

**Assembly Task Force on
Waterway Safety
FINAL REPORT**

February 11, 2004

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New Jersey State Legislature
ASSEMBLY TASK FORCE ON WATERWAY SAFETY
STATE HOUSE ANNEX
PO BOX 068
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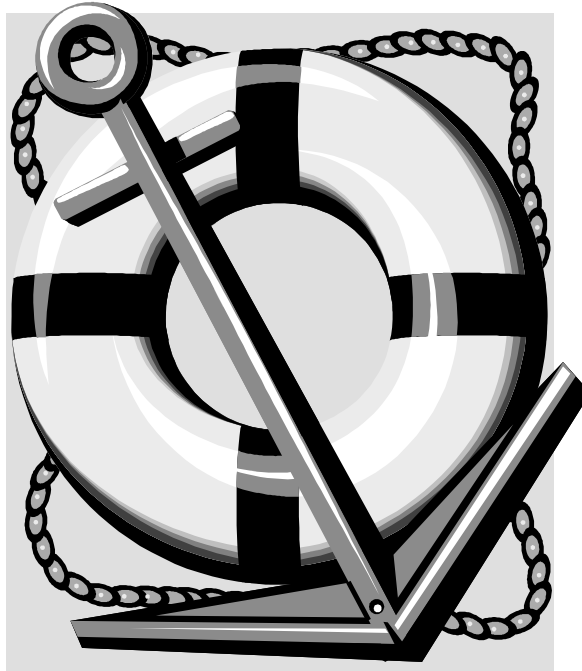
February 11, 2004

Honorable Albio Sires
Speaker of the General Assembly

Speaker Sires:

The Assembly Task Force on Waterway Safety, created by Assembly Resolution No. 178 to study the nature and causes of the high number of boating-related accidents and fatalities, hereby respectfully submits its final report in compliance with the provisions of its enabling legislation.

Assemblyman Robert J. Smith, II
Chairman



ASSEMBLY TASK FORCE ON WATERWAY SAFETY

MEMBERS

Assemblyman Robert J. Smith, II, Chairman
Assemblyman Gordon M. Johnson
Assemblyman Jeff Van Drew
Assemblyman Jeffrey W. Moran
Assemblyman Nicholas Asselta

STAFF TO THE TASK FORCE

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February 11, 2004

Honorable Albio Sires
Speaker of the General Assembly

Speaker Sires:

I am pleased to transmit with this letter the report of the Assembly Task Force on Waterway Safety. The task force was created to study issues related to recreational boating safety.

This report represents a comprehensive review of recreational boating safety issues and related statutes. After reviewing statistics on boating accidents and fatalities, the task force considered various proposals to improve safety on this State's waterways. The task force is proposing a number of recommendations, the most significant of which is to require all persons who operate a boat to pass a boating safety course.

I would like to thank each of the task force members for the time and effort they dedicated to assisting the task force in its charge. I also would like to thank all the witnesses who took the time to appear before the task force to contribute their insights and analysis.

Respectfully,

Assemblyman Robert J. Smith, II
Chairman

INTRODUCTION

Several recent high-profile fatal boating accidents have brought to the attention of the Legislature the issue of recreational boating safety. Of particular note was a fatal boating accident that occurred off the coast of Beach Haven on October 12, 2000. In that accident, a 60-foot yacht collided with a 20-foot fishing boat, killing three of the fishing boat's occupants and injuring a fourth. The operator of the yacht, accused of not being at the helm when the accident occurred, was charged with three counts of death by vessel and one count of assault by vessel. His trial resulted in a hung jury and he ultimately pled guilty to one count of death by vessel. More recently, in another accident that occurred on Memorial Day 2002, three brothers were killed off the coast of Sea Isle City when they lost control of and crashed their high-speed catamaran. On June 20, 2002, two people were killed when an 18-foot boat capsized in a Stone Harbour inlet.

In light of these and other boating accidents that have occurred on this State's waterways, the General Assembly approved on September 23, 2002 Assembly Resolution No. 178, which established the Assembly Task Force on Waterway Safety. The task force was charged with studying the issue of recreational boating safety. The five-member commission was directed to review maritime data to "form an independent judgment on the nature and causes of the high number of boating-related accidents and fatalities." Speaker Albio Sires appointed Assemblyman Robert J. Smith to chair the commission. Also appointed to the task force were: Assemblyman Gordon M. Johnson, Assemblyman Jeff Van Drew, Assemblyman Jeffrey W. Moran and Assemblyman Nicholas Asselta.

The Assembly Task Force on Waterway Safety held three public hearings. The first meeting was held in Ocean City at the Ocean City Council Chambers on September 20, 2002. The task force took testimony on water vessel accidents and fatalities, boating safety awareness and boating accident statistical reporting. Those testifying included: two representatives of the Marine Services Unit of the New Jersey State Police; representatives of the Garden State Seafood Association, the Marine Trades Association and the Cape May County Party and Charter Boat Association; and a private citizen.

The second meeting of the Assembly Task Force on Waterway Safety was held on November 15, 2002 on the Camden Campus of Rutgers University. The task force heard testimony concerning the role of boating safety education in preventing boating accidents. Persons testifying included representatives of the Attorney General, the New Jersey State Boat Regulation Commission, the State Police, the United States Coast Guard, the New Jersey Performance Powerboat Club, Save Barnegat Bay, Proroc Marine Performance Center, Inc., the Boating Safety Institute of America and the Boater Voter Coalition, as well as several private citizens.

