable injury occurs.

With respect to the third point: timing the adoption of standards to avoid retooling during a model year or modification of existing vessels, we would prefer to see Section 5(b) (1) amended to specify a minimum notification period, for any case involving major product redesign, retooling, or major changes in the manufacturing process, of 365 days from the date of standards issuance. We believe that the 365-day minimum period would avoid the possibility of hasty and unplanned product changes to comply with new standards as to which adequate notice is not provided. Thus, we believe the 365-day notification period would make a greater contribution to boating safety. With respect to the modification of existing vessels, we are reasonably well satisfied with the present language provided that it is recognized by the administering agency that modification of existing vessels is an extraordinary measure which will create great expense to manufacturers and boatowners, and should therefore be required only where necessary to avoid a fairly substantial safety risk. We believe that the Coast Guard understands this section to be an extraordinary remedy but would hope that this point could be made clear in the Subcommittee's report on this bill. Also, for purposes of clarification, we would suggest that the words "within that" in the third line of the subsection be deleted and that the words "subject to" be inserted in place thereof.

On the fourth point outlined by Mr. Thacher—the desirable degree of federal administrative involvement in the manufacturer's day-to-day activities—we believe that, in view of the limited clerical, administrative and legal personnel resources of many of the small companies in our industry, it is desirable to minimize the requirement for periodic reporting to and consultation with federal authorities. In this regard, we believe that the enforcement program as contemplated under the bill as it presently stands is very good. That is, the Coast Guard promulgates standards and enforces them through spot checking boats and associated equipment which are actually being sold on the market. The manufacturer is required to report to the Secretary only if he discovers that a product manufactured by him did not comply with standards or contained a defect, which he determines in good faith relates to boat safety. In view of the good safety record of the industry, there is no reason to suppose that this system of relying on the good faith of manufacturers, together with spot checking by the federal administrative agency, will not be adequate to assure manufacturer compliance with safety standards and proper manufacturing practices. It would permit the Coast Guard to limit its involvement in the manufacturer's quality control and customer relations programs to those situations in which there is a fair likelihood that problems actually exist and would limit the manufacturer's expenses in record-keeping, reporting, and consultation with federal authorities to a manageable level.

We note that, in connection with other consumer legislation which has been proposed for consideration, it has been suggested that a manufacturer be required to notify and consult with the administrative agency whenever he discovers *evidence tending to show* that his product *may* have been defective. Under this kind of provision, notification and consultation would be required even where the manufacturer, in the exercise of his best judgment, determines that the likelihood of any safety problem is negligible. We believe that this increased burden would result in unnecessary expense to the manufacturer and would also divert limited Coast Guard personnel resources from activities which would be more productive in terms of boat safety. Accordingly, we would oppose any such amendment to this bill.

It has also been suggested, with respect to other proposed consumer legislation, that the form which manufacturers must use to notify purchasers of their products as to the existence of defects or non-compliance with standards, should be expressly determined by statute; and that administrative approval should be obtained in order to deviate from the statutorily prescribed format. In our opinion such a provision would unnecessarily involve the Coast Guard in the

customer relations programs of boat manufacturers, and would result in unavoidable delays in giving notice of defects when they occur.

In closing on this subject, let me say that in our experience when manufacturers have discovered problems with their products, they have taken immediate and direct action to remedy those problems at no cost to the consumer. Section 15 of the existing bill will permit manufacturers to continue this practice with a minimum of administrative red tape. Section 15 has proved workable in the case of the automobile industry and in view of the boating industry's record of responsibility in the area of safety, we believe that a similar provision should be adopted in this Act.

Finally, with respect to the fifth point: the sanctions to be imposed against manufacturers, we would like to reiterate the adamant opposition of the Associations and their member manufacturers to the imposition of criminal penalties for the manufacture and sale of boats or associated equipment which do not comply with the standards adopted under the Act. As was pointed out in the Associations' testimony before the House Merchant Marine Committee, other transportation statutes, such as the Federal Aviation Act and the Federal Motor Vehicle Safety Act, do not provide criminal penalties for willful violations of manufacturing standards. In view of the good safety record of the boating industry, the Associations do not believe that their members should be singled out for special treatment in this respect. In view of the technical nature of a standards violation under the Act, and in view of the broad interpretation which has been given by some courts to the term "willful violation," imposing criminal penalties in this law could subject manufacturers to threats of imprisonment, even though they have had no criminal intent in the traditional sense of the word.

We further pointed out in the House that, in view of the limited financial assets of most of the companies in the industry, the civil penalty (which at that time was \$50,000 for any related series of violations), was more than adequate to enforce compliance with standards under the Act. Moreover, we pointed out that any really criminal violation of the Act would almost certainly involve a false certification that the product sold complied with the safety standards under the Act. Such a false certification, if willfully made, would be a violation of Section 1001 of Title 18 of the United States Code, and that section provides for severe criminal penalties. The House Committee determined that the needs of boating safety could best be met by deleting criminal penalties and raising the civil penalties from \$50,000 to \$100,000 for each series of related violations. While we feel that this potential civil liability can be a great burden on the small manufacturer, we felt at that time and continue to feel that a high civil penalty would be much more acceptable to the companies in our industry than the possibility of criminal sanctions for a technical violation of standards. We hope that this Subcommittee will concur with the judgment of the House of Representatives in this matter.

That concludes my specific comments on the Act. While there are other areas where we would like to see some revisions made, our difficulties in those areas are not serious. We believe that the Act, as it now stands, is a reasonable piece of legislation; and if the suggestions and clarifications which I have suggested are made, will be workable from the industry's point of view. In order to permit the initial standards to be published a reasonable time in advance of the next model year, we would hope that the Act would be passed as soon as reasonably possible.

Thank you very much for your consideration. I will be happy to attempt to answer any questions which you may have.

QUESTIONS DIRECTED TO MR. THACHER

Question. Mr. Thacher, your association has been active in the development of this legislation. I believe that in the House you characterized your few remaining problems as "not too serious." In general, you support this bill and think it is good legislation?

Answer. The Associations support the passage of this bill in its present form. As is the case with any legislation, its practical impact will depend on how it is administered. We are confident of the Coast Guard's ability to administer this legislation in a reasonable and practical manner and this being the case we do not feel that the legislation will have a serious adverse impact on our industry. However, we believe that the Committee's report on this bill can be of great assistance to the Coast Guard in administering the Act and it is for this reason

that in our testimony we have pointed out certain areas in which we feel that clarification or amplification would be appropriate.

Question. You stated that there are five or six relatively large companies in your industry. Can you tell me approximately what percentage of all boats these few companies manufacture?

Answer. We do not have access to statistics which permit us to determine accurately the market share of the companies in the boating industry. We would categorize about seven companies in the industry as "relatively large companies". While we do not have precise data, it is our opinion that the boating industry is not a "concentrated" industry and that, in terms of units sold, a very substantial portion of the boat market is served by smaller companies.

Question. At page ten of your statement you suggest that, when a manufacturer discovers a defect, he corrects it at his own expense. Do you have any evidence that this practice is complied with by all 1,400 boat manufacturers? (If not, don't you think it should be required?).

Answer. Our Associations have not kept statistics regarding the incidence of recall campaigns and, thus, could not state categorically that a recall has been undertaken every time a defect has been discovered. However, we can state that in the few instances of which we are aware in which safety related defects have been discovered, the manufacturers have undertaken to cause the modification of the affected vessels at no cost to the purchaser. Moreover, we are aware of some instances where modifications were made even though the defect was not deemed to be safety related. The problem with statutorily imposing an obligation to recall is that complex administrative procedures with accompanying delays will invariably result. Further, the possibility of an administratively compelled recall program would likely have a deterrent affect on the manufacturers' good faith compliance with the notification provisions set forth in Section 15. Finally, the present bill appears to offer significant incentives for institution of recall proceedings in that it provides that the amount of the civil penalty assessed may be mitigated by consideration of the extent to which the person charged has attempted to remedy the consequences of his violation and there is also the treat of products liability actions under state law. Thus, we do not believe that it is appropriate at this time to single out the boating industry for special treatment by adopting a provision for administratively compelled recall, and we would oppose the inclusion of such a provision.

Question. Can you provide for the Committee a copy of the voluntary standards that your Associations have adopted?

Answer. We are transmitting herewith copies of the latest American Boat and Yacht Council and Boating Industry Association engineering and safety standards.

Question. It has been suggested that Section 15 be amended to require that the manufacturer exercise reasonable diligence in maintaining a list of first purchasers. What is your view?

Answer. We certainly do not object in concept to the requirement that a manufacturer exert a reasonable level of effort in ascertaining who purchases his products. However, we should point out that this is not an easy matter. Because of the threat of products liability actions under state laws, several of the companies in our industry have already made extensive efforts to keep records of "first purchasers." To date, because of the particular dealer-distribution system in the boating industry, because of the non-uniformity of state registration systems and because of the unwillingness of boat purchasers to notify the manufacturers of their names and addresses, efforts in this area have not produced satisfactory results. Thus, while we don't object to exercising reasonable diligence, we don't want to go into the reporting and record keeping business, and, absent a really major effort on the part of all manufacturers we would question whether adequate lists of first purchasers could be obtained. Accordingly, if a requirement for reasonable diligence is adopted, we would hope that the Committee's report would specify a relatively simple manner in which this requirement of due diligence can be met. Furthermore, we believe that every effort should be made to encourage the states to upgrade their record keeping and registration systems to the point where a manufacturer wishing to give notification of a defect could obtain the names and addresses of first purchasers from the state registration lists. We understand that the Coast Guard is making some efforts along these lines and trust that these efforts will be encouraged and implemented.

QUESTION DIRECTED TO MR. GASTON

Question. Mr. Gaston, there have been suggestions that the bill be amended to make the civil penalties applicable to corporate officers who willfully cause a violation of the Act. What is your view?

Answer. As we have indicated in our testimony, the safety record of the boating industry, as a whole, is excellent and the sanctions provided by the bill as it presently stands are more than adequate to compel universal compliance with the mandatory minimum safety standards. Thus, in our opinion, there is no necessity for imposition of an additional sanction such as that which has been suggested.

Moreover, if applicable to corporate "agents" which would be the case under some of the suggested language which we have seen, the additional sanction would impose severe burdens on our assembly line employees and could result in serious difficulties in contract negotiations for the companies in our industry which are unionized. Labor representatives have historically opposed the imposition of sanctions such as this, as, for example, in the oil pollution section of the Federal Water Quality Improvement Act of 1970.

In the past, there have been several instances where material shortages, truckers' strikes or similar unusual circumstances have given rise to the necessity for substitution of non-standard parts in order to avoid plant shutdowns. For example, assume that we have a nationwide truckers' strike and that needed components for boats fail to arrive prior to production. Management is faced with the decision to close the plant and lay off all employees or substitute parts that may not meet standards promulgated by the Coast Guard.

If, in management's opinion, a part can be substituted which functions satisfactorily and if the Coast Guard and the vessel purchasers are warned of the technical non-compliance with standards, management would normally determine to continue production and no real safety hazard would be created. However, if corporate officers can be held personally liable for such action, the tendency would be to close the plant, to the detriment of the employees, rather than face the possibility of personal civil liability.

Secondly, there may be circumstances where an unrealistic or unreasonable standard, coupled with the possibility of individual civil sanctions, will place management in a totally untenable position. For example, there is presently a dispute between industry and the Coast Guard with respect to bow lighting on certain small fishing boats. The Coast Guard regulation, as required by statute, specifies a combination light on the center line of the vessel. However, many small boats of this particular class are equipped with front mounted electric trolling motors which obscure lights when mounted on the center line. In the interest of safety, many have substituted off center or separate red and green lights for the combination light required to be on the center line. As a manufacturer, I am faced with one of three alternatives: (1) put legal lights on which will not be visible; (2) put on lights which can be seen but risk individual civil penalties, or; (3) put no lights on the boat and let the dealer or the consumer violate the law.

While this standard is being tested, and prior to its revision, I feel that the best way of protecting the consumer and providing him with a good product is to follow the second alternative set forth above. I feel that my company's reputation and the saleability of its products will be enhanced by following that alternative. However, if I encounter personal civil liability as a result of doing what I think is right in this circumstance, I would be more likely to take the easier way out provided by either alternative 1 or alternative 3. I have nothing personally to gain from risking the imposition of civil sanctions and certainly have a lot to lose.

This industry is a competitive low profit business now. Excessive control and harassment could drive needed personnel out of our industry to one like the automobile industry or the aircraft industry where no such penalties now exist. We would, therefore, strongly oppose the imposition of individual civil sanctions in this legislative.

Senator LONG. The next witness will be Mr. Richard Schwartz, executive director, Boat Owners Association of the United States.

STATEMENT OF RICHARD SCHWARTZ, EXECUTIVE DIRECTOR,
BOAT OWNERS ASSOCIATION OF THE UNITED STATES

Mr. SCHWARTZ. I am Richard Schwartz, executive director of Boat Owners Association of the United States, generally known as "BOAT/U.S." with headquarters at 1028 Connecticut Avenue, Washington, D.C.

BOAT/U.S. is the only independent, broad service organization of boatmen in the country today. Our organization is not affiliated with any manufacturer, dealer, or any other industry or private group.

Our membership, now exceeding 10,000 and located in all 50 States, is made up entirely of boat owners and boating enthusiasts. We firmly believe that our membership represents a national cross-section of the more serious boatmen of this country.

I have a statement which I have submitted for the record.

Senator LONG. We will print the entire statement, and you may summarize it if you wish.

Mr. SCHWARTZ. Thank you.

We support the proposed legislation with respect to the regulation of manufacturers and the setting of standards we first suggested in 1967. It is very gratifying to see the position we had back at that time now in this firm legislative proposal under consideration.

With more and more leisure time available, more Americans are turning to boating as one of their major recreational activities, and there is no indication that the upswing of boating will taper off.

With the situation we have now, in which we have more than 8½ million boats on the water today, we are very rapidly increasing the magnitude of the safety problem and we have reached a point where steps are now overdue if we are to control the problem in the next few years.

In addition to mounting traffic on the waterways, the fast growth also reflects another problem, the larger number of inexperienced and novice boatowners.

We feel, therefore, that the burden has to shift more to the knowledgeable, and they are the manufacturers and dealers.

As matters stand today, the entire responsibility for ascertaining that a boat is properly equipped to meet legal requirements and constructed to meet minimum safety standards falls completely upon the boatowner—a novice, perhaps, who may barely be able to operate a boat safely, no less understand engineering and construction principles.