The third meeting was held on March 7, 2003 in Pine Beach Borough Hall. Testimony was taken concerning boat safety regulations in other states and on insurance matters and their relation to boating safety. The mayor of Pine Beach addressed the task force followed by representatives of the National Transportation Safety Board; Ocean Marine Specialties, Inc.; the Insurance Council of America; the Alliance of American Insurers; the Boater Voter Coalition; the Marine Services Unit

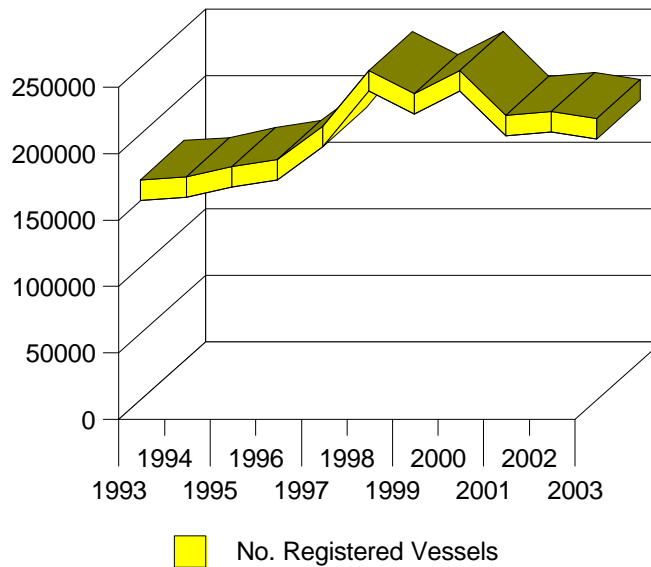
of the New Jersey State Police; and several private citizens.

SUMMARY OF FINDINGS

Many issues concerning recreational boating safety were raised during these hearings. The four main topics discussed were: boating statistics on accidents and fatalities; an operator license; mandatory education; and resources dedicated to marine law enforcement. Other topics which also were discussed included speed limits and boating insurance.

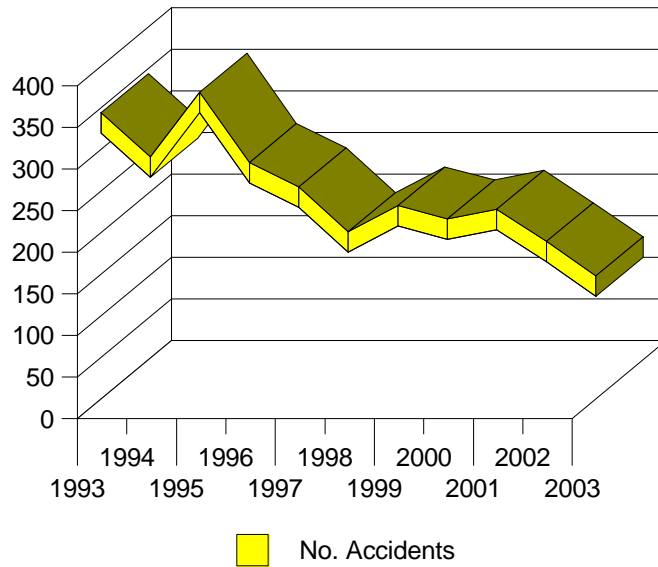
STATISTICS

The number of boats operating on the waterways of this State has increased significantly over the past 10 years.¹ In 1993, there were approximately 158,100 registered vessels in this State. That number steadily rose from 160,250 in 1994 to 168,100 in 1995, to 173,250 in 1996, to 198,250 in 1997 and then to a high of 240,000 registered vessels in 1998, followed by a slight dip to 223,000 in 1999 and then back up to the high of 240,000 in 2000. The number has remained steady over the last several years, at 206,250 in 2001, 209,420 in 2002 and 203,835 in 2003.



¹These statistics, provided by the State Police, are taken from New Jersey Motor Vehicle Commission records on the date when the highest number of vehicles were registered in that year.

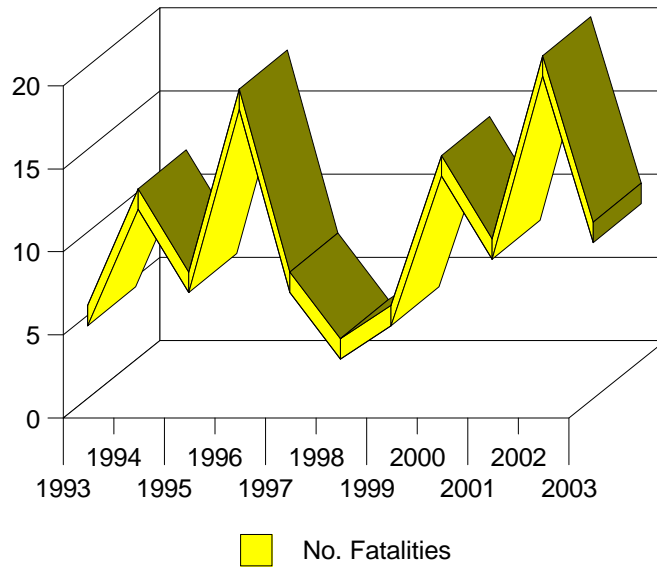
Despite this increase, boating accidents in New Jersey have steadily declined over recent years, particularly since a limited mandatory boating education requirement was instituted in 1996.² There were 332 boating accidents in 1993, 279 accidents in 1994 and 357 accidents in 1995. The number of accidents then dropped to 272 in 1996, 243 in 1997 and 189 in 1999. After a slight increase in 1999 to 220, accidents again declined in 2000 to 204, increased slightly to 216 in 2001, then dropped again in 2002 and 2003 to 177 and 136 respectively.



As illustrated in the following chart, there is no real discernible pattern to the number of fatalities that occurred in these accidents.³ Fatalities ranged from a low of three in 1989 to a high of 20 in 2002. There were 10 fatalities in 2003.

²According to statistics provided by the State Police. The number of accidents in 2003 are through September.

³According to statistics provided by the State Police. The number of fatalities in 2003 are through September.



According to testimony taken at the hearings, there were many contributing factors to these boating accidents, including alcohol and drug use, speeding, operator inattention and failure to wear safety equipment. There was no apparent geographical pattern to the accidents. One person testified that most boating accidents involve open motorboats, followed by personal watercraft and then cabins or motorboats.