We do want to acknowledge the strides that manufacturers have made on their own initiative over the past few years. The efforts to determine and adopt standards within their own industry have been commendable and have made a noteworthy contribution to safer boating.

However, their entire effort is a voluntary one, and neither competition nor self-interest will force all manufacturers to accept these standards.

In fact, industry readily admits that one-fourth of all boat manufacturers do not comply with basic standards. It is not questionable that boats are being manufactured and sold to the public which do not meet the industry's self-imposed minimum safety standards. It is now time that the boat manufacturers assume a legal responsibility for the boat's safe construction and outfitting requirements.

May I interject here a comment concerning the industry representative's earlier statement this morning that only 6 or so percent of boating accidents are attributable to the failure of boat systems. I would like to quote from Admiral Bender's formal statement for the record, however, that "in a recent analysis of Coast Guard assistance reports, we found that 48 percent of recreational boating assistance cases could be attributed either to engine breakdown or system failures. It seems that system reliability—is not entirely satisfactory, since in 1969 there were over 31,000 Coast Guard responses to assistance calls from recreational boats. Our accident statistics show that about 70 percent of accidents are attributable to the fault of the operator, but when we examine accident reports, we can often see a chain of avoidable circumstances leading to the accident."

I think that improvement in the manufacture and quality of hulls and associated equipment should bring about considerable reduction in system failures, and the 6 percent figure used earlier here doesn't really reflect the full situation.

There are many more search and rescue cases which, thank goodness, do not involve fatalities, but which could, which should be reduced or mitigated considerably by improvement in boat systems.

We feel that the bill now pending before the committee provides an excellent scheme for regulating construction and use of boats and associated equipment, and we wholeheartedly endorse its approach.

However, we would like to see certain provisions clarified or strengthened in the interest of further enhancing safety and protecting the consumer boatmen. None of the modifications we urge upon you here would appear to us to be unreasonably burdensome for the industry.

First of all, we would like to see section 5(b)(2), which provides that a new regulation or standard may not compel the substantial alteration of a boat in existence or the construction of which has commenced before the effective date of the regulation.

In other words, the subsection provides that the effective date of the regulation cannot be less than 180 days, or more than 18 months after the date of promulgation . . . and industry is now suggesting that this be a longer period of time.

The problem we see here is that in the time between issuance of the regulation and the effective date, which could be 6 months or a year and a half, a manufacturer could commence an unusually large number of boats by merely laying the keel, for example, in order to avoid the effect of the new standards, which may involve a significant change or additional expense in construction costs.

We recognize that the industry needs time to adjust production lines to implement some changes, but we feel some sort of safeguard is necessary in this provision to prevent contrived construction starts and the possible subversion of the impact of a new standard designed to reduce a substantial hazard.

One of the most important provisions of the bill is the part providing for the manufacturer's notification of boat defects. We feel that this does need some clarification. Subsection (a) places the matter of notification solely in the hands of the manufacturer, who is entrusted to determine in good faith which defects relate to the safe use of the boat.

We feel the present wording places too much responsibility in the hands of the regulated party here, and we strongly recommend the statute be tightened up by any one of a number of alternative means, preferably by giving the Secretary explicit authority to determine the type of defects which would require notice, or secondarily by changing the "good faith" provision to a "due care" or "reasonable and prudent" standard.

Under section 15, notice is to be directed to the first purchaser only when known to the manufacturer. We would like to see the manufacturer be responsible to give notice to the first purchaser in all events. They should know who their first consumer purchaser is, that is, a nondealer purchaser.

We suggest section 15 be clarified so that a defect does not relate only to noncompliance with an issued safety standard, but also includes any defect in the boat or equipment which creates an unreasonable risk of injury or hazard.

Section 15 as now written does not apply to associated equipment. This allows major components to escape from the requirement relating to the notification of defects. We do not think this was intended, and suggest the language be changed and clarified so as to make clear that it applies to certain major equipment items or assistance.

Finally, with respect to notification of defects, we feel that this section is deficient in one respect. As the provision now reads, once the manufacturer gives notice of the safety defect to the purchaser he has completely satisfied his obligation to the purchaser.

If the defect is serious enough to activate the notification system, then it is obviously serious enough to require correction. We urge very strongly that this correction or repair should be explicitly made the responsibility of the manufacturer. The manufacturer should be required, at his option, to either repair the defect, replace the boat, or refund the purchase price.

With regard to section on civil penalties, we would like to see clarified that each defective boat constitutes a separate violation, so that a violation in the production of 200 boats would be twice as serious as a violation in the production of 100 boats.

And as section 35(a) now stands, the \$2,000 penalty applies only to the manufacture or sale of a boat which does not conform to the regulations or standards prescribed. All other violations of the act are liable to a civil penalty of \$500, which in the case of the manufacturer is quite nominal and ineffective, we feel. We urge that other types of potential violation of this act related to the conduct of manufacturers should also be made subject to the \$2,000 civil penalty of subsection (a).

Finally, with respect to penalties, we would urge a provision which would place personal responsibility upon an officer or director of a corporation who orders or willfully authorizes an act which is in violation of the provisions of the statute.

Since criminal penalties on manufacturers have been eliminated from the earlier versions of this bill, and since the civil penalty would be relatively light for large companies, we feel such personal liability in willful cases would make enforcement more effective.

Going to the other major goal of the bill, we certainly support the objective of State boating programs, and financial assistance by the Federal Government.

We feel that this approach in the bill retains responsibility for implementation at the State level, while promoting a necessary degree of uniformity among the States by standards or qualifications to be set up by the Federal agency.

And, of course, it provides the generally hard-pressed States with the much needed funds necessary to make old and new housing safety programs work.

We also concur with the provisions of the bill which consolidate into one boating act all the provisions of the Motorboat Act of 1940 and the Federal Boating Act of 1958, with the new authorizations of the pending legislation. It provides new flexibility that will permit changes to be made as boating conditions and technology change by placing authority in the Secretary to specify standards and equipment in lieu of the detailed specifications of present statutory law.

In closing I would like to note for the committee my feeling that the proposed legislation presents a real opportunity to move forward in a significant way toward meeting the growing safety problem in recreational boating.

This is the first major piece of legislation directly concerning the boating community in 12 years. And although most boatmen are hesitant to seek further governmental regulations, we have come to learn from our members across the country over the past few years that a large part of this community would like to see legislation of the nature being proposed in the pending bill.

We would urge expeditious action by the committee. As you are aware, this type of legislation has now been pending for almost 4 years before the Congress, and hopefully we can see it through this session.

On behalf of our association members, Mr. Chairman, I want to thank you and I will be happy to answer any questions.

Senator LONG. Thank you very much, sir. With respect to the point you raised about notification of first purchasers, how would you propose to fulfill that requirement?

Mr. SCHWARTZ. The boat may be sold directly, but most commonly is sold through dealers, and the dealer would be required to keep a record. The easy way would be through the warrantee card system, which is included with the boat and sent in by the purchaser. But the dealer should be made responsible for making sure that the manufacturer has available the names and addresses if he calls for them.

Senator LONG. I will submit further questions to you, if you will provide the answers for the record.

Thank you very much.

(The statement follows:)

STATEMENT OF RICHARD SCHWARTZ, EXECUTIVE DIRECTOR,
BOAT OWNERS ASSOCIATION OF THE UNITED STATES

Mr. Chairman and members of the committee: I am Richard Schwartz, Executive Director of Boat Owners Association of The United States, generally known as "BOAT/U.S." with headquarters at 1028 Connecticut Avenue, Washington, D.C.

We are the only independent, broad-service organization of boatmen in the country today. Our organization is not affiliated with any manufacturer, dealer, or any other industry or private group. Our membership, now exceeding 10,000 and located in all 50 states, is made up entirely of boat owners and boating enthusiasts. We firmly believe that our membership represents a national cross-section of the more serious boatmen of this country.

It is a particular pleasure to have this opportunity to comment before your Committee because, first, we apparently are one of the few representatives in

these hearings who can state unequivocally that our only interest is the ordinary "man on the water"—the boatman for whom, in the end, all this consideration is for and who will be most affected by the conclusions and recommendations arrived at by your Committee.

Secondly, we cannot help but feel that we have assisted in paving the way for the approaches which the proposed legislation reflects in its objective to promote recreational boating safety. Over four years ago, in October 1966, we publicly stressed the need for placing increased responsibility on manufacturers in connection with the enforcement of Coast Guard ventilation regulations. Then, in the summer of 1967 in our testimony before the House Committee on Government Operations during their study of recreational boating safety we elaborated on the necessity for setting up minimum safety standards for boats and equipment and the regulation of manufacturers under these standards. It is very gratifying to see our lone position back then in the firm legislative proposal now under consideration here before this distinguished Committee. In passing, I also would like to note and express our wholehearted approval of significant steps taken by the Coast Guard in addressing themselves to recreational boating activity since we called for a new focus and reorientation by them during the 1967 hearings. We applaud the vigor with which they are now handling the boating safety problem.

Need for construction and performance standards

With more and more leisure time available Americans are turning to boating as one of their major recreational activities and there is no indication that the upswing in boating will taper off. There are now an estimated 8.6 million recreational boats on the water today—and a growth rate of 4,000 boats a week, some authorities report. With a situation like this, we are very rapidly increasing the magnitude of the safety problem and have reached the point where steps are now overdue if we are to control the problem in the next few years. In addition to mounting traffic on the waterways, the fast growth also reflects another problem—a larger number of inexperienced and novice boat owners. We feel, therefore, that the burden has to shift more to the knowledgeable, and they are the manufacturers and dealers. In 1967 we had testified, "If anyone is more qualified than the boat buyer to understand and implement safety requirements, it is certainly the manufacturer who produces the boat." As matters stand today, the entire responsibility for ascertaining that a boat is properly equipped to meet legal requirements and constructed to meet minimum safety standards falls completely upon the boat owner—a novice, perhaps, who may barely be able to operate a boat safely, no less understand the complexity of boat construction and design and the details of equipment regulations. I hasten to add that even seasoned skippers are not generally familiar with engineering and construction principles or with all equipment requirements. So, we feel that the most significant objective of this Bill is the setting of boat construction and equipment standards and their enforcement at the manufacturers level.

We do want to acknowledge the strides that manufacturers have made on their own initiative during the past several years. The efforts to determine and adopt standards within their own industry have been commendable and have made a noteworthy contribution to safer boating. However, their entire effort is a voluntary one. They can only implore their fellow manufacturers to conform to the standards their own committees agree upon. Neither competition nor self-interest will force all manufacturers to accept these standards (which in many cases will increase production costs). And then there are always the irresponsible producers who are today immune. In fact, industry readily admits that one-fourth of all boat and equipment manufacturers do not comply with their basic standards.

It is not questionable that boats are being manufactured and sold to the public which do not meet the industry's self-imposed minimum safety standards. More than that, there is also little question boats are being sold today that do not meet the present minimal government requirements—requirements under existing law that today can be enforced only against the boat owner. It is now time that the boat manufacturer—as with the automobile manufacturer—assume a legal responsibility for the boat's safe construction and outfitting requirements.

Boat and equipment standards and use provisions

We feel that the Bill now pending before the Committee (S. 696) provides for an excellent system of regulating the construction and use of boats and associated equipment. We whole-heartedly endorse its approach.

There are, however, a few important provisions we would ask you to strengthen or clarify—all, we feel, in the interest of further enhancing safety and protecting the consumer boatmen. And none of the modifications we urge upon you here would appear to us to be unreasonably burdensome for the industry.

(1) Section 5(b)(2) provides that a new regulation or standard may not compel the substantial alteration of a boat in existence or the construction of which has commenced before the effective date of the regulation. The previous subsection provides that the effective date of the regulation cannot be less than 180 days or more than 18 months after the date of its promulgation. The problem we see here is that in the time between issuance and effective date a manufacturer can "commence" an unusually large number of boats by merely laying the keel, for example, in order to avoid the effect of a new standard, which may involve a significant change or a substantial increase in construction costs. We recognize that industry will need time to adjust their production lines to implement some changes, but we feel that some sort of safeguard is necessary in this provision to prevent contrived production starts and the possible subversion of the impact of a new standard designed to reduce a substantial hazard.

(2) Section 15 involving the manufacturers' notification of boat defects is one of the key provisions of this regulatory system and needs clarification, we feel, in a number of respects:

(a) Subsection (a) places the matter of notification solely in the hands of the manufacturer, who is entrusted to "determine in good faith" which defects relate to the "safe use of the boat". We feel that the present wording places too much and too ambiguous responsibility in the hands of the regulated party here. We strongly recommend that the statute be tightened up by any one of a number of means, preferably by giving the Secretary explicit authority to determine the type of defects which would require notice; or secondarily, by adding such authority to the present provision; and as a minimum, by changing the "good faith" standard to a "due care" or "reasonable and prudent" standard. Furthermore, in any event, the Secretary certainly should be authorized to overrule a manufacturer's determination that a defect does not relate to the safe use of the boat.

(b) In line with the above, we would also request that notification of a defect be given first to the Secretary. As the section now stands the Secretary's only notification is by copy of communications to purchasers or dealers.

(c) Under Section 15 notice is to be directed to the first purchaser only "when known to the manufacturer". As now written it is advantageous for the manufacturer to utilize a distribution system in which he would not know who the first purchaser was. We strongly recommend that notice be required to all non-dealer first purchasers in every case. We do not feel it would be too onerous for the manufacturer to set up distribution systems with his dealers which would assure that he would have knowledge of the first purchaser.

(d) We suggest that Section 15 should clarify that a "defect" does not relate only to non-compliance with an issued safety standard, but also includes any defect in a boat or equipment which creates an unreasonable risk of injury or hazard.

(e) Section 15 as now written does not apply to "associated equipment". This allows such major systems as the engines, communications or other components to escape completely the requirements relating to notification of defects. Surely this was not intended, and we suggest that the language be clarified to apply to certain major equipment items or systems to be determined by the Secretary.

(f) Finally, we feel this Section is deficient in a very important respect. As the provision now reads, once the manufacturer gives notice of the safety defects to the purchaser he has completely satisfied his obligation to the purchaser. If the defect is serious enough to activate the notification system, then it is obviously serious enough to require correction. We urge very strongly that this correction or repair should be explicitly made the responsibility of the manufacturer. The manufacturer should be required, at his option, to either repair the defect, replace the boat or refund the purchase price.

(3) A modification of a minor nature would be desirable in Section 24. It provides that governmental authorities must under certain conditions furnish federal numbering and registration information to manufacturers. We

feel that there is no reason to limit the applicability of this provision to manufacturers, and that any person or organization who can meet the same conditions should be able to have access to the same information. The provision as it now stands appears to be quite discriminatory without justification.

(4) We feel that Section 35 setting forth the civil penalties should be strengthened or clarified in the following respects:

(a) We recommend it be made clear that each defective boat constitutes a separate violation, so that a violation in the production of 500 defective boats would be twice as serious as a violation in the production of 250 boats.

(b) As Section 35(a) now stands the \$2,000 penalty applies only to the manufacture or sale of a boat which does not conform to the regulations or standards prescribed. All other violations of the Act are liable to a civil penalty of only \$500 under Subsection (b), which in the case of a manufacturer is quite nominal and ineffective, we feel. We urge that other types of potential violation of the Act related to the conduct of manufacturers should also be subject to the \$2,000 civil penalty of Subsection (a). Thus, such acts as failure to give a certification, the rendering of a false certification, or failure to abide by the notice of defect provisions would also subject the manufacturer to the more effective penalty.

(c) Finally, with respect to penalties, we would urge a provision which would place personal responsibility upon an officer or director of a corporation who orders or willfully authorizes an act which is in violation of the provisions of the statute. Since criminal penalties on manufacturers have been eliminated from the earlier versions of this Bill, and since the civil penalty would be relatively light for large companies, we feel such personal liability in willful cases would make enforcement more effective.

(5) As a technical nature, we would recommend a savings provision with respect to the consumers' private remedies, which is not touched upon by the present Bill. We would like to see it explicitly clarified that compliance with standards issued under the Act does not relieve the manufacturer from liability under State or common law in private law suits. It should be made clear that this Act does not preempt state or common law. In addition, we would further state that the failure of the Secretary to promulgate a standard shall not be admissible in a private proceeding. This would preclude a manufacturer from utilizing against the consumer the lack of a standard as evidence of a safe condition.

State boating programs and assistance provisions

Another major objective of the Bill addresses itself to State Boating Programs and coordination and financial assistance or grants (up to 75% of total costs) by the federal government. We feel that the approach taken by the Bill is a good one. It retains responsibility for implementation at the State level while promoting a necessary degree of uniformity among the states by the standards of qualification to be set up by the federal agency. And, of course, it provides the generally hard-pressed states with the much needed funds necessary to make old and new boating safety programs work. The federal grant-in-aid approach is the alternative to direct and total federal action because in any event the task of operator education, enforcement patrols, safety inspections, accident investigations, emergency services and any number of other safety programs must be carried out, and on a much larger scale than they have ever been before. If the States will not accept this assistance and impetus offered by the federal government, then the federal government must get these same tasks started. Toward this end, therefore, we would recommend that the Bill be broadened in this part to permit the diversion of funds appropriated for state grants into interim federally-conducted programs of the same nature and purpose to the extent that states do not move to qualify themselves and thereby utilize the appropriations or attempt to fulfill the necessary programs.

While the subject of operator licensing, suggested as a possible state boating program in the 1968 version of the Recreational Boat Safety Act, has been deleted we are pleased to see that the 1971 measure will leave this matter up to the states as a possible "experimental program to enhance boating safety". We also note with pleasure that the House Committee report on this Bill explicitly interpreted Section 22 "Safety Certificates" to permit the states to institute a certification or licensing program if they so desired. Some states have only a

small boating community and comparatively little problem with safety which may not warrant administering a formal state-wide certification program. However, a state could determine that some form of certification or licensing is needed in heavily congested boating areas as evidence of a boatman's knowledge of waterway rules and basic safety practices. A 1969 survey report by this Association tabulating the results of 9,826 boatmen, involving both Association members and non-members, indicate that boatmen in heavily populated areas actually prefer a licensing program. We have included a copy of this report as an appendix to our testimony. Although we are not here taking a formal position on operator licensing, we feel that states desiring to establish a licensing program should be able to do so under the federal financial assistance provisions of this Bill. We urge the Committee to make it clear in its report that such a program would qualify. We believe that such an "experiment" by a state would provide results which would be helpful to the entire boating community.

Other provisions

We also concur with the other major objective of the Bill which consolidates into one comprehensive boating act provisions of the Motorboat Act of 1940 and Federal Boating Act of 1958 with the new authorizations of the pending legislation. Furthermore, it provides for new flexibility that will permit changes to be made as boating conditions and technology change by placing authority in the Secretary to specify standards and equipment in lieu of the detailed specifications of present statutory law.

We also support the numbering of all vessels propelled by machinery; the "good samaritan" clause whereby a boatman may render assistance to another in distress without fear of non-negligent liability; the authority to order a skipper off the waters for violation of regulations or under hazardous conditions; and the pre-emption of federal regulations, to name the more important new provisions.

Conclusion

In closing, Mr. Chairman, I would like to note for the Committee my feeling that this proposed legislation presents a real opportunity to move forward in a significant way toward meeting the growing safety problem in recreational boating. As important as the Federal Boating Act of 1958 was to recreational boating—initiating boat registration and statistical reporting—the proposed Act before you will far eclipse the 1958 Act by its broadly mounted attack on the causes of deaths, accidents and property damage, and by its substantive programs aimed at ignorance, carelessness and recklessness.

This measure is the first major piece of legislation directly concerning the boating community in 12 years. And, although most boatmen are hesitant to seek further governmental regulations, we have come to learn from our members across the country over the past few years that a large part of this community would like to see legislation of the nature being proposed here in the pending bill.

On behalf of our Association's members, Mr. Chairman, I want to thank you and the members of your Committee for giving us the opportunity to present our views. If you or other Committee members have any questions I would be happy to respond as best I can.



BOAT OWNERS
ASSOCIATION
OF THE
UNITED STATES

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Club; British Keel Yacht Club

Executive Director: Richard Schwartz

A Study Based On An Opinion Survey Of The Recreational Boating Public

conducted by

Boat Owners Association of The United States

INTRODUCTION

Boat Owners Association of The United States (BOAT/U.S.) has completed a comprehensive nationwide survey of almost 10,000 Association member and non-member boatmen to determine the boating public's attitude on the basic question:

"SHOULD OPERATORS OF RECREATIONAL BOATS BE LICENSED?"

The results of the survey -- and the public's answer to the question -- are presented in detail in this report.

Boat Owners Association of The United States is an independent, non-profit service association of boatmen. Its membership of approximately 10,000 is located in all 50 states.

BOAT/U.S. is not connected with any company, trade organization or government agency. It has not yet taken an official stand on the subject of licensing. This report does not purport to make a case for or against licensing, nor to touch upon the feasibility of implementing a licensing program. The only purpose of the survey and this study is to ascertain and report as objectively as possible the views of the nation's boatmen.

The survey was not restricted to the membership of BOAT/U.S. nor to any geographic area, owners of a particular type boat or age group. The survey included all types of owners and operators who use the waterways for recreation.

Richard Schwartz
Executive Director

December 1, 1969

SURVEY METHODOLOGY

The boating public was polled in two groups utilizing two methods. A mail poll was used among the Association's members and a personal poll was conducted among boatmen at five major boat shows during 1968 in New York, Boston, Suffolk Downs, Washington, D.C. and Chicago where, in most locations, BOAT/U.S. maintained information display booths. The majority of survey participants were in the latter group.

A uniform 8" x 5" pre-printed poll card, shown below, was handed to individuals by BOAT/U.S. staff members and locally recruited personnel at the various shows. Most persons were first asked whether they were boat owners or operators. Those who answered negatively were not given a poll card. Those who answered affirmatively were given a poll card with the request: "Sir, may we have your opinion on this question?" Most of them immediately completed the card, and deposited it at the booth. Others took the poll card with them and mailed it to the Association after the show, utilizing the standard, self-addressed, postage-paid business reply format printed on the reverse side of all cards.

Each poll card listed a series of questions for the participant to indicate his preference in favor of or opposition to boat operator licensing. Each completed poll card was checked for duplication. More than one card received from the same person, or member of a family (same surname and address) were excluded from tabulation. All poll cards collected or received by mail were turned over to an independent auditor for data reduction and compilation.

Respondents who did not complete the lower portion of the card describing experience and boat, but who listed their name and address, were included in survey totals and are shown as "unspecified" in the detailed tables of this report.

OPINION SURVEY BOAT DRIVERS' LICENSES? We boatmen must take a stand! Boat/U.S. needs your views on . . . LICENSING or CERTIFICATION for OPERATORS of PLEASURE BOATS.																															
I FAVOR LICENSING and . . . It should cover ☐ All operators ☐ Certain age groups ☐ Only certain types of boats Qualifications should include ☐ Completion of an approved course ☐ Written test ☐ Written and operating tests ☐ Other Licenses should be granted by ☐ Federal government ☐ State governments ☐ State governments under federal standards	I OBJECT TO LICENSING because . . . ☐ There is no need for it ☐ It misses the problem ☐ It would be costly to administer ☐ There is too much regulation of boating ☐ Present laws are adequate Comments:																														
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To register your views, drop this postage-paid card in a mail box BOAT OWNERS ASSOCIATION of the UNITED STATES																															

CLASSIFICATION OF DATA

Questions in the survey were designed to provide specific data about the respondent who favored or objected to licensing of operators and to ascertain if views differed widely among the major categories of boat owners and operators. On the basis of data supplied by respondents replies were classified as follows:

1. Geographic Region (Table I)
 - a. Northeast (RI, NH, Vt, Mass, Me)
 - b. New York Area (NY, Conn, NJ)
 - c. Mid-Atlantic (Pa, Md, Del, Va, DC)
 - d. Southeast and Gulf (NC, SC, Ga, Ala, Miss, La, Tex)
 - e. Florida
 - f. Midwest (Ill, Wisc, Mich, Minn)
 - g. All Other States
2. Operator Experience (Table II)
 - a. Less than 3 years
 - b. 3 Years or more
3. Boat Size (Table III)
 - a. Less than 26 feet
 - b. 26 feet and over
4. Power vs. Sail (Table IV)
 - a. Power
 - b. Sail

Those who favored licensing were asked for further details concerning the form and method of implementing licensing procedures. These replies are compiled in Table V of this report.

Those who opposed licensing also were asked to indicate their specific reasons for objection. In compiling survey results, however, it was found that most respondents objecting had checked all reasons listed on the poll card, thus precluding a meaningful analysis of these reasons.

" LICENSING or CERTIFICATION for OPERATORS of PLEASURE BOATS? "

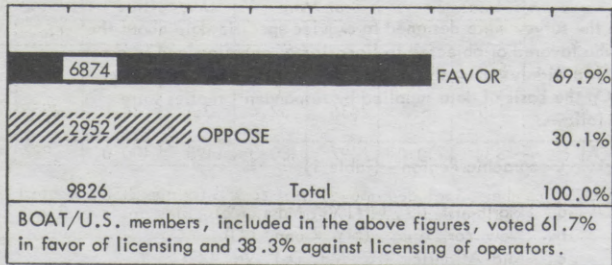


TABLE I. GEOGRAPHICAL REGIONS

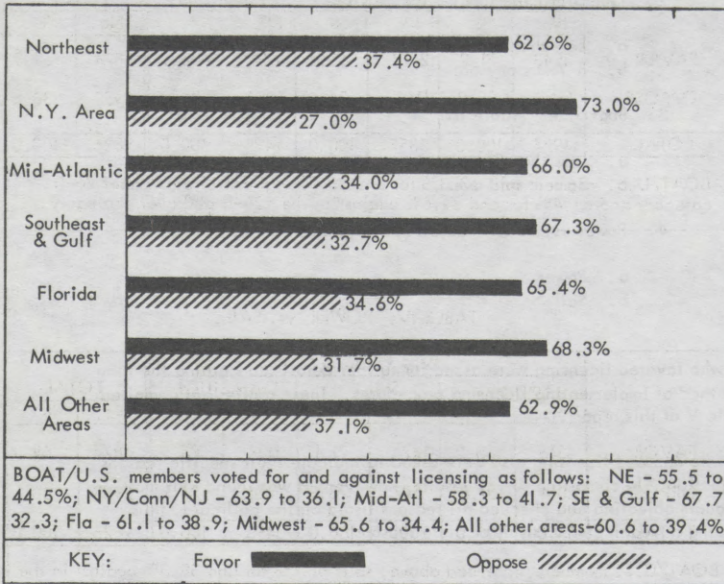


TABLE V. WHAT FORM SHOULD LICENSING TAKE?

	<u>No.</u>	<u>%</u>
Part A: Who Should Be Licensed?		
All Operators	5429	77.6
Certain Age Groups	622	8.9
Certain Boat Types	949	13.5
Total	<u>7000*</u>	<u>100.0</u>
Part B: What Qualifications?		
Complete Approved Course	3002	38.4
Written Test	1081	13.8
Written & Operating Test	3605	46.2
Other	124	1.6
Total	<u>7812*</u>	<u>100.0</u>
Part C: License Granted By Which Government?		
Federal Government	1566	23.2
State Government	1655	24.6
State Under Federal Standards	3522	52.2
Total	<u>6743*</u>	<u>100.0</u>

* Not all 9826 respondents completed this section of the poll card.

OBSERVATIONS AND CONCLUSIONS

A total of 9826 responses were received from Association members and from non-member boatmen in all 50 states. A majority of 69.9 percent, or 6874, favored some form of licensing, while 30.1 percent, or 2952 opposed licensing. Among the different categories of boatmen the percentages favoring licensing ranged from 65.4% to a high of 81.4%.

The strongest apparent influence on attitudes toward licensing is the number of years experience of the operator. Respondents with three or more years experience showed a less favorable attitude on licensing (67.6%) than those with under three years experience (81.4%). Almost 14 percentage points differentiated the two groups.

Consistent with the results in the "experience" category, it is seen that the owner of the larger boat is less inclined toward licensing than the smaller boat owner. Although the larger "26 feet and over" category showed 65.4 percent favoring licensing, the "under 26 feet" category voted a significantly higher 71.2 percent in favor. Conversely, then, it appears that the less experienced, smaller boat owners favor licensing more strongly than the more experienced owners of larger boats.

(continued)

Less than three percentage points separate licensing views of sailboat and power boat operators. The sailboat operators favored licensing by a 71.1% margin compared to 68.2% for power boat operators.

The attitude toward licensing appears to be fairly uniform across the country. The tabulation of results by geographic region showed a relatively small spread in percentage points. The margin by which all areas favored licensing was in the 60 percentile range, except for the New York Area which showed a high of 73%.