Another issue raised during the hearings was the accuracy of the boating accident data. Pursuant to subsection b. of N.J.S.A.12:7-34.46, the operator of a boat is required to complete a boating accident report (BAR) when an accident results in a person’s death, disappearance or injury or when there is property damage that exceeds \$500. Under the law, the BAR must be completed “by the quickest means of communication possible when a person has died or disappeared.” Otherwise, the BAR must be completed within 10 days of the accident.

Witnesses familiar with the number of insurance claims that are being filed for boating accidents testified that the number of accidents for which claims were made far exceeds the number of accidents documented by BARs. While accidents involving fatalities, serious injuries or significant property damage are likely to be accurately reflected in the data, accidents involving minor injuries or minor property damage may not be.

OPERATOR LICENSE

Another recurring issue discussed during the task force hearings was the possibility of licensing boat operators in the State. Presumably, a comprehensive boat operator licensing requirement would entail a written test, as well as a demonstration of competency to operate the

vessel. There is currently no such requirement in this State. In fact, it appears that Alabama is the only state that currently requires a comprehensive boat operator license.

A comprehensive boat operator license should not be confused with the “power vessel operator’s license” required in this State. Pursuant to N.J.S.A.12:7-72, a power vessel operator’s license is required to operate a power vessel on this State’s nontidal waters.⁴ Nontidal waters are those in which the tide does not change, such as a lake. The license is issued by the New Jersey Motor Vehicle Commission for a \$4 fee and the applicant is issued a “BOAT” sticker to display on his or her drivers’ license. There are no prerequisites, such as a test, to purchasing this license. It was suggested during the task force hearings that this license merely constitutes a tax on the privilege of operating a boat on a lake and could be eliminated to avoid confusion. Revenue lost by eliminating the nontidal license might be replaced by charging a fee for a boating safety certificate.

There are several reasons to require a comprehensive boat operator license. It would ensure that the operator has a minimum amount of boating education and some degree of ability to safely operate a boat. Another reason would be the deterrent effect that the threat of losing the license might have on boaters, which would be similar to that of the threat of losing a drivers’ license for traffic infractions.⁵

The biggest obstacle to instituting a comprehensive boat operator license is the administrative burden such a scheme would impose on the State. The cost likely would be substantial and implementation complex. Another problem would be the practicalities of determining operator competency in light of the wide range of boat types. For example, one witness wondered if a person who demonstrated competency on one type of boat would have to be retested upon purchasing a different type of boat.

⁴Persons under the age of 16 may not operate a power vessel in this State. Boaters are exempted from the license requirement if they are: operating a vessel with a motor which is less than one horsepower or 12 volts; operating a boat measuring 12 feet or more with less than 10 horsepower; participating in an authorized race sponsored by a yacht club; out-of-State residents who have successfully completed a boating safety course.

⁵Several references were made during the hearings to the penalties incurred for operating a boat while intoxicated. Pursuant to N.J.S.A.12:7-46, a person convicted of a first offense of operating a vessel while intoxicated loses the right to operate a vessel for one year and the right to operate a motor vehicle for three months. It was noted during the hearings that this is not reciprocal, i.e., if you lose your drivers’ license for drunk driving, you do not lose the right to operate a boat.

EDUCATION REQUIREMENT

According to the National Transportation Safety Board (NTSB), 19 states, as well as the District of Columbia and Puerto Rico, have some type of mandatory boating education requirement. This includes New Jersey. According to the NTSB, Connecticut requires all of its boaters to take an eight to 10 hour course and an additional course for personal watercraft. Alabama is the only state that has a mandatory comprehensive operator license.

There has been a limited boating education requirement in this State since 1996. Pursuant to subsections b. and c. of N.J.S.A.12:7-61, a basic boating course is required under two circumstances: (1) when a person is born after December 31, 1978; and (2) when the boat is a personal watercraft (PWC), regardless of the operator's age.⁶ Throughout the hearings, it was emphasized that, under this law, any person born before 1979 may operate a power vessel, other than a PWC, *without ever completing a basic course on boating safety*. In other words, the boating course requirement applies only to persons 25 years old or under; persons older than this do not have to take the course unless they are operating a personal watercraft.

A State Police representative from the Marine Services Unit provided an overview of the basic boater safety course taught by the State Police.⁷ The course includes components on basic safety equipment required on the vessel, rules of the road and procedures to follow in the event of an accident. Approximately eight hours are required to cover the course work. To pass the State Police course, a person must pass a 50-question test with a grade of 70 percent or more. The basic course also is offered by the Coast Guard Auxiliary, the United States Power Squadron and private providers who have been approved by the State Police. The average cost of an 8-hour Coast Guard course ranges from \$40 to \$60. Upon demonstrating successful completion of a boating safety course, the State Police issues a boating safety certificate to the person. Currently, there is no fee charged for the certificate.

A representative of the Boating Safety Institute of America offered several suggestions to

⁶Exceptions to the requirement under subsection b. of N.J.S.A. 12:7-61 are: 1) persons 18 years of age or older who have a valid motor vehicle drivers' license operating a power vessel, other than personal watercraft, the motor of which is less than 10 horsepower; 2) out-of-State residents and residents of foreign countries who are 18 years of age or older operating a power vessel, other than personal watercraft, registered in their state or country if operating that vessel in State waters for less than 90 days; 3) persons 18 years of age or older renting a power vessel, other than a personal watercraft, who take a pre-rental course and rent from a rental business whose owner is experienced in operating vessels and has satisfactorily completed a boating safety course.

⁷The New Jersey State Police publishes a manual entitled *Boating Safety*, which includes chapters on registration, titling and documentation; equipment and education; and operator's responsibilities.

improve New Jersey’s boating course. First, the New Jersey course should conform to national standards promulgated by the National Association of State Boating Law Administrators (under federal law, these standards are developed jointly by the states and Coast Guard through an education committee). Second, a fee should be charged to obtain the boating safety certificate to alleviate the administrative burden on the State Police. Third, the State should review the qualifications and credentials of boating safety course instructors. Fourth, the boating course handbook should include information from all State agencies that deal with boating safety, including information on environmental regulations and parks. Last, the boating education requirement should be mandatory for all boaters.