Those favoring licensing also expressed their views concerning methods of licensing. The results showed an unexpected endorsement for the most stringent control alternatives presented in the survey. Rather than limiting licensing to only certain age groups or to only certain types of boats, 77.6% of the respondents designated licensing for "all operators". Perhaps the most surprising result of the survey is found in the question of qualifications for a license. Of the four alternatives presented, the highest vote went to "written and operating test" (underline added) - selected by 46.2% of the respondents. The second most popular choice (38.4%) called for the completion of an approved course as the qualification for a license.

As for the administration of a licensing program, 52.2% were of the view it should be handled by the states, but in accordance with Federal standards. Half as many respondents selected the Federal government alone and the state government alone for implementation of the program.

In summary, then, the type of licensing arrangement favored by most of the pro-licensing boatmen would be a program administered by the boat operator's home state under uniform Federal standards requiring both written and operating tests for all boatmen regardless of operator's age or type of boat.

Respondents opposing licensing were asked to make a choice among the following five most commonly expressed objections: 1) there is no need for it; 2) it misses the problem; 3) it would be too costly to administer; 4) there is too much regulation of boating; and 5) present laws are adequate. Almost all of the respondents opposing checked all five choices.

This survey, conducted on a more detailed basis and on a considerably larger scale, corroborates the results of a sampling involving 1600 responses conducted by BOAT/U.S. in 1967. In the 1967 poll 67 percent of the respondents favored licensing.



BOAT OWNERS ASSOCIATION of THE UNITED STATES
1028 Connecticut Avenue, Washington, D. C. 20036

Senator LONG. The next witness will be Mr. Barbee, and he will be accompanied by Mr. Wilson of the National Association of Boating Laws Administrators.

STATEMENT OF WILLARD BARBEE, VICE PRESIDENT OF THE NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS; ACCOMPANIED BY KEITH WILSON, DIRECTOR, MICHIGAN WATERWAYS COMMISSION

MR. BARBEE. I am Willard Barbee, director of the Nebraska Game and Parks Commission, and also vice president of the National Association of State Boating Law Administrators. Appearing for the association president, Robert Baker, of Atlanta, Ga.

I have with me today Keith Wilson, director, Michigan Waterways Commission, and head of the association's Liaison Committee for Boating Legislation.

The association has 38 active member States, and we are unanimous in our position on this bill.

It is a privilege to appear before you in support of S. 696. This culminates more than 2 years of coordinated work between the U.S. Coast Guard, boat and marine accessory manufacturers, and the Association of State Boating Law Administrators, in authoring a bill that provides for a coordinated national boating safety program.

The Boating Act of 1940, prescribing the limited standards for motor boat equipment and the Federal Boating Act of 1958, primarily a boat numbering statute, do not now meet the growing needs of recreational boating which is projected to attract 50 million people by the year 1975, and 60 million by 1980.

Recreational boating fatalities in each of the last 5 years has approached 1,350 persons. The fundamental purpose of this S. 696 is to improve the safety of this wholesome outdoor recreational activity, by No. 1, requiring that manufacturers of recreational boats and associated equipment meet minimum standards of safety; No. 2, requiring the numbering of all power-driven undocumented vessels; No. 3, establishment of a Boating Safety Advisory Council, and No. 4, providing a grant-in-aid to the States for a stepped up water safety training and enforcement program.

The recreational boating fraternity is a very mobile group. The Federal Safety Boating Act of 1971 provides for Federal regulation of body design and detached equipment performance or safety standards, and no State, without the consent of the Secretary of the Department of Transportation, may be more restrictive in equipment requirements, thereby assuring uniformity among the several Government jurisdictions.

The grant-in-aid provisions of this bill will assist the States in implementing a stepped-up boating safety program designed to reduce risk of accident, injury and death in recreational boating.

The training program, coupled with a requirement to design and manufacture safe equipment, will go a long way in reducing the present rate of boating accidents and loss of life.

The requirement to establish and consult with the Boating Safety Advisory Council on regulations or standards which would contribute to boating safety or any other major boating safety matter brings

together an expertise that will have a profound impact on safety in boating activities.

In summary, the industry, State and Federal Government has worked long and diligently to consolidate Federal recreation boating laws into an updated comprehensive bill.

We believe these qualities are embodied in S. 696 and we respectfully request your favorable consideration.

Thank you.

Senator LONG. Thank you very much.

There are some other Senators who would like to submit written questions of the various witnesses and if they will get them to the committee in time we will seek to obtain the answers to those and make them available after this hearing.

Thank you very much, gentlemen.

I have been asked by Congressman Monagan, who had to leave, to place his statement in the record.

(The statement follows:)

STATEMENT OF HON. JOHN S. MONAGAN, U.S. REPRESENTATIVE FROM
CONNECTICUT

Mr. Chairman, I am pleased to appear before this distinguished committee in support of S. 696. When I introduced my bill in the House—H.R. 3833—an identical bill to yours, Mr. Chairman, I made several points that are worth repeating at this time.

As the pressures of our complex society make their burden felt, we seek release in some form of recreation. Today, one such form of release is recreational boating—a recreation growing in popularity with amazing speed, so that on any given weekend during the boating season one can find millions of Americans sailing or cruising on the Nation's waters.

It has been predicted that by 1975—just four years from now—at least 50 million people will be enjoying recreational boating. Ten years from now, Mr. Chairman, in 1980—with greater leisure and disposable income, coupled with more available water recreation areas—it is entirely likely that more than 60 million Americans will have discovered the pleasures of recreational boating.

Recognizing the problems growing out of this increase in recreational activity, the Special Studies Subcommittee of the Committee on Government Operations of which I was chairman, held hearings on July 31, 1967 and July 1, 1968. The purpose of these hearings was to evaluate the Coast Guard's administration of its statutory responsibilities for boating safety. Mr. Chairman, the results of these hearings are relevant to the proceedings before your committee and highlight the need for early enactment of new statutory authority.

The report of the Special Studies Subcommittee of March 4, 1968, recommended that the Merchant Marine and Fisheries Committee give consideration to the possible need for revision of present statutes to accomplish greater recreational boating safety. The hearings our subcommittee held which led us to this recommendation suggested that revision might embrace such matters as applying safety standards at the boat manufacturers level, broadening existing numbering requirements and licensing operators of motorboats.

Mr. Chairman, I am delighted to see that your committee has incorporated all but one of these recommendations in the pending legislation. But even that one—the licensing of motorboat operators—is included to the extent that the bill permits States, when they are the issuing authority, to require that the operator of a numbered vessel hold a valid safety certificate issued under terms and conditions set by the issuing authority. The hearings we have held convinced me that licensing is necessary for boating safety. I understand, Mr. Chairman, that the Coast Guard, recognizing the validity of our recommendation on operator licensing, is now reviewing completely its stand on this highly important matter. I would hope that their studies will eventually lead to some form of compulsory education and certification for motorboat operators.

In 1958, the Congress pioneered a move to involve State and local jurisdictions for the first time in the problem of recreational boating. It established a requirement for both uniformity and reciprocity among Federal and State boating laws. This principle recognized that the Federal Government does not have exclusive

interest in recreational boating safety, but must share this interest with the States. Hearings before our committee led us to conclude that the Coast Guard needed to improve its leadership and liaison with the States, and to accelerate implementation of the provisions of the 1958 Act.

In particular, we are interested in seeing more Federal/State cooperative agreements and greater conformity with the provisions of the Model State Boating Act, leading in turn to greater uniformity and reciprocity. I must say that the Coast Guard has responded well to our criticism. Today, agreements have been consummated with 42 of the 53 jurisdictions. (These 53 jurisdictions include Guam, Puerto Rico and the Virgin Islands, and Washington, D.C.) ; 114 written understandings concerning training of law enforcement personnel, handling of regattas and marine parades, search and rescue efforts, educational programs and handling of boating accident and investigative reports.

It seems to me, Mr. Chairman, that the financial assistance provision of the bill before this committee is an essential move, especially when one considers the continuing need for greater uniformity and reciprocity among and between Federal and State jurisdictions, and also the requirement for greater State participation in boating safety programs. This financial assistance provision recognizes State law enforcement operations on waters of concurrent jurisdiction, and the increased involvement of State and local officials on such waters. Logically, of course, responsibility for safety on our waterways is assigned to the Coast Guard. However, the State can assume some of those safety functions that require direct contact with the boatman, particularly law enforcement on local navigable waters.

Concerning this matter of jurisdiction between Federal and State Governments, our committee felt that is also was important for the Coast Guard to expand its liaison with other Federal agencies having programs directly related to boating safety—in particular, agencies having jurisdiction over bodies of water used by recreational boatmen. The proposed bill expands applicability of the law and hence authority of the Coast Guard to all waters over which the United States has jurisdiction. This would lend further impetus to coordination of effort among all Federal agencies having responsibilities affecting the recreational boatman. The broadened jurisdiction should also lead to greater uniformity of action among the various Federal agencies.

Another problem our committee uncovered was the Coast Guard's method of administering citations to boatmen for violations of the law. Boatmen on our waters should expect to receive speedy and fair justice when they are cited for violations of boating safety practices. Yet our committee found that the Coast Guard's penalty procedures were rather cumbersome and, in many instances, ineffective, particularly with respect to reckless or negligent operation. For example, it is necessary for the Coast Guard to assess the maximum penalty for any violation of the Motorboat Act of 1940. Mitigation is possible only after the boatman has requested it. Also, delinquent penalties and criminal violations must be prosecuted before a U.S. Commissioner whose higher priority cases virtually assure delay in processing. Penalty provisions in the bill before this committee specifically authorize mitigation, remission, or compromise, and permit referral of civil penalties of not more than \$200 to a Federal magistrate under that new system.

Several considerations lend a sense of urgency to early passage of the proposed bill. For one, we are losing boatmen at the rate of four per day, while many more are involved in serious accidents which result in injuries and severe property damage. During the months of May through September of 1970—the latest year for which we have figures—the casualties were 227 killed in May, 198 killed in June, 209 killed in July, 194 killed in August, and 124 killed in September.

Another consideration, Mr. Chairman, is that our committee found a pressing need to expand the Coast Guard's authority to establish minimum safety standards for boats and associated equipment. Important among our conclusions was the need to do something about the deplorable failure of recreational boatmen in trouble to use lifesaving devices. We found this largely attributable to the unacceptable appearance of most such devices, as well as to the clumsiness or poor wearability of these devices. Most people just don't want to wear our present kinds of lifesaving devices because they seem to inhibit freedom of movement aboard a boat.

Therefore, Mr. Chairman, research into more effective and wearable lifesaving devices, and a broader requirement for them on most water craft is indicated. Under present Federal law, sailboats are not required to have lifesaving devices

for each person on board. What is needed is a broader grant of authority to establish minimum safety regulations. Some States, such as nearby Maryland, now require a lifesaving device for each person aboard a boat.

Another example of the need for additional safety standards may be appropriate at this point. Capsizings are responsible for nearly one-half of all fatalities in boating accidents. Over 90% of capsizing deaths occur in boats from 10 to 18 feet in length. These boats are mostly outboard motorboats or unpowered craft. More often than not, the occupants are fishermen. Thus, one can conclude a potential need for capacity standards and possibly safe powering and stability standards for that size and type boat.

Responsibility should be placed, therefore, upon the manufacturer to insure improved safety of his product. At the same time, I think it appropriate to note that the boating industry generally has made remarkable progress in recent years to produce safer boats. Their certification program promoting recommended engineering practices for boats has improved the safety of boats and the quality of construction among participating manufacturers. The boating industry association, I am happy to say, has pioneered this program. Unfortunately, however, all manufacturers are not inclined to observe advisory safety standards when the competition of the market place enters into consideration. Therefore, compliance with minimum safety standards should certainly be made mandatory.

The urgency of this legislation is indicated in that it is only a matter of time before more States become actively involved in writing safety standards which will have broad application to manufacturers. This has already occurred in the form of capacity and safe powering standards. A proliferation of dissimilar standards would give the manufacturer—and the boatman, for that matter—an impossible task. Federal preemption over any law or regulation which establishes boat or associated equipment safety standards is imperative now.

Mr. Chairman, the Coast Guard has been doing a commendable job, since our committee's hearing, in organizing and pursuing a better program of recreational boating safety. Perhaps most important in this respect has been the establishment of an Office of Boating Safety in Coast Guard headquarters headed by a flag officer. Similar emphasis at the district level has certainly resulted in better liaison and coordination with the States. We are naturally pleased to see this response to recommendations resulting from our investigations.

The proposed Boating Safety Advisory Council should go even further to improve coordination and cooperation among all groups interested in boating safety. This Council should provide an excellent forum for industry, Government and the public to discuss and resolve many of the thorny problems inherent in any safety program. And, of course, the Council will insure that the boatman does not become over-regulated to the extent that it spoils his recreation.

I shall now direct comment to a few other provisions of our identical bills, Mr. Chairman. The very nature of recreational boating assures that there will always be a requirement for search and rescue, and assistance to the boatman when he gets in trouble. A key provision of this legislation, therefore, is the "Good Samaritan" clause which protects the boatman who goes to the aid of his fellow boatman. Under the 1958 Boating Safety Act, a boatman involved in a collision, accident or other casualty involving a motorboat or other vessel subject to the Act, has the duty to render assistance to other persons affected by the casualty. Although the general tort law presupposes an absence of liability without some negligence or fault, some case law in the maritime field has suggested a lesser degree of protection. It is not possible economically to provide the Coast Guard with sufficient rescue forces to be everywhere that a boatman may encounter trouble while under way. Thus, the extent to which we can involve every boatman in the tradition of the sea—that is, to respond to cries of help from fellow seaman—will affect the extent to which we can reduce demands on overworked Coast Guard search and rescue forces.

The Federal Boating Act of 1958 requires the boatman to have his boat numbered in the State of principal use. This has proved to be a difficult problem for the boatman when he is faced with certain State requirements; that is, many States extend only a 90-day waiver to visiting boatmen before compliance with their numbering system becomes mandatory. It is possible, therefore, for a boatman in compliance with State law to be in violation of Federal law. Thus, he would be faced in court with proving his innocence.

For example, Mr. Chairman, the State of Maryland extends reciprocity to the State of Pennsylvania for 90 consecutive days, after which a boatman may be requested to number his boat in Maryland. Yet, Pennsylvania could well

remain his "State of principal use." Section 18c of the proposed bill remedies this by requiring that another State recognize the number on a boat which is numbered in the State of principal use. This section states that a boat in compliance with the numbering system of the State of principal use shall be considered as in compliance with the numbering system requirements of any State in which it is temporarily used. The next section then provides that a State will give exemption from requiring a new number for a period of 60 days if a boatman changes principal use to that State.

Another example of the interest of the Congress in protecting the boatman as much as possible is the requirement in this bill that every boat manufacturer furnish notification of a defect which he determines in good faith relates to the safe use of the boat. The notification must go both to the dealer to whom the boat was delivered and to the purchaser (when such purchaser is known to the manufacturer). In addition, the manufacturer must provide the boatman with information on measures that can be taken to repair the defect. The bill does not have a "recall" clause; however, the manufacturer would be under a considerable moral obligation to take some action to remedy any defect which would make the boat unsafe.

Mr. Chairman, I can summarize my concern over the need for an early improvement in boating safety statutory authority by citing accident data from the two counties of Connecticut I represent: Fairfield and New Haven. In 1970, there were 17 accidents, 4 fatalities and 6 injuries and more than \$18,500 in property damage resulting from those accidents. Through a concerted Federal/State government, industry and public effort I would like to see a reduction in these unfortunate statistics.

Senator LONG. That concludes the morning's hearing.
(Whereupon, at 11:25 a.m., the subcommittee was adjourned.)

ADDITIONAL ARTICLES, LETTERS AND STATEMENTS

MITCHELL KURMAN,
Westport, Conn., March 27, 1971.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: The waters of the United States abound with "boats" of every description. They range from small inflatable or carry along boats to yachts considerably larger than anything in Christopher Columbus' fleet. Power is supplied by paddles, oars, sail, small engines, and even powerful airplane motors. It is difficult to state where the craft will be used. Modern highways and trailer devices have made it possible to take the smallest or the biggest of our boats from one section of the country to another. It is not at all unusual for a New England family to ship or trailer a boat to Florida or a number of other places to use during the winter months. In like manner, it is highly likely that a college student might take an inflatable boat on a cross country summer trip into the northwest or New England from perhaps our midsouthern or midwestern states. Such mobility is healthy and it is to be encouraged as it creates a better understanding of the length and breadth and scope of our country. However, due to the enormity of the boating problem, and the variety of craft in use, and the mobility of our population, a greatly strengthened and updated "*Recreational Boating Safety Law*" is needed. The days of having an entire bay or an entire lake to one's self, are for the most part, gone. In many areas, boat traffic is so great, that it is mandatory for the public good and the good of the boating industry as well, that all be well equipped with at least the basic safety equipment needed (i.e. life preserver, handy for use—sufficient anchor rope and anchor—at the least, a flash light or emergency flares, etc.). In addition, I feel it is important that certain basic knowledge be acquired by all who use our waterways. This should include knowledge of rules of the road, knowledge of handling of boat operated, knowledge of equipment such as compass and the reading of charts as well as the ability and limitations of the boat to be used. All boats from our smallest to our biggest should be numbered with a permanent number to insure against theft and to aid in apprehension of violators and identification of people lost. Construction, while of various materials and designs must list maximum weight capacity, maximum engine power, and have built-in flotation. Flotation material is inexpensive and easy to apply and there is no excuse for selling a novice a "bathtub-like" boat lacking in flotation that will sink like a rock if swamped.

A clear determination of responsibility for the enforcement of law must be made and such enforcement agency strengthened. The states can administer the law, but the law should be uniform throughout these United States and all accidents, drownings, should be centrally reported to a Federal agency as well as to the state in which the accidents has occurred. This will help enforcement in areas of states whose border is a common water any or in cases of boats traveling via trailer or car top, etc., across the country. Under present conditions, a fully experienced seaman, with a properly equipped boat, is still at the mercy of a novice without knowledge of how to operate his craft. The excellent courses of the C.G. are not taken by most people operating boats. Yet, a boat mishap often is far more dangerous than an accident on land. Too many people have no respect for the lives of others, have no knowledge of the boat they have borrowed, or just bought, or rented—and tragedy is too often the result. The basic safeguards of the automotive industry have not hurt anyone—least of all the automotive industry which has grown by leaps and bounds. The boating industry has grown enormously, too, but its full potential has been stifled by a lack of regulations, a lack of safeguards and public facilities. While the boating industry has grown, government simply has not kept pace with adequate regulations and facilities. There is far more to be gained from the needed "*Recreational Boating Safety Act*" than can possibly be gained by

retention of our present archaic system which leaves all to shift for themselves, resulting in the public losing out for safety, for facilities, and a stifling of the boating industries growth. People will not buy boats if they fear our waterways—People will not buy boats when they find the facilities are nonexistent . . . This makes an interesting comparison with the U.S. auto industry. While auto accidents are far too many it is in great measure due to the enormous numbers now using our roadways. With Federal-State aid, roads have been built parallel and even on top of other roads. The boating industry pays better and gets better. Many marinas are filled. People will not buy a boat if they do not have a place to put it.

People are reluctant to permit themselves to use a boat when they know a person heading toward them with a highly overpowered "missile" has no conception of the "rules of the road" or even how to operate the craft!! The lack of meaningful and up to date "Recreational Boating Safety Act" until now, has hindered, not helped, the boating industry and the public. The present Recreational Boating Safety Act is an excellent step in the right direction.

Sincerely,

MITCHELL KURMAN.

Enclosure

[From Boating—On Park Ave., New York, N.Y.]

ONE MAN'S OPINION—IT'S TIME FOR UNIFORM FEDERAL LAWS!

THE ACCIDENT RATE WILL KEEP CLIMBING, SAYS THIS BOATMAN, UNTIL WE HAVE
UNIFORM NATIONAL SAFETY LEGISLATION—INCLUDING OPERATOR LICENSING

(By Mitch Kurman)

Mitchell Kurman lost his son in a camp canoeing accident in 1965, and has since devoted much of his time and money to the promulgation of boating safety legislation. In 1967 he won the Safe Boating Award of the New England Marine Trade Association in recognition of his efforts to get basic safety laws passed in several state legislatures. He is widely credited with successfully promoting legislation extending the life preserver requirement to rowboats, canoes, and miscellaneous craft in New York State and Massachusetts.—N. H. Conn

There has been much talk recently—but pathetically little action—about updating present boating laws and perhaps making them reasonably uniform across the nation. Such clearly necessary and long-overdue legislation would actually benefit rather than hurt the boating industry, although some industry spokesmen do not seem to think so. Certainly the automotive industry has not been hurt by basic licensing, and the revenues derived have helped build our highways. The menace on our roadways is not entirely eliminated, but it is to a great extent under control—only because of licensing.

It is no feather in the cap of most of our state governments that literally anyone can buy and operate any boat, regardless of competence or even sanity, and whether or not he has any knowledge of the workings of the craft or even a basic knowledge of our waterways and Rules of the Road.

My own investigations in recent years have included some remarkable and tragic boating accidents, and consequences no less remarkable and tragic. In one case a speeding powerboat cut a smaller boat in half and two children were drowned. Although the operators of the powerboat were intoxicated at the time of the accident, nothing was done about it.

An operator of a rented diesel powerboat pulled into a marina to buy fuel—and didn't know the difference between diesel and gasoline, or that his boat was diesel-powered. In another rental boat, the operator didn't know which way to move the throttle to slow down, accelerated when he meant to slow down, and climbed up a launching ramp, tearing the bottom out of the boat and the lower unit off the engine. It could have been much worse!

In Connecticut, an elderly dentist was enjoying a swim when a young woman in an outboard-powered boat sped into the swimming area. The dentist's shoulder was ground off by the propeller and he died from the injuries. In the same general area a small boat with five children aboard left the dock in spite of the harbor master's warning about weather conditions. There were two life preservers

aboard. The two children who had the life preservers survived when the boat was driven onto a reef: The other three died. Yet under present laws the harbor-master was powerless to stop them from going out, or even to insist that they all have life preservers.

Newspaper reporter Bud Reiner, knowing of my attempts to get simple safety legislation enacted, joined me at Westport, Conn., for a day aboard my boat, to see at first hand how a small boat is handled. A mile offshore we found a large cruiser high and dry on a reef at low tide, with a police boat standing by to be sure the passengers were all right and to help get the boat off when the tide came in. But no boat of that size had any business in that area, even at high tide.

On our way home we found a sailing catamaran out of Longshore Boat Basin capsized. Fortunately, Longshore Boat Basin has a rule that all aboard small sailboats wear life preservers, and this rule may well have saved this crew.

Many small boats are unsinkable—but people aren't, and if you go overboard unexpectedly, it's almost impossible to catch up with even a small sailboat. And most people cannot swim—statistics show that 50 percent don't swim at all, 43 percent swim poorly, and only 7 percent swim well. And even a good swimmer can have trouble swimming ashore from a mile out. To add to the argument for uniform national safety legislation, nearly 70 percent of all boating fatalities occur in small craft generally exempt from Coast Guard regulations.

The Coast Guard and the Coast Guard Auxiliary do an excellent job within their limited means. A boatman can take valuable courses under their direction and feel reasonably safe knowing his vessel, knowing how to read a chart and follow a compass course, and knowing the Rules of the Road. But what protects him and his family from a novice whose only qualification is his ability to pay for—or even just rent—a high-powered boat?

Everyone with any experience in boating could add to these examples I have mentioned—and the casualty toll continues rising. Yet in the January 1970 issue of *Boating*, on page 320, I read that Rear Admiral Joseph J. McClelland, Chief of the USCG office of Boating Safety, says the Coast Guard wants “*minimum* federal involvement” in boating law enforcement. (Emphasis added.) This is in keeping with President Nixon's decentralization goals—apparently the Nixon administration believes the anarchy on our waterways can be cured by fewer laws and fewer people to enforce them. And that's an outright avoidance of the problem.

Time, like the tide, is running out.

DEPARTMENT OF TRANSPORTATION,
UNITED STATES COAST GUARD,
April 9, 1971.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
United States Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: The Coast Guard is charged with the responsibility of compiling and publishing statistics concerning boating accidents by the Federal Boating Act of 1958. The annual publication *Boating Statistics* (CG-357) for 1970 will be distributed on 1 May 1971. Statistics concerning 1970 accidents will be released on the same date the publication is distributed.

The following figures are for your information, and compare 1970 totals with totals from the previous four years:

	1966	1967	1968	1969	1970
Number of fatalities.....	1318	1312	1342	1350	1418
Number of accidents.....	4350	4113	4195	4067	3803
Number of vessels involved in accidents.....	5567	5274	5427	5239	4762
Number of injuries.....	1555	1365	1284	1004	780
Amount of property damage (in millions).....	\$7.3	\$6.1	\$6.6	\$6.4	\$8.2

Sincerely,

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

YACHT RACING UNION OF MASSACHUSETTS BAY,
Quincy, Mass., March 17, 1971.

HON. WARREN G MAGNUSON,
*Chairman, Senate Committee on Commerce, Senate Office Building,
Washington, D.C.*

Re: Federal Boat Safety Act S-696
Attention of Senator Russell B. Long, Chairman,
Merchant Marine Subcommittee

DEAR SENATOR MAGNUSON: It is not convenient for us to have a representative of our Organization present, in Washington, to appear and testify on the Federal Boat Safety Act S-696.

We are submitting, herewith, our testimony in prepared form. It is our desire that you accept this as our appraisal of the bill as the affect it will have upon the practical and experienced boating enthusiasts, as well as, the Boating Public.

The petition deserves your strictest scrutiny. Our analysis of S-696 is just as the average practical boatmen see it, we hope that you will find in our message good reasons for withdrawing the bill or that effective amendments are made to make it truly for Safety rather than for revenue and to eliminate the apparent tendency toward the Boat Industry.

We cannot stress too strongly the necessity for the Coast Guard to have some form of Supervision over the Boat Industry, but it appears that this bill as written diminishes the effectiveness of the Coast Guard in enforcing its adopted standards.

We hope that you concur with us.

Very truly yours,

JOHN E. MURPHY,
Chairman, Legislative Committee.

Enclosure

STATEMENT OF THE YACHT RACING UNION OF MASSACHUSETTS BAY

Mr. Chairman: I will be unable to attend the hearing to give my testimony in person, but I submit, herein, my prepared statements and trust that you will accept them for the record.

Gentlemen: I thank you for the opportunity to offer testimony for our Association. We are very much concerned about boating safety and the means that will provide for Recreational Boating Safety.

Reference: It is my understanding that S-696 and H.R. 19 are identical to S-3199 and H.R. 15041, of the 91st Congress, 2d Session, therefore, my text refers to these bills.

I am John E. Murphy, 15 Cranch Street, Quincy, Mass. 02169, representing the Yacht Racing Union of Massachusetts Bay, comprising 35 Member Clubs, Associated Yacht Racing Fleets and Individual Memberships totaling approximately 8500 active Recreational Boating Enthusiasts.

Our Organization is affiliated with the North American Yacht Racing Union, A National Organization.

Our Organization, the Y.R.U.M.B., has an educational Program, it conducts a series of Information Seminars in Boat Handling and Adjustments, during the Winter Months, also, a teaching Junior Symposium at Massachusetts Institute of Technology for four (4) days in August. Many of the Member Clubs hold classes teaching the art of Nautical Science during the off boating season.

This procedure is culminated in a series of Championship Yacht Racing Events during the Summer Months.

Pertinent Statements: Reference S-696 & H.R. 19 (H.R. 15041 & S-3199).

It must be recognized that boating in every form has its risks, uncertainties and hazards regardless of the size or type of boat, it is subject to sudden violent changes in weather, etc. In order to safeguard against these prevailing weather conditions one must be sure to be in a good safe craft.

It is imperative that there be some supervision over the Boating Industry to make certain that hazards are not built into the Craft that is being sold to the Public. The Coast Guard and only they must have the Control and Jurisdiction over this Supervision.

This authority and Supervision must not be delegated to any other person or agent, such as is proposed.

We are not at all pleased with the present law, the Federal Boating Act of 1958; we cannot see how this proposed S-696 will in any way improve this arrangement, in our opinion it can only make more confusion.

DELEGATION OF INSPECTION FUNCTION

The Secretary must not be permitted to issue exemptions as proposed under this Section, to allow this, we are inclined to doubt the effectiveness of the section "Boat and Associated Equipment Standards and Use, Safety Regulations and Standards."

Should the Secretary issue exemptions, then that would create arbitrary Standards and Regulations that may be very difficult for the Coast Guard to Administer. We are for some form of Supervision and Regulations for the Boat Industry, if that is what this bill seeks to accomplish, then you should eliminate "Exemptions" and "Federal Preemption".

Exemptions and arbitrary standards could result in hardships for some and favoritism for others.