There was considerable discussion during the hearings as to whether a boating education course should be made mandatory for all boaters. There seemed to be substantial support for such a change in the law among witnesses from the various boating interest groups that testified.

As previously indicated, State Police statistics on boating accidents and fatalities seem to support the notion that boating accidents have decreased since the boating safety course requirement went into effect in 1996, despite the increase in the number of power vessels and personal watercraft on the State's waterways. This is also reflected in the statistics on accidents and fatalities involving personal watercraft (PWC). Prior to 1997, PWC as a percentage of total accidents ranged from 28 to 42. After 1997, this percentage declined every year until 2003.

<u>Year</u>	<u>PWC Accidents</u>	<u>PWC Fatalities</u>	<u>% of Total Accidents</u>
1993	94	0	28
1994	83	2	30
1995	152	1	42
1996	89	3	33
1997	69	1	28
1998	56	1	27
1999	60	2	27
2000	51	3	25
2001	43	1	20
2002	29	2	16
2003	32	1	24

Based on the State’s boating statistics, it appears that the requirement of a mandatory boating safety course has resulted in increased boating safety. It was emphasized by the State Police that completion of the course would enhance boating safety only if all the course material is covered.

References were made during the hearings to a study conducted by the United States Coast Guard which found that in 84 percent of boating fatalities, the boat operator had no boat operator instruction. This further supports the need for education among boat operators.

One issue that was raised several times during the hearings in regard to making the boating education course mandatory for all boaters was whether a “test-out option” would be feasible. A provision of the 1996 law that established the existing boating safety course requirement allowed for experienced boaters to take a written test in lieu of the course.⁸ This test-out option was in effect from April 11, 1996 to July 1, 1997. Boaters had one opportunity to take the test; if they did not pass, they were required to take the boating course. A State Police representative testified that the test-out option in 1996 was successful. Another person testified against the test-out option on the grounds that a boater who only took the test missed out on the invaluable interaction with other boaters that occurs in the classroom.

According to the NTSB, states that passed laws requiring all boaters to take a mandatory boating course have implemented the requirement by either requiring the test to be completed by a certain date or by phasing in the requirement. Another aspect of implementing a mandatory boating course for all boaters was finding a source of funding for the administrative costs to the State Police.

The issue of recertification also was raised. Currently, the boat safety certification is issued to a person just once. There is no requirement that a person retake the test periodically. There was some discussion as to whether a person who passed the course, but then never operated a boat, should be required to take a refresher course.

The qualifications and credentials of the instructors of boating safety courses was also alluded to during the hearings when it was related how the State Police recently caught an instructor illegally selling boating safety certificates from his home. While State regulations require providers of the boat safety course to be approved by the State Police, the only qualification for instructors hired by these providers is that the instructors possess a boat safety certificate. Since current law requires only those born after 1978 to take the course, many of the persons enrolled in these classes are teenagers. In light of this, it was suggested during the hearings that criminal history record background checks of instructors ought to be considered to weed out unscrupulous persons who might prey on this population.

LAW ENFORCEMENT ON THE WATERWAYS

The New Jersey State Police is responsible for enforcing the laws on all waterways in the State, including all rivers and lakes and the waters within three nautical miles of the coast. The United States Coast Guard has concurrent jurisdiction in these waters. Beyond the three-mile radius is considered federal waters and therefore is patrolled by the Coast Guard.⁹ The State Police often work in conjunction with local police to respond to accidents and complaints.

⁸See note to N.J.S.A.12:7-61.

⁹The State Police may do customs enforcement beyond the three-mile radius.

Many of the witnesses testified that, in their experience, there was very little police presence on the waterways. It was even suggested that many boaters are not reporting accidents because it takes so long for the State Police to arrive at the scene. Task force members questioned State Police about manpower levels and their effect on the number of summonses and boarding warnings issued.

In response to these questions, State Police representatives said that it would be difficult to parse this information because of the current structure of the State Police. The representatives further explained that there is no longer a separate marine unit in the State Police, but rather, marine enforcement units are allocated within each State Police road troop. Because of this structure, it is difficult to determine the effect that manpower levels in a particular troop have on the summonses and warnings issued. The allocation of resources among the road troops is determined by the Superintendent of State Police.

SPEED LIMITS

There was some testimony during the task force hearings concerning whether speed limits should be instituted on the State's waterways to enhance boating safety. During these discussions, the task force learned that the Boat Regulation Commission (BRC), an executive commission,¹⁰ had recently held several hearings on the topic of speed limits. The BRC is statutorily authorized to set speed limits by regulation. The commission currently is considering a limited speed limit, possibly during weekends (from sun-up Friday to sun-down Sunday) on certain waterways from May 1 through October 31.

Some witnesses who spoke before the task force advocated a 30-mile per hour speed limit in tidal and coastal waters. Opponents also testified against speed limits on the grounds that they would result in negative economic repercussions on tourism, one of the State's most important industries. For example, boaters would leave the State to buy boats, rent slips in marinas to store their boats, buy fuel, eat in restaurants and stay at hotels. Also, high-performance boats would be forced offshore, which would require more operating skills and pose an increased danger to the crew's safety. Other concerns included how a speed limit would be enforced and whether radar guns would be accurate on the water.

During the debate on the issue of speed limits, several witnesses testified that many of the same matters being considered by the task force were also being considered by the BRC. Since the task force and the BRC both have the same goal, i.e., increasing boating safety, the chairman of the BRC suggested that there should be additional communication between the task force and the BRC

¹⁰Established pursuant to N.J.S.A. 12:7-34.49, the Boat Regulation Commission is a seven-member commission within the Department of Law and Public Safety. It consists of the Attorney General and six public members appointed by the Governor. The commission is charged with promulgating rules and regulations concerning the inspection, operation and equipping of vessels, as well as anchoring, racing and other safety matters. Rules passed by the commission may not go into effect from May 1 through September 30 except for emergency reasons.

to accomplish common goals and by doing so, avoid duplication of efforts.