It is not beyond reasonable thinking, if this bill becomes law, to expect the Coast Guard to keep a Card File Record of every boat to be certain that changes and modifications were made without authority.

The law could not be adequately enforced.

Pertinent Sections in the Bill S-696 (H.R. 19) to which we have objections are outlined as follows:

UNDER SECTION 3, DEFINITIONS

"*Manufacturer*"—The broad interpretations of this term and the conditions set forth, in our opinion, are too strict. A Boat Owner may not be permitted to do anymore than to paint his own boat. He will not be allowed to make changes or in anyway improve his boat unless he submits plans and receives approval for the work, even then he could be required to have the work done by the, so-called, manufacturer; this is oppressive and restrictive.

This is a peculiar means of promoting Safety.

We are opposed to this Restriction.

It could be the means of forcing the Small Individual Boat Builder and Boatyard Operator out of business.

UNDER SECTION 16, RENDERING ASSISTANCE IN CASUALTIES

(a) The operator of a vessel—, involved in a collision, accident, or other casualty, *to the extent he can do so without serious danger to his own vessel, OR persons aboard*, shall render all practical and necessary assistance to persons affected by the collision, etc. to save them from danger caused by the collision, etc.

(b) Any person who complies with subsection (a) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty, *without OBJECTIONS TO ANY person assisted*, shall not be held liable for any civil damage as a result of the rendering of assistance or for any act of omission,...

The underlined above in (a) and (b) appear to set up arbitrary and discretionary conditions and circumstances for rendering assistance. Under these conditions an operator of a vessel may not want to become involved in making a rescue, thereby, going away from the scene.

This section could be very disastrous and actually be the cause of loss of lives. It is apparently more concerned with the Legal aspects, before and after the accident rather than the moral obligation and humanitarian act of saving a life; this is not safety.

There are always risks involved in rendering assistance in boating accidents, both to the victims and the rescuers, therefore, conditions and circumstances of an arbitrary nature never should be set by law that would deter a person from performing the humanitarian act of helping a person or persons in danger.

Here is an actual case that happened in the vicinity of our Race Committee Boat:—

"A sailboat capsized causing two (2) people to be thrown into the water.

"We hailed an 18 Ft. outboard motorboat, told him to take the two people out of the water, they refused to be taken out of the water, saying that they were alright; a Coast Guard Auxiliary Patrol Boat came alongside the Committee

Boat we told them to take the people out of the water, the two refused again. "I sent the first boat over again and insisted that they take those people out of the water whether they wanted or not and bring them to the Committee Boat, this was done. When the two who were in the water arrived at the Committee Boat they were chilled and exhausted, they did not realize their condition.

"If these people were in the water 5 minutes longer, they may have drowned. "We feel that there should be no Rule or Regulation suggested or adopted that would in anyway set up arbitrary conditions of judgment for rendering assistance in cases of accident on the water.

"We feel that Section 16, (a) and (b) do apply to the above case, since these people would not consent to be taken from the water. We cannot see how this Section 16 can improve Safety."

SECTION 17: NUMBERING OF CERTAIN VESSELS, VESSELS REQUIRING NUMBERING

This Section indicates that all boats equipped with a motor, regardless of the size of the motor will have to be registered. This does not provide for Safety, it is for Revenue purposes only.

The fact that a boat is registered does not make or prove that boat is any safer, therefore, the registering of boats with motors less the 5 HP can only be for producing revenue. This is not Safety as intended by this bill.

All that is necessary to provide for safety in boats equipped with small motors is to require these boats to have the Safety Equipment to meet the safety requirements; that is safety.

I refer you to Report No. 91-1611, 91st, Congress, 2nd Session, Page 27, Section 17, Quote:—"Since 26 States already have this numbering requirement, it is not expected there will be difficulty getting all states to accept this numbering system".

As for safety, this is about as illogical a reason that could be presented.

This will have the effect of coercion, forcing other States to require the numbering of all such boats. Massachusetts numbers boats of 5 HP and more, yet this State would be required to force the provisions of this proposal on boats of less than 5 HP.

I submit to you, where is this in any way, a factor of Safety?

This is just another reason the proposals H.R. 19 and S-696 should be withdrawn.

We are opposed to Section 17 in its entirety.

SECTION 22: SAFETY CERTIFICATE

This is another means of licensing of the operator of Motorboats, in fact, it could mean the licensing of operators of all Recreational Boats, as long as there is a chance to get a dollar of income, by imposing the requirements for a "Valid Safety Certificate".

It will have the effect as a means of denying a person the Right to the free and uninterrupted use of the Tidal Waters (Navigable Waters) if he doesn't have that certificate.

Refer to: Report No. 91-1611, 91st, Congress, 2nd Session, Page 28, Section 22.

Quote: "Witnesses from the National Transportation Safety Board and the Coast Guard had not found a direct correlation between the increased boating safety and the licensing of boat operators. "Accordingly, no provision of this Act is intended to require a boat operator license under Federal standards".

It appears to be double talk; the agencies quoted are not opposing the proposal but seem to be saying, go to it if you can get away with it, it is alright with us.

Then why give the States that broad power to require "Valid Safety Certificates"? It is licensing no matter what is meant by the proposal and it will be enforced accordingly. It will cause harassment of the Boating Public.

To grant the States the authority to issue the Safety Certificate, "under terms and conditions set by the issuing authority" is contrary to the "Policy and Purpose" of H.R. 19 and S-696 as set forth to "encourage greater continuing uniformity of boating laws and regulations as among the several States and the Federal Government."

There is no uniformity, now, so how can there be the "continuing", it will mean only more confusion with as many as 50 States having that many different "terms and conditions" so where is the uniformity.

To issue such a certificate would introduce a very dangerous procedure, creating false confidence in a person's ability to handle a boat, because of limited

knowledge or understanding about boating, that could cause interference in the application of the "Rules of the Road."

We are opposed to the licensing of operators of Recreational Boats, not carrying passengers for hire, and we take the same stand against this proposal to establish the "Valid Safety Certificate."

We are opposed to Section 22, in its entirety.

SECTION 23 : REGULATIONS

This section gives very broad powers and authority to the States, etc. to set fees.

Quote: "The issuing authority may prescribe regulations and establish fees to carry out the intent of Sections 17 through 24 and 37 of this Act".

This authority could be extended to every form of Recreational Boating, including Sailboats, Marine Parades, Marine Outings, Yacht Racing, etc. thereby incurring oppressive and restrictive additional expense on the boating public, again, ultimately denying these people the right to the free and uninterrupted use of the Sea, the Ocean and other bodies of water.

We are very skeptical of this provision, because it provides an incentive for the States to impose another financial burden on the Boating Public.

We oppose this Section 23, in its entirety.

SECTIONS 25 TO 31 INCLUSIVE: FEDERAL FINANCIAL ASSISTANCE FOR STATE SAFETY PROGRAMS

It is our opinion that adherence to the method and the principles of safe boating, as now being taught by non-profit organizations, etc. will do more to enhance Safe Boating than to promote and encourage Federal Interference in this field by furnishing Federal Funds.

There is every reason to expect that other forms of Recreational Sports will seek the same consideration and request Federal Funds; the results could spiral into huge sums far beyond what anyone could anticipate.

The bill as originally presented, S-3199 (H.R. 1504) provided for \$5 Million each year for 5 years, amounting to \$25 Million but before the bill was finally drafted the \$5 Million was increased to \$7½ Million over the 5-year period; this is only the beginning, once started there is no ending.

There is always the possibility, with such a means of distribution of the funds, criticisms will develop because some will feel there is favoritism.

It would seem that the Coast Guard would not want anything to do with such a program.

You can be assured that once that Federal Funds are provided the Boating Public will be required to pay "Users Fees" or some other means to compensate for these Financial Assistance Funds. This would be another means of keeping the Boating Public off the water.

We are opposed to the whole idea of providing Federal Funds as set forth in Sections 25 to 31 Inclusive.

So much for the proposals H.R. 19 and S-696.

IN REVIEW

We cannot see how this bill will in any way improve the present conditions established under the Federal Boating Act of 1958, with its many different laws in effect between States because of the dual operation of the Federal—State arrangement.

Except for the provision of supervision, to a certain extent, over the Boat Industry, it will add only more confusion in the administration and enforcement. The delegating of arbitrary authority to the States and Agents over certain aspects of inspection of boat design and construction (the Boat Industry) weakens the effectiveness of the Coast Guard.

The Federal Boating Act of 1958 must be changed, it has not accomplished the desired results. Instead of uniformity there has developed confusion, multiplicity of laws between States, to the end that it is almost impossible to operate a motorboat, and in some instances, any type of a boat, from State to State on the Tidal Waters without violating the law and being subject to arrest.

We offer the following suggestions:

The Coast Guard to have control and jurisdiction of Recreational Boating on the Tidal Waters and such other waters as the Great Lakes, etc.

In order to eliminate the confusion that has developed and now exists between the Federal Laws and the multiplicity of States Laws, it is necessary that the control and jurisdiction of Recreational Boating on the Tidal Waters be restored to the Coast Guard.

The Federal Boating Act of 1958 has been in operation about 12 years it is not serving the purpose for which it was adopted, therefore, make the change in the Boating Acts of 1940 and 1958, but recognize the mistakes of the Federal—State System and start out on a new sound basis, such as, Federal Regulations on the Tidal Waters, etc.; State Regulations on the Waters within the State with compatible laws.

(1) Revise the Federal Law for the Coast Guard to have control and jurisdiction of boating on the Tidal Waters with a Numbering System and with fees for registration.

(2) That the States shall have control and jurisdiction over such boating on the Rivers, Lakes and Ponds that are within the States with a Numbering System similar to the System now in use.

(3) Require the Registration of Motorboats propelled by motor of 5 Horsepower and more.

(4) There shall be recognition and reciprocal acceptance of the Numbering Systems between the Federal Government and the States. That the State Laws, as much as possible, shall be compatible with Federal Laws.

Then there can be concurrent jurisdiction in the enforcement. (This is desirable and necessary so that Local Harbormasters and State enforcement Officers authorized to make arrests can cooperate with the Coast Guard.)

TO SUM UP IN REVIEW

It is our opinion that the provisions of H.R. 19 and S-696 are as oppressive and restrictive as any Legislative Proposals for Recreational Boating as we have experienced.

Legislative Proposals for boating must not deny the Boating Public their basic right and privilege to build a boat, to repair his own boat, or to work on another boat which many experienced yachtsmen are capable of performing without Federal and/or State interference, as these bills imply.

It doesn't seem that the Boating Public is running wild disregarding laws and the fundamentals of Safety. In view of the great number of persons participating in the Sport and Recreation of Boating and Yachting, the public are adapting themselves very well.

The tremendous growth in Recreational Boating has recently been reported by the Industry.

"The Industry estimates there were 8,814,000 Recreational Boats in the United States last year, with 4,864,074 actually registered by individual States and the Coast Guard. It is also, estimated that 44,070,000 persons took part in Recreational Boating in the United States."

Attached are some statistics on Recreational Boating Accidents. It would seem to indicate in view of the number of persons and the number of boats taking part in the Sport and Recreation. That the ratio of accidents and fatalities to the total involved in the Sport and Recreation the public are adapting themselves very well.

The continued improvement in operation and handling of small craft under the present Rules and Regulations gives every indication that the present method and system of boating education as it is being taught is accomplishing its purpose.

To legislate new laws, other than Supervision over the Boat Industry for better and safer boats, will add only more confusion.

We sincerely ask that your Committee give this bill an unfavorable report, that it ought not to be adopted.

BOATING STATISTICS COMPILED FROM COAST GUARD REPORT FOR 1968, CG-357

Boating accidents

In 1968 there were 4195 Boating Accidents involving 5427 Vessels.

1092 of these vessels were involved in 1062 boating accidents which resulted in 1342 fatalities.

1150 vessels were involved in 879 accidents resulting in 1284 personal injuries.

3185 vessels were involved in 2254 accidents accounting for \$6,631,600 in property damage.

See Tables on Page 14, of Boating Statistics 1968, Report CG-357 for detailed breakdown.

Life saving devices

There were 1203 drownings in 1968.

51.8% of them were known to have had Life Saving Devices available.

84.3% of these victims did not use the available devices or used them improperly.

27.2% of the drowning victims were known not to have had Life Saving Devices was available.

21.0% of the victims it is unknown whether or not a Life Saving Device was available.

Weather and water conditions

52.6% of the vessels involved in reported boating accidents were on non-tidal waters.

35.7% were on tidal waters.

5.3% were on the Great Lakes.

6.4% were on the Ocean or the Gulf of Mexico.

The weather and water conditions at the time the vessels became involved in accidents

65.2% of the cases the water was calm.

85.1% of the cases the weather was clear.

68.7% of the cases there was no wind or it was light.

82.5% of the cases the visibility was good.

Year vessel was built

There were 3277 vessels out of the 5427 involved in accidents where the year built could be determined from the reports.

A breakdown of these 3277 vessels and the fatalities and injuries which resulted when they became involved in accidents is as follows:

Year Range:	Vessels	Fatalities	Injuries
1965-1968-----	1466	251	352
1960-1964-----	950	141	243
1955-1959-----	520	56	125
1950-1954-----	102	15	28
1945-1949-----	99	11	20
1940-1944-----	37	2	5
Prior to 1940-----	103	7	18
Totals-----	3277	483	791

Summary of accident data for the nation

	1967	1968
Total No. Reported Accidents-----	4113	4195
Fatal Accidents-----	1025	1062
Fatalities-----	1312	1342

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, D.C., July 7, 1971.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with the telephone request of Mr. Emanuel L. Rouvelas an estimate of the five year cost for implementation of the Federal Boat Safety Act of 1971 is forwarded herein:

	Administrative cost	Financial assistance appropriation	Total cost
Fiscal year:			
1972-----	\$3,001,304	\$7,500,000	\$10,501,304
1973-----	2,958,159	7,500,000	10,458,159
1974-----	2,956,109	7,500,000	10,456,109
1975-----	2,956,109	7,500,000	10,456,109
1976-----	2,956,109	7,500,000	10,456,109
Total-----	14,827,790	37,500,000	52,327,790

If I can be of any further assistance in this matter, please advise.
Sincerely,

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., May 27, 1971.

Hon. WARREN G. MAGNUSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: There is currently pending before you in the Committee on Commerce, S. 696, the proposed "Federal Boat Safety Act of 1971."