INSURANCE

The task force also heard testimony concerning boat insurance. Boat owners can obtain boat insurance as an endorsement on their homeowner's policy under limited circumstances. The boat cannot be more than 50 horsepower or longer than 16 feet; if the boat is a sailboat, its length cannot exceed 26 feet. Damage to the boat would be insured, but not personal liability or medical costs. The premium on average is \$38 to \$100 per year. The boat owner does not receive a discount in the premium for taking a boating safety course. Few claims for boating accidents are made under homeowner policies.

A boat owner who does not qualify for coverage under their homeowner's policy must purchase a separate marine policy. There may be a discount on a marine policy for taking a boating education course which ranges from 10 to 15 percent of the premium.

MAJOR FINDINGS AND RECOMMENDATIONS

This section outlines eight major findings that resulted from the three hearings of the task force. Below each finding is the task force's recommendation for addressing each one. Please note that these findings and recommendations are not in order of priority.

FINDING: There is under reporting of boating accidents as evidenced by the discrepancy between the number of boating accidents reported in boating accident reports (BARs) and the number of insurance claims filed for boating accidents. BARs are an important source of boating statistics. Since accurate boating statistics are needed on which to base decisions concerning boating safety, it is important that BARs be submitted when accidents occur.

RECOMMENDATION: Increase the number of completed boat accident reports as required by law through a public awareness campaign within the boating community.

FINDING: New Jersey does not currently require a comprehensive boat operator license. Requiring such a license is one of several options that may enhance boating safety. But it would require a substantial commitment of resources to effectively administer such a program. In light of the current budgetary problems faced by the State, resources could be used more effectively to promote other, more limited programs that may be just as effective in promoting boating safety, such as requiring all boaters to complete a boating safety course. Such a license has only been implemented in one other state (Alabama).

RECOMMENDATION: The task force does not recommend that a comprehensive boat licensing scheme be implemented at this time. Rather, efforts should be concentrated on requiring that every boater of every age satisfactorily complete a mandatory boating course as discussed below. The State should continue to monitor the impact of Alabama's law in minimizing boat accidents.

FINDING: Under current law, only persons born after 1978 are required to take a boating safety course before they can operate a vessel on the State's waterways, except that all persons who operate a personal watercraft must pass such a course.

RECOMMENDATION: The task force recommends that every boater be required to satisfactorily complete a boat safety course. To minimize the burden on the State Police, this requirement should be phased in over time. There should be a test-out option for experienced boaters. The course should be made available via the Internet.

FINDING: The educational and other qualifications of boating safety instructors are minimal; under current regulations, instructors are only required to be certified as having successfully completed an approved boating safety course.

RECOMMENDATION: Increase educational requirements for boating safety course instructors and establish other qualifications, such as passing a criminal history record background check.

FINDING: There is not an adequate State Police presence on the waterways. An adequate police presence would deter unsafe boating practices. More police presence could also result in the reporting of more accidents.

RECOMMENDATION: Funding for marine patrol needs to be increased. Research should be done on possible sources of stable funding for this purpose.

FINDING: The Legislature should be apprised of the considerations of the Boat Regulation Commission. This will help minimize the duplication of efforts and ensure that both entities are furthering the common goal of safe boating.

RECOMMENDATION: The Boat Regulation Commission should be required to submit copies of the minutes of its meetings to the Legislature.

FINDING: There are currently few speed limits on the waterways of this State. These speed limits are set by the Boat Regulation Commission via regulation.

RECOMMENDATION: The task force recommends that speed limits continue to be determined by the Boat Regulation Commission.

FINDING: Persons who have satisfactorily completed a boating safety course should receive a discount on the premium for their boating insurance.

RECOMMENDATION: If mandatory boating education for every boater is not required, a law should be passed to require insurance companies that offer boating insurance to provide a 10 to 15 % discount on the premium of persons who have satisfactorily completed a boating safety course.

APPENDIX A

ASSEMBLY RESOLUTION No. 178

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED SEPTEMBER 19, 2002

Sponsored by:

Assemblyman ROBERT J. SMITH

District 4 (Camden and Gloucester)

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

Assemblymen Corodemus and Guear

SYNOPSIS

Creates "Assembly Task Force on Waterway Safety."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/24/2002)

1 AN ASSEMBLY RESOLUTION creating a task force to study waterway
2 safety.

3
4 WHEREAS, New Jersey is on a record-setting pace to report more
5 fatalities caused by recreational water vessel accidents than any
6 previous year; and

7 WHEREAS, According to the Marine Services Unit within the New
8 Jersey State Police, there have been 15 boat-related fatalities to
9 date for the year 2002; in 1999, the State Police reported only 7
10 fatalities; the following year that number doubled to 14 and in
11 2001, 9 fatalities were recorded; and

12 WHEREAS, In reviewing statistics for the last 6 years, boating-related
13 accidents have continually declined from 357 accidents in 1995 to
14 216 in 2001, while fatalities have fluctuated; nevertheless, as the
15 State has already recorded 15 fatalities, it is possible that 2002 will
16 be a record-breaking year; and

17 WHEREAS, While the Maritime Services Unit within the New Jersey
18 State Police and the United States Coast Guard within the U.S.
19 Department of Transportation each collect statistics on boating-
20 related accidents, it is entirely appropriate for an independent body
21 to take a closer review of the data collection process and the data
22 itself, an endeavor which may help to explain more precisely the
23 high number of boating-related fatalities; and

24 WHEREAS, It is in the public interest to further investigate the issue of
25 waterway safety, inasmuch as nearly 250,000 recreational vessels
26 are registered in New Jersey and thousands more visit the Jersey
27 Shore each year, and it is imperative that every effort be made to
28 ensure that the invaluable safety of our New Jersey residents and
29 tourists who enjoy recreational water activities along our shores;
30 now, therefore,

31
32 BE IT RESOLVED *by the General Assembly of the State of New*
33 *Jersey:*

34
35 1. There is established the Assembly Task Force on Waterway
36 Safety, hereinafter, the "task force." The task force shall comprise five
37 members of the General Assembly. The members, chairman, and vice-
38 chairman of the task force shall be appointed by the Speaker of the
39 General Assembly. No more than three members of the panel shall be
40 of the same political party.

41 Vacancies in the membership of the task force shall be filled in the
42 same manner as the original appointment. The members of the task
43 force shall serve without compensation, but may be reimbursed for
44 necessary expenses incurred in the performance of their duties.

1 2. The task force shall organize as soon as may be practicable after
2 the appointment of a majority of its members and the appointment of
3 the chairman. The members may select a secretary, who need not be
4 a member of the task force.

5 The task force shall meet at the call of the chairman. The task force
6 may meet and hold public hearings at such place or places as it shall
7 designate during the sessions or recesses of the Legislature.

8
9 3. The task force shall review the data collection process utilized
10 by the Maritime Services Unit and the United States Coast Guard in
11 collecting statistics on boating-related accidents, and conduct a review
12 of the data itself, in order to form an independent judgment on the
13 nature and causes of the high number of boating-related accidents and
14 fatalities.

15
16 4. Within nine months after the task force organizes, the task force
17 shall report its recommendations, including any recommended
18 legislation, to the Speaker of the General Assembly.

19
20
21 STATEMENT
22

23 This resolution establishes a 5-member "Assembly Task Force on
24 Waterway Safety" to review the boating-related accident and fatality
25 data collected by the Maritime Services Unit of the New Jersey State
26 police and the United States Coast Guard, as well as the data
27 collection process itself, in order to form an independent judgment on
28 the nature and causes of the high number of boating-related accidents
29 and fatalities in New Jersey.

30 The task force is to be comprised of five members of the General
31 Assembly to be appointed by the Speaker of the General Assembly.
32 No more than three members of the panel may be of the same political
33 party.

34 The task force must report its recommendations, including any
35 recommended legislation, to the Speaker of the General Assembly
36 within nine months after it organizes.

APPENDIX B

12:7-34.46. Accidents involving vessels

11. (a) Whenever any vessel upon the waters of this State is involved in an accident, it shall be the duty of the operator, so far as he can do so without serious danger to his own passengers, guests, crew, himself or his vessel, to render to all other persons affected by the accident such assistance as may be necessary in order to save them from or to minimize any danger caused by the accident. He shall also give his name, address, and identifying information regarding his vessel to any person injured and to the owner of any property damaged in the accident.

(b) Whenever an accident involves any vessel subject to this act and results in the death, disappearance, or injury of any person, or in property damage in excess of \$500, the operator or operators thereof shall file, with the Division of State Police, a full description of the accident, including such information as that division may, by regulation, require within the times specified in subsection (c) of this section.

(c) A boating accident that occurs on the waters of this State shall be reported to the Division of State Police by the quickest means of communication possible, if the accident has caused the death or the disappearance of any person; any other reportable boating accident that may result in personal injury or property damage shall be reported within 10 days to the Division of State Police.

(d) The report of a boating accident herein required to be made shall not, during any judicial proceeding, be referred to in any way; it shall not be subject to subpoena nor admissible as evidence in any proceeding. Subject to these restrictions, information contained in a boating accident report and any statistical information based thereon will be made available upon request for official purposes to the United States Coast Guard or any federal agency successor thereto.

L.1962,c.73,s.11; amended 1995,c.401,s.26.

12:7-34.49. Boat Regulation Commission established

14. (a) There is established within the department a seven-member Boat Regulation Commission which shall consist of the Attorney General as ex officio member and six public members. The public members shall be appointed by the Governor with the advice and consent of the Senate for four-year terms commencing on April 1 of the year of the appointment, except that of those first appointed, two shall be appointed for a term of one year, two for a term of two years, one for a term of three years and one for a term of four years. As far as possible the public members shall be experienced boaters and shall represent the various geographical sections and boating interests of the State. At least one of the public members shall be actively employed in the marine industry.

The chairman shall be designated by the Governor. Each member of the commission shall serve at the pleasure of the Governor during his term and until the successor of the commission member has been appointed and has qualified. Vacancies shall be filled only for the unexpired term.

(b) The members of the commission shall serve without compensation except for the actual expenses incurred while engaged in their duties as members of the commission.

(c) The commission will promulgate rules and regulations, subject to the approval of the Attorney General, not inconsistent with the provisions of this act and including, but not limited to the inspection, operation, equipping, anchorage, racing and safety of vessels upon the waters of this State.

These rules and regulations shall be such as are reasonably necessary for the protection of the health, safety and welfare of the public and for the free and proper use of said waters by any persons or vessels in, on or about such waters. These regulations shall not be inconsistent with regulations issued by the agency or agencies of the United States having jurisdiction with respect to power vessels upon the waters of this State.

The commission shall meet monthly or at the call of the Attorney General or the chairman of the commission or when requested by any three members of the commission. The Attorney General shall designate a staff from the department to handle administrative matters for the commission.

L.1962,c.73,s.14; amended 1995,c.401,s.34.

12:7-46. Penalties for operating vessel under the influence

3. a. No person shall operate a vessel on the waters of this State while under the influence of intoxicating liquor, a narcotic, hallucinogenic, or habit-producing drug or with a blood alcohol concentration of 0.10% or more by weight of alcohol. No person shall permit another who is under the influence of intoxicating liquor, a narcotic, hallucinogenic or habit-producing drug, or who has a blood alcohol concentration of 0.10% by weight of alcohol, to operate any vessel owned by the person or in his custody or control.

As used in this section, "vessel" means a power vessel as defined by section 2 of P.L.1995, c.401 (C.12:7-71) or a vessel which is 12 feet or greater in length.

A person who violates this section shall be subject to the following:

(1) For a first offense, to a fine of not less than \$250 nor more than \$400; and to the revocation of the privilege to operate a vessel on the waters of this State for a period of 12 months from the date of conviction and to the forfeiting of the privilege to operate a motor vehicle over the highways of this State for a period of three months.

(2) For a second offense, to a fine of not less than \$500 nor more than \$1,000; to the performance of community service for a period of 30 days, in the form and on the terms as the court deems appropriate under the circumstances; and to imprisonment for a term of not less than 48 hours nor more than 90 days, which shall not be suspended or served on probation; and to the revocation of the privilege to operate a vessel on the waters of this State for a period of two years after the date of conviction and to the forfeiting of the privilege to operate a motor vehicle over the highways of this State for a period of six months.

(3) For a third or subsequent offense, to a fine of \$1,000; to imprisonment for a term of not less than 180 days, except that the court may lower this term for each day not exceeding 90 days during which the person performs community service, in the form and on the terms as the court deems appropriate under the circumstances; and to the revocation of the privilege to operate a vessel on the waters of this State for a period of 10 years from the date of conviction and to the forfeiting of the privilege to operate a motor vehicle over the highways of this State for a period of two years.

Upon conviction of a violation of this section, the court shall collect forthwith the New Jersey driver's license or licenses of the person so convicted and forward such license or licenses to the Director of the Division of Motor Vehicles. In the event that a person convicted under this section is the holder of any out-of-State motor vehicle driver's or vessel operator's license, the court shall not collect the license but shall notify forthwith the Director of the Division of Motor Vehicles, who shall, in turn, notify appropriate officials in the licensing jurisdiction. The court shall, however, revoke the nonresident's driving privilege to operate a motor vehicle and the nonresident's privilege to operate a vessel in this State.

b. A person who has been convicted of a previous violation of this section need not be charged as a second or subsequent offender in the complaint made against him in order to render him liable to the punishment imposed by this section against a second or subsequent offender. If a second

offense occurs more than 10 years after the first offense, the court shall treat a second conviction as a first offense for sentencing purposes and, if a third offense occurs more than 10 years after the second offense, the court shall treat a third conviction as a second offense for sentencing purposes.

c. If a court imposes a term of imprisonment under this section, the person may be sentenced to the county jail, to the workhouse of the county where the offense was committed, or to an inpatient rehabilitation program approved by the Director of the Division of Motor Vehicles and the Director of the Division of Alcoholism and Drug Abuse in the Department of Health.

d. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the period of the suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period as fixed by the court of not less than three months after the day the person reaches the age of 17 years. If the driving or vessel operating privilege of any person is under revocation, suspension, or postponement for a violation of any provision of this title or Title 39 of the Revised Statutes at the time of any conviction of any offense defined in this section, the revocation, suspension, or postponement period imposed herein shall commence as of the date of termination of the existing revocation, suspension or postponement. A second offense shall result in the suspension or postponement of the person's privilege to operate a motor vehicle for six months. A third or subsequent offense shall result in the suspension or postponement of the person's privilege to operate a motor vehicle for two years. The court before whom any person is convicted of or adjudicated delinquent for a violation shall collect forthwith the New Jersey driver's license or licenses of the person and forward such license or licenses to the Director of the Division of Motor Vehicles along with a report indicating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If the court is for any reason unable to collect the license or licenses of the person, the court shall cause a report of the conviction or adjudication of delinquency to be filed with the director. That report shall include the complete name, address, date of birth, eye color, and sex of the person and shall indicate the first and last day of the suspension or postponement period imposed by the court pursuant to this section. The court shall inform the person orally and in writing that if the person is convicted of personally operating a motor vehicle or a vessel during the period of license suspension or postponement imposed pursuant to this section, the person shall, upon conviction, be subject to the penalties set forth in R.S.39:3-40 or section 14 of P.L.1995, c.401 (C.12:7-83), whichever is appropriate. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40 or section 14 of P.L.1995, c.401 (C.12:7-83). If the person is the holder of a driver's or vessel operator's license from another jurisdiction, the court shall not collect the license but shall notify forthwith the director who shall notify the appropriate officials in the licensing jurisdiction. The court shall, however, in accordance with the provisions of this section, revoke the person's non-resident driving or vessel operating privilege, whichever is appropriate, in this State.

e. In addition to any other requirements provided by law, a person convicted under this section shall satisfy the screening, evaluation, referral program and fee requirements of the Division of Alcoholism's Intoxicated Driving Programs Unit. A fee of \$80 shall be payable to the Alcohol Education, Rehabilitation and Enforcement Fund established under section 3 of P.L.1983, c.531

(C.26:2B-32), by the convicted person in order to defray the costs of the screening, evaluation and referral by the Intoxicated Driving Programs Unit. Failure to satisfy this requirement shall result in the immediate forfeiture of the privilege to operate a vessel on the waters of this State or the continuation of revocation until the requirements are satisfied.

f. In addition to any other requirements provided by law, a person convicted under this section shall be required after conviction to complete a boat safety course from the list approved by the Superintendent of State Police pursuant to section 1 of P.L.1987, c.453 (C.12:7-60), which shall be completed prior to the restoration of the privilege to operate a vessel which may have been revoked or suspended for a violation of the provisions of this section. Failure to satisfy this requirement shall result in the immediate revocation of the privilege to operate a vessel on the waters of this State, or the continuation of revocation until the requirements of this subsection are satisfied.

L.1952,c.157,s.3; amended 1986,c.39,s.4; 1993,c.230,s.2; 1995,c.401,s.37.