In the last five years, nearly 7,000 Americans have been killed in recreational boating mishaps. Government witnesses testifying before your Committee stated that enforcement of the construction standards envisioned in S. 696 would substantially reduce these fatalities. We therefore support legislation in this field as urgently needed.

However, we would like to address ourselves primarily to two amendments which were suggested in the hearings on S. 696 and which we view as imperative.

The first of these would strengthen section 15, dealing with defects, in several respects. Most important of the proposed improvements is a provision which would require a manufacturer who builds a defect into a boat to remedy that defect at his own expense. In 1971, it is unthinkable that, as between the manufacturer who built in the defect and the innocent consumer, the latter should be required to bear the cost of remedying the defect. Equity clearly requires that the manufacturer have responsibility for remedying his error.

Similar provisions imposing an obligation on the manufacturer to repair defects have been contained in the most recent product safety laws, including P.L. 90-602 (radiation hazards of electronic products) and P.L. 91-113 (Toy Safety Act), both of which were approved by the Committee on Commerce. Similarly, S. 1797, the Administration's comprehensive product safety bill, which was recently referred to your Committee, contains such a provision.

In addition to being in accord with simple principles of equity, requiring the manufacturer to remedy defects is the best assurance that they will, in fact, be remedied. This is clearly in the interest of safety. We therefore urge you to support this amendment to section 15 of the bill.

Second, we believe that the proposed amendment to section 35 should be adopted. This amendment provides that when a corporation violates the standards, any director, officer, or agent who *knowingly and willfully* ordered or authorized the violation will be individually liable to civil penalties. We believe this principal of personal responsibility is very important.

As the predecessor bill to S. 696 was originally proposed by the Administration, it contained criminal penalties for a knowing and willful violation, as is the case in most statutes and as is also proposed by the Administration in its comprehensive product safety bill. Criminal penalties were deleted from the predecessor bill to S. 696 at the insistence of boat manufacturers. While we do not oppose making individual penalties civil instead of criminal, we firmly believe that the principal of personal responsibility should be preserved.

Any individual should be personally responsible for his knowing and willful actions, and should not be entitled to hide behind a corporate veil. Particularly in a case such as this, where the maximum penalty is \$100,000 and where many of the corporations are large enough to consider such a penalty a mere cost of doing business, personal responsibility is important. We submit that knowing and willful violations of the law are less likely to occur if the officer, director or agent knows that he must pay the consequences and that the fine cannot just be passed on to stockholders in the form of a fraction of a penny per share. We therefore also urge you to support this amendment to section 35 of the bill.

As was indicated at the outset, we believe effective legislation in this area is required now. However, without these critical amendments, we believe that the bill would actually be a regression for the consumer, out of step with recent product safety legislation, and a bad precedent for the future. If these amendments cannot be made, we would prefer that S. 696 not be approved, but that action in the area of boat safety await a comprehensive product safety bill.

Thank you for your consideration of our views. We would appreciate having the benefit of your reactions to this legislation and the amendments discussed in this letter.

Sincerely,

(Mrs.) ERMA ANGEVINE, *Executive Director.*

THE INTERCLUB ASSOCIATION OF WASHINGTON,
April 30, 1971.

Re S696—Boat Safety Act.

Hon. WARREN G. MAGNUSON,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: The Interclub Association of Washington is the largest federation of boating clubs in our state. I am one of its Trustees and Chairman of its Legislative Committee.

Interclub held its Spring General Session on April 24th at the Queen City Yacht Club in Seattle. This Session approved by Resolution a report calling for a request to you that there be some accommodation in respect to S696's effective repeal of the 10 horsepower exemption. In a poll of our membership last November, the almost unanimous preference was for retention of the present 10 horsepower exemption. The thinking appears to be that motorboats of such small size do not represent a significant threat to the life and property of others and therefore needing to be identified for law enforcement purposes. Furthermore once a numbering requirement is established, it tends to become a taxing device with the effect that the modest recreational equipment represented by a small boat would bring taxes down on its owner when other sporting equipment, e.g., guns, skis, cameras, do not. This kind of discrimination has been avoided in the past by the 10 horsepower exemption under Federal law and similar exemptions of many states.

The only substantial argument in favor of such universal numbering, is administrative convenience, particularly in search for the occupants of a missing boat. Unfortunately, the number usually only has the effect of making it easier to confirm a loss, not to prevent one.

We would therefore ask you to restore the 10 horsepower exemption.

If you would find this somehow unattainable, we feel, as a very minimum, that an accommodation should be extended in respect to numbering of small motorboats used principally as dinghies or tenders for larger vessels. In this respect it has been suggested that a dinghy might adopt the larger vessel's number (or name in the event the vessel is enrolled) with a suffix, say the letter "T". This would serve the purpose of the Coast Guard and other search and rescue agencies in regard to identification without subjecting the owner to the burden of two registrations for what is essentially one boat (the mother vessel) and its gear.

Parenthetically, such an accommodation was extended in the draft of SHB 592 in the current Session of the Washington Legislature (see Section 16 (10)). We believe such a move would find sympathy in many areas of the country. For example, the pleasure boat owners of Massachusetts have expressed their opposition to universal numbering, in part because of the nuisance of a separate number for a dinghy.

All too often, it seems these days, the sponsors of new legislation find it producing unexpected and unwanted consequences. There is no question that effective repeal of the ten horsepower exemption would bring the owners of hundreds of thousands of small boats into a new experience and this consequence should be clearly recognized in advance.

Thank you for your attention and interest in the past.

Very truly yours,

STEPHEN CHADWICK, Jr.
Legislative Chairman.

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, D.C., June 11, 1971.

Mr. EMANUEL ROUVELAS,
Old Senate Office Building,
Washington, D.C.

DEAR MR. ROUVELAS: You recently asked that the Coast Guard provide its views concerning Mr. Chadwick's remarks to Senator Magnuson in Interclub Association of Washington letter of 30 April 1971.

We, of course, are opposed to retaining the 10 H.P. limitation for those boats required to be numbered. In 1970, boats operating with motors of less than 10 H.P. accounted for 22 per cent of the fatalities, and led fatality categories listed in Boating Statistics (CG-357).

On the other hand, we are certainly not opposed to the principle of a dinghy or similar boat carrying an identical number to that of the mother vessel, using a prefix or suffix to identify that situation. Mr. Chadwick's suggestion in this regard seems quite reasonable. We suggest that such a provision be accommodated by regulation rather than inserting such a specific in the legislation. Also, you might wish to mention this in the Committee Report.

If I can be of further assistance in this matter, please let me know.

Sincerely,

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

NATIONAL ASSOCIATION OF TAX ADMINISTRATORS,
Chicago, Ill., April 8, 1971.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR MAGNUSON: In order to insure the collection of taxes on mobile property, such as motor vehicles, airplanes, and boats, which is subject to registration, titling or certification procedures, it is the practice of many states to require that proof of payment of applicable taxes be shown as a condition prerequisite to registration, titling or certification. The types of taxes commonly involved are sales taxes, titling taxes and property taxes.

It has been brought to my attention that the Coast Guard has taken the position that the enforcement of such a requirement is not permitted in connection with an application for a certificate of number under a state boating law enacted pursuant to the provisions of the Federal Boating Act of 1958, and that insistence on the tax payment provisions will result in a determination by the Coast Guard that the state boating law is not in conformity with the federal standards.

There appears to be no express statutory basis in the Federal Boating Act of 1958 for such a position, nor in H.R. 15041, which passed the House last December, nor in the bill before your committee in the present Congress, S. 696. Neither does this point appear to have been commented on in the hearings on boat safety that have been conducted in the past year or two.

The point involved here is of considerable importance because under the position taken by the Coast Guard, state and local government must either discontinue effective tax collection procedures or suffer a penalty in respect to the allocation of federal funds that would be provided under S. 696. Aside from any question about the merits of this position, if this is the policy of the Congress it should be expressly stated in the bill.

In this connection, I call your attention to the fact that among the miscellaneous provisions in S. 696, there is a saving clause for regulations previously issued under statutory provisions repealed or modified by the bill. This saving clause might well be regarded as congressional approval of any regulations in respect to state tax requirements heretofore adopted by the Coast Guard.

I would appreciate your comment on the question presented here.

Sincerely,

CHARLES F. CONLON,
Executive Secretary.

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, D.C., May 26, 1971.

HON. WARREN G. MAGNUNSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR MAGNUNSON: Your letter of 10 May 1971 requested my review and report of an enclosure, a letter from Mr. Charles F. Conlon, Executive Secretary of the National Association of Tax Administrators.

Mr. Conlon accurately describes the Coast Guard's position up to now regarding State enforcement of conditions that are prerequisite to an award of number by that State and which are not stated in the Federal Boating Act of 1958. We have attempted to discourage the proliferation of these preconditions

in order to adhere to the stated purpose of the Act. The Coast Guard has no desire to interfere with or impede a State's right to collect taxes. We have held, however, that a State's numbering system, approved by virtue of its compliance with the federal standard, should not serve to deny the award of a number to anyone for reasons not included in the Act.

Under existing law no recourse exists short withdrawal of approval of a State numbering system to encourage compliance with the federal standard. The bill presently before your committee, S. 696, offers a financial incentive to the States to conform to a standard system and should encourage uniformity among state laws.

The reference by Mr. Conlon to a saving clause for regulations previously issued under statutory provisions or modified by the bill is not felt to be germane to this issue. The regulations referenced in Section 39(e) of the bill are regulations that have been issued by the Secretary. No regulations so issued have heretofore "adopted" any State tax requirements. On the contrary, existing regulations implementing motorboat numbering provisions of the Federal Boating Act of 1958 (46 CFR 171) require an applicant for an award of number merely to certify ownership, describe his boat, declare his State of principal use and pay a fee to defray the cost of administering the number identification system. This fee has not interpreted to mean or include a tax. No other prerequisite conditions must be satisfied by the applicant in order to receive a number.

While Mr. Conlon is correct in commenting that the subject of preconditions was not specifically raised during the hearings on H.R. 15041, I do not think it correct to assume that the issue necessarily went unnoticed. Contrary to the statement in Mr. Conlon's third paragraph, Section 23 of S. 696 precludes a State from imposing terms and conditions which are not prescribed by the Act or the regulations of the Secretary concerning the standard numbering system. In this regard the Secretary in the exercise of his discretion could consider such terms or conditions that would not impact adversely on the legitimate federal interest.

The issue of terms and conditions prerequisite to an award of number is presently under consideration by the Coast Guard. It would appear premature at this time to attempt to state what regulations the Secretary may promulgate in advance of statutory authority for those regulations.

I trust that this reply has been responsive to the issues raised in Mr. Conlon's letter. If I can be of any further assistance, please do not hesitate to ask.

Sincerely,

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

OUTBOARD BOATING CLUB OF AMERICA,
Chicago, Ill., June 4, 1971.

Mr. EMANUEL ROUVELAS,
Counsel, Senate Commerce Committee,
Washington, D.C.

DEAR MR. ROUVELAS: We respectfully submit that permitting States to condition boat numbering upon proof of payment of State or local taxes, as is now proposed in Section 23 of S. 696, the Federal Boat Safety Act of 1971, is contrary to the purposes for which the uniform boat numbering system was established.

The legislative history of the Federal Boating Act of 1958 bears this out.

Enclosed for your use and reference are extracts from the U.S. House Merchant Marine and Fisheries Committee Report (No. 378, 85th Congress, 1st Session, dated April 18, 1957) wherein the Committee recommended:

1. That the fee for the issuance and renewal of a certificate of number be reasonable.

Reasonableness is stated in terms of that which is necessary to cover the costs of administration and enforcement of the numbering system.

2. That procedures for application, eligibility and issuance of the certificate of number be designed to carry out the purposes of the Federal Boating Act in the simplest, and most expeditious manner.

The stated purposes of boat numbering are to provide identification for marine safety law enforcement, to promote uniformity and reciprocity in boating law,

to assist in the compilation of boating accident statistics which suggest the most meaningful avenues of boating safety promotion, and to aid in search and rescue operations. There is no indication anywhere in the legislative history or the statutory language of the Federal Boating Act that Congress contemplated serving a distinctly non-boating safety purpose such as the collection of State or local taxes totally unrelated to the support of the boating program. Therefore it seems clear that a tax proof of payment proviso would fall outside the original purpose of the Federal Boating Act and that Congress ought not now to conscience attaching conditions that keep the true purposes of numbering from being carried out in the simplest and most expeditious manner.

3. That numbering applicants certify to the issuing authority that they have knowledge of the Rules of the Road and the provisions of the Federal Boating Act, and that no additional evidence of eligibility for an award of number be required.

In this connection it should be noted that at the hearings on the Boating Act of 1958 boat owners generally were in favor of numbering as a means of furthering boating safety but strongly opposed to the use of numbering as a vehicle for collecting taxes. We think the Committee was responsive to the boatmen's wishes and apprehensions in recommending that no evidence of eligibility for award of a number unrelated to boating safety be required.

We sincerely hope this letter and its enclosure on the injustice of tying collection of personal property tax into the boat numbering program will serve as strong and convincing grounds for eliminating the proof of payment of taxes condition in Section 23 of S. 696, and thank you for your consideration.

Sincerely,

RON STONE,

Director, Government Relations Department.

Enclosure.

[House of Representatives, 85th Cong., 1st Sess., Report No. 378.]

STUDY OF RECREATIONAL BOATING SAFETY

(April 18, 1957.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.)

Mr. Bonner, from the Committee on Merchant Marine and Fisheries, submitted the following report pursuant to sec. 136 of the Legislative Reorganization Act of 1946, Public Law 601, 79th Cong.¹

In accordance with section 136 of the Legislative Reorganization Act of 1946, your Committee on Merchant Marine and Fisheries submits the following report of a study to determine the need, if any, for additional legislation to regulate pleasure boating in the United States.

INTRODUCTION

Early in the 1st session of the 84th Congress this committee embarked upon a series of studies into the operations of various agencies under its jurisdiction, including the operation of the United States Coast Guard. Testimony during those hearings touched on the problems confronting the Coast Guard in the promotion of small boat safety and the enforcement of the Motorboat Act of 1940, resulting from increasing use of the navigable waters of the United States by pleasure boats.

In a letter dated May 9, 1956, to the chairman of your committee, the President of the National Association of Engine and Boat Manufacturers, Inc., one of the leading trade organizations in the small-boat industry, called attention to the phenomenal increase in popularity of recreational boating in the United States since World War II. It was pointed out that shorter workweeks and consequent additional leisure time in all income groups indicates still greater growth of pleasure boating in the future. With the rising popularity of pleasure boating has come an increased awareness on the part of the State traveling

¹ Sec. 136. To assist the Congress in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the Senate and the House of Representatives shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, shall study all pertinent reports and data submitted to the Congress by the agencies in the executive branch of the Government.

and per diem expenses as prescribed for Federal employees by the standardized Government travel regulations (Aug. 4, 1949, ch. 393, sec. 1, 63 Stat. 500).