12:7-61. Operation of power vessels, personal watercraft; boat safety course requirements; violations

2. a. A person who is under 16 years of age shall not operate a power vessel on the waters of this State, except that:

(1) a person who is under 16 years of age but at least 13 years of age and possesses a certificate certifying that person's successful completion of a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety may operate:

(a) a power vessel powered solely by a motor of less than one horsepower or an electric motor of 12 volts or less; or

(b) a power vessel which is 12 feet or greater in length and powered by a motor, or combination of motors, of less than 10 horsepower; and

(2) A person who is under 16 years of age and has successfully completed an approved boat safety course prior to July 1, 1996 may operate a power vessel on the tidal waters of this State, provided that the person complies with all other requirements of law, rule and regulation.

b. A person who is 16 years of age or older and was born after December 31, 1978 shall not operate a power vessel on the waters of this State without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety.

c. Except as provided pursuant to section 18 of P.L.1995, c.401 (C.12:7-86), a person shall not operate a personal watercraft on the waters of this State after July 1, 1997, without having successfully completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety or a written test pursuant to section 17 of P.L. 1995, c.401.

d. Whenever a person who is required by this section or by section 7 of P.L.1995, c.401 (C.12:7-76), section 3 or 4 of P.L.1952, c.157 (C.12:7-46 or C.12:7-47), or section 9 of P.L.1986, c.39 (C.12:7-57) to have completed a boat safety course operates a power vessel or personal watercraft, as appropriate, on the waters of this State, that person shall have in possession a certificate certifying that person's successful completion of a boat safety course approved by the superintendent and shall, when requested to do so, exhibit the certificate to a law enforcement or peace officer of this State. Failure of the person to exhibit the certificate is presumptive evidence that the person has not completed an approved boat safety course.

e. A person who violates subsection a., b., c. or d. of this section or who exhibits to a law enforcement or peace officer a certificate of completion of an approved boat safety course of another person is subject to a fine of not less than \$100 nor more than \$500.

f. A person who owns or has control or custody of a power vessel and allows the power vessel to be operated on the waters of this State by a person who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a boat safety

course but who does not possess such certificate is subject to a fine of not more than \$100.

g. A person making application to the Director of the Division of Motor Vehicles for a power vessel operator's license issued pursuant to section 3 of P.L.1995, c.401 (C.12:7-72) who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a boat safety course shall submit the original or a copy of the certificate with the application. The director shall not issue a power vessel operator's license to such person who fails to submit the original or a copy of the certificate.

L.1987,c.453,s.2; amended 1995, c.401, ss.45,17(s.17 amended 1996, c.15, s.2); 1996, c.15, s.1; 1996, c.59, s.1; 1997, c.152, s.3.

HISTORICAL AND STATUTORY NOTES

2003 Electronic Update
1987 Legislation

Section 4 of L.1987, c. 453, approved Jan. 19, 1988, provided:

"This act shall take effect immediately, but sections 2 and 3 of this bill shall not become operative until the 366th day following enactment."

Statement: Committee statement to Assembly, No. 2250--L.1987, c. 453, see § 12:7-60.

Written Test for Experienced Boaters In Lieu of Boat Safety Course. L.1995, c. 401, § 17; amended L.1996, c. 15, § 2, eff. April 11, 1996, and expired on July 1, 1997, provided:

"a. The Superintendent of State Police shall develop, and the superintendent, or his designee, shall administer, a written test for experienced boaters which shall be issued in lieu of completing the boat safety course required pursuant to subsection c. of section 2 of P.L.1987, c. 453 (C. 12:7-61). Upon successful completion of the test, the person shall be given a certificate which shall fulfill the requirements of subsection c. of section 2 of P.L.1987, c. 453 (C. 12:7-61). A person who fails the test shall be subject to all requirements of subsection c. of section 2 of P.L.1987, c. 453 (C. 12:7-61). A person may only take one test pursuant to this subsection.

"b. A person who takes a test pursuant to subsection a. of this section shall pay such fee as determined by the superintendent to defray the costs of developing and administering the test and issuing the certificates to persons who successfully complete the test.

"c. In addition to all other penalties provided by law, a person who provides false information on an application for a written test issued pursuant to subsection a. of this section shall be subject to a fine of \$100.

"d. The superintendent shall determine the qualifications for application and all other requirements for applicants under this section.

"e. The superintendent shall be exempt from the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), in performing the requirements of this section."

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12:7-72. Issuance of license to operate power vessel; requirements

3. a. Upon proper application therefor, the director shall license a person to operate a power vessel on the nontidal waters of this State. A person shall not make any misstatement of fact in an application for a power vessel operator's license.

b. Except as provided pursuant to subsections c. and g. of this section:

(1) A person shall not operate a power vessel on the nontidal waters of this State without being licensed by the director; and

(2) A person under 16 years of age shall not be licensed to operate a power vessel on the nontidal waters of this State.

c. A person is not required to be licensed pursuant to subsection b. of this section when operating a power vessel:

(1) powered solely by a motor of less than one horsepower or an electric motor of 12 volts or less;

(2) that is 12 feet or greater in length and powered by a motor, or combination of motors, of less than 10 horsepower;

(3) while actually competing in an authorized race held under the auspices of a duly incorporated yacht club or racing association in accordance with rules and regulations prescribed by the Division of State Police in the Department of Law and Public Safety and pursuant to a permit duly issued by that division;

(4) if the person is an out-of-State resident and has written proof, while operating the power vessel, of successful completion of a boat safety course substantially similar to the boat safety course administered pursuant to section 1 of P.L.1987, c.453 (C.12:7-60).

d. Except as provided pursuant to subsection c. of this section, a person shall have in his possession a proper license at all times when operating a power vessel on nontidal waters and shall exhibit the license to any law enforcement officer upon request. Failure of a person to exhibit such license upon request shall be presumptive evidence that the person is not a licensed operator.

e. A person who violates the provisions of subsection b. of this section shall be subject to a fine of not more than \$500 or to a term of imprisonment not to exceed 60 days, or both, except that:

(1) A person who has never been licensed to operate a power vessel on the nontidal waters of this State or any other jurisdiction shall be subject to a fine of not less than \$200 and, in addition, the court shall issue an order to the Director of the Division of Motor Vehicles requiring the director to refuse to issue a license to operate a power vessel on the nontidal waters of this State to that person for a period of not less than 180 days; and

(2) A