It may be that this section provides all the authority needed for the Coast Guard to enter into cooperative enforcement arrangements with those States having comparable laws authorizing cooperation with the Federal Government. If more specific or additional authority is required, it is the opinion of your committee that it should be enacted. A program of enforcement through such cooperative Federal-State arrangements is the keystone to uniform, effective and efficient boating regulation with the least burden upon either those who use our national waterways or the State and Federal authorities who have the responsibility of assuring safe operation thereon.

There are many precedents for this type of intergovernmental cooperation, and your committee believes that through developments in this field the proper exercise of the police power of the States and the responsibilities of the Federal Government on the navigable waters of the United States will be strengthened.

RECOMMENDATIONS

Federal legislation

1. *General.*—Revise existing laws applicable to recreational boating with a view to (a) simplification, (b) elimination of conflicting rules and requirements, and (c) provision for basic authority vested in the Commandant of the Coast Guard to promulgate regulations to meet, on a continuing basis, the problems of the growing utilization of the navigable waters of the United States.

Such revision, to be called the Boating Act of 1957, should include legislative provisions to effectuate the following recommendations, Nos. 2 to 10, inclusive.

2. *Numbering Act of 1918.*—Repeal the Numbering Act of 1918, as amended.

3. *Registration of Motorboats.*—In addition to undocumented vessels, other than motorboats as defined in section 1 of the act of April 25, 1940 (54 Stat. 163; 46 U.S.C. 526), now required to be registered and numbered by the Coast Guard, require the registration and numbering by the Coast Guard of all motorboats used on navigable waters of the United States, subject, however, to the exemption of motorboats in such special categories as the Commandant of the Coast Guard shall, from time to time, determine. Subject to the exemption of certain categories of motorboats, no person shall operate a vessel required to be registered and numbered by the Coast Guard which does not have a valid registration and number.

4. *Registration—Issuance and renewal.*—A certificate of award of number or registration certificate shall be issued by the Coast Guard to the person having beneficial ownership of every motorboat registered in accordance with Recommendation No. 3, and shall be renewable at least every 3 years. This provision shall become effective at such time as the Commandant of the Coast Guard shall determine, but not later than 2 years after the enactment of authorizing legislation. Procedures for application, eligibility and issuance of said certificate shall be designed to carry out the purposes hereof in the simplest, and most expeditious manner.

5. *Registration—Eligibility.*—On and after the effective date or dates of the new numbering system, as determined by the Commandant of the Coast Guard every applicant for a new certificate of award of number or registration certificate shall certify to the issuing officer that he has knowledge of the rules of the road and the provisions of the Boating Act of 1957, provided, however, that presentation of evidence of ownership of the motorboat, for which application for certificate is made, prior to said date shall be presumptive evidence of such knowledge. No applicant for renewal of a number, nor any applicant who shall have owned a registered motorboat within 2 years of a new application, shall be required to offer additional evidence of eligibility for award of number.

6. *Registration—Fees.*—Require a reasonable fee for the issuance of each certificate of award of number (or registration certificate) and renewal thereof, the proceeds of which would be earmarked to cover the administration of the registration system and enforcement.

7. *Enforcement—Penalties for failure to register or renew.*—Provide for penalties up to \$50 for failure to comply with the registration requirement of the Boating Act of 1957, and the prohibition against the operation of unnumbered motorboats.

8. *Enforcement—Penalties for reckless or negligent operation.*—Provide for the imposition of civil penalties (in addition to existing penalties provided under 46 U.S.C. 526) for violations of law prohibiting reckless or negligent operation of motorboats or vessels.

9. *Accidents—Duty to render assistance and report.*—In accordance with regulations prescribed by the Commandant of the Coast Guard, impose an obligation upon the operator of any motorboat or vessel involved in an accident to (1) stop and render assistance, (2) give his name, address and identification of the motorboat to the operator of the other watercraft or owner of the property so damaged, and (3) in the event such accident resulted in death or injury to any person or serious damage to property to file promptly with the Commander of the Coast Guard District in which such accident occurs a full description of the incident, including the names of any persons killed or injured, and/or property damaged.

10. *Uniformity of laws—Coordination and cooperation with States.*—Provide additional legislative authority designed to make possible and to encourage co-operative arrangements between the several States and the Federal Government in the interest of achieving the greatest possible degree of uniformity in State laws and regulations modeled after or consistent with the Federal laws and regulations, and providing for joint and/or concurrent enforcement of recreational boating laws.

RECOMMENDATIONS TO THE SECRETARY OF THE TREASURY

1. Request the Commandant of the Coast Guard to review the present volume and status of recreational boating activities on the navigable waters of the United States, together with apparent trends, and submit to the Congress estimates of the additional personnel, facilities and appropriations which might be needed to carry out the recommendations contained herein.

2. Direct the Commandant of the Coast Guard to increase the program of enforcement of existing laws applicable to motorboats under 65 feet in length.

[From the Outboard Boating Club of America]

PERSONAL PROPERTY TAXES ON BOATING EQUIPMENT: AN EXPOSITION OF THE SITUATION AND WAYS TO CONTEND WITH IT

An unfortunate side effect of getting a Federally approved boat numbering system in several states has been to focus attention on boats and motors as a source of personal property tax revenue. The registration procedure has made available for the first time a listing of boats and their owners. Since numbering records are public records according to the numbering law, many local tax assessing bodies have utilized these listings to spot boat owners and place them on personal property rolls. There may in fact have been a tax law encompassing boats and motors for many years, but owners were not taxed before mainly because there was no ready way of identifying them.

A few states (notably Nebraska, Utah, Montana and Arkansas) have yielded to pressure from tax assessors and strayed from the purpose of boat numbering as identification for safety, by requiring proof of payment of personal property tax on one's boat as a prerequisite for obtaining a certificate of number. Oklahoma had a personal property tax proviso in its boat numbering law. However, vigorous protests from an organized boating public resulted in an opinion by the Attorney General of that state invalidating the proviso and eliminating the connection between numbering and payment of the personal property tax.

Resentment of the personal property tax is heightened in some areas by the inequality and discrimination that exists in the hodgepodge of local tax assessments. Some counties or municipalities are levying a steep tax on boats; others have a lesser tax rate; still others impose no tax at all. Boats are a very specialized type of property whose appraisal requires a thorough knowledge of the subject. Most local assessors simply do not have this knowledge. Consequently their methods of arriving at a basic value for assessment are unrealistic and varied. There also is utter confusion among the taxing units as to whether a boat may be taxed in the place in which it is kept or the place in which the owner resides.

The purpose of personal property taxes is to raise revenue to help support local government and the essential community services which it provides. Owning a boat for recreational purposes does not necessitate community service. Many boaters go outside their home district to enjoy their sport. Their community does not do a thing for them as boat owners. As home owners they are already paying their way in personal property taxes on household furnishings, bank accounts and other property necessary to everyday living.

Boaters are understandably bitter about the personal property tax situation. They feel it is a great injustice for boating equipment to be singled out for the general property tax when other recreational equipment goes untaxed. Furthermore, in the absence of a uniform practice among local assessors in determining the value of boats, there are bound to be inequities with boat owners in some areas paying higher taxes than those in other areas. Still further, since boating in two-thirds of the nation is restricted by seasonal changes to a few months out of the year, it seems highly unfair to tax boats for everyday community service.

This is not a question of boaters balking at paying their fair share of taxes. Boaters are not asking for special privileges. Their complaint is they are being subjected to multiple forms of taxation and getting little or nothing in return for their tax dollars.

Consider the multiplicity of levies the pleasure boater pays in addition to the personal property tax—

1. State and/or Federal boat registration fees.
2. State and Federal excise taxes on gasoline purchased for use in motorboats and also state sales and use taxes on boating equipment.
3. Federal manufacturers' excise taxes on boat trailers, fishing paraphernalia, etc. reflected in the purchase price to the consumer.
4. In some states, motor licensing separate and apart from boat registration, and fees for certificate of title for boats or boat motors.
5. Local boat inspection and licensing and charges for use of launching ramps and other facilities.

We are beginning to see a growing recognition that new boat tax laws are needed to remedy a bad situation. Several states have already acted to give boat owners tax relief in the form of exemption or reduction of personal property taxes.

Colorado led the way in 1960. Shortly after the Attorney General confirmed a ruling of the State Tax Commission that motorboats and motors did not fall within the statutory definition of personal effects which are tax exempt under the Colorado constitution, boating interests prevailed upon the legislature to adopt a new definition. Personal property taxes on boats and motors used for recreation were killed when the Governor signed a bill exempting sports equipment and hobby items, not used for the production of income, from assessment and taxation.

In 1961 the Oregon and Vermont legislatures voted to exempt boats from property taxes.

Oregon law decrees that boats which are licensed by April 1 of any year are entitled to exemption from property taxes for the assessment year beginning January 1 of such year. Boats held in stock for sale or exchange, which are not licensed on January 1 of any year, must be listed with the proper county assessor for property taxation. However, the assessor is required to cancel the listing if he is given proof prior to July 1, that the boat or boats have been licensed and the licensing fees paid prior to June 1 of such year. The new law is applicable to assessment years beginning on or after January 1, 1962.

The Vermont law follows the same route. It provides, canoes, skiffs, sailboats, motorboats, outboard motors or any combination of boat and outboard motor, shall only be taxed as personal property when held as stock in trade, manufacturer's inventory, or when used for income producing purposes. Formerly, sailboats, motorboats, outboard motors or any combination of boat and outboard motor, valued at more than \$500, were set in the property list and taxable as personal property.

In Wisconsin, a personal property tax exemption law was adopted as a result of a spirited campaign by organized boating clubs and the boating industry within the state to have pleasure boats removed from personal property tax rolls. The campaign mounted when the State Tax Department sent local assessors a list of boat owners obtained from registrations with the Conservation Department. More boat owners than ever before were assessed, and they bitterly complained of discrimination inasmuch as other recreational equipment was going unassessed. By terms of the 1962 law, all pleasure boats and motors belonging to Wisconsin residents and used by a family for recreational purposes, and watercraft belonging to non-residents and laid up for repairs in the state are exempt from personal property taxes.

The 1963 Maine Legislature voted to exempt from the property tax any pleasure craft in the state on April 1 belonging to non-residents and left in the state temporarily for repair or storage and for a consideration. This, of course, is of

no benefit to resident boat owners who for some time have been resentful of local taxes disproportionate to the value of their boats.

In Minnesota there has been a drift toward personal property tax exemption for boats and motors, and though the drift has been labored, the state and at least 20 counties now exclude boats and outboard motors used exclusively for recreation from the tax rolls.

In March, 1960 the Attorney General of the state in an opinion addressed to the State Taxation Department ruled outboard motors are not subject to personal property tax if they are used strictly for recreation. The preceding year the legislature had exempted household goods and personal property used for personal and domestic purposes from the state tax, and had given the counties the option to exempt such property from taxation. Since state assessing officials had been classifying outboard motors in the newly exempt category for many years, the Attorney General said they could not change their policy without specific legislation. Neither could counties which had previously exempted household goods from taxation turn about and tax outboards. The effect is that only in counties which previously levied on household goods are outboard motors used for recreation subject to taxation. Also, outboards used for business are subject to both state and local taxes.

This opinion was a limited victory at the time. It offered no relief from the property tax on pleasure boats as distinguished from outboard motors.

Returning to the inequality of taxation from county to county, the Minnesota Attorney General, backed by marine dealers, asked the state tax and boat licensing departments to study the feasibility of a state-wide boat tax law patterned after the motor vehicle tax setup. This would entail increased boat licensing fees in lieu of a personal property tax which would be applied equitably state-wide. Under the proposed "in lieu" tax law, local taxing units would be allotted a share of the tax revenue, no less than they had received from their personal property tax; the tax rate would be uniform throughout the state; and boaters would realize some benefits possibly in the dedication of part of the tax money for public facilities, markers and safety patrols, and certainly in the fact that the amount they paid for a single boat license would be less than what they had to pay in license fees and personal property tax.

There is precedent for in lieu tax treatment. Idaho has licensed pleasure boats in lieu of personal property tax for over 10 years. Oregon boat numbering fees are also in lieu of property taxation.

More recently, in order that pleasure craft be taxed uniformly throughout the state, the 1963 Florida Legislature exempted them from spotty and varying local personal property tax assessments. Instead boats were reclassified as power driven vehicles on the waterways of the state and made subject to a state boat registration certificate tax similar to the taxing and registration procedures for motor vehicles and airplanes. Revenue arising from this tax (except for a small share reserved to the state to cover administrative costs) is allotted to the various counties on the basis of the number of boats registered in each county. The county's share of the tax is divided, 2/3 to the county school board and 1/3 to the general county fund. Surplus funds in the state's share go to the outdoor recreation program for the improvement of boating facilities.

In summation, personal property taxation in the case of pleasure boats and motors is generally looked upon as a discriminatory application of taxes. It is true that personal property taxes were in existence in many areas prior to the adoption of the boat numbering laws that focused the assessors' attention on pleasure boaters, and theoretically these taxes have always applied to boats and motors as well as other equipment. Boaters do not object to paying their fair share of taxes, but they do object to being unreasonably discriminated against as virtually the only user of recreational equipment paying the tax. They feel they should not be singled out to pay a tax when other recreational equipment goes unassessed because there simply is no practical way to reach it. This is compounded by the fact that they are already paying an unfair share of taxes from which they are getting no benefit, particularly marine fuel taxes. Also, in some states they are not even getting the benefit of the numbering fees which they pay since the latter do no go into earmarked funds.

The following ways of attempting to relieve the boaters' tax burden are suggested by action that has already taken place in several states:

1. Reclassifying boats and motors under exempt property categories or having them reappraised for lower tax assessments.
2. Increasing boat licensing fees in lieu of personal property taxes and distributing the revenues on an equal basis to the political subdivisions of the state with assurances that boatmen will realize tax benefits in the form of improved public access, launching ramps, hazard markers, safety patrols, and the like.
3. Earmarking for boating purposes the state excise tax on gasoline which boatmen pay when they purchase fuel for use in motorboats.



The following table shows the results of the
analysis of the data for the year 1960.
The results are given in the following table.
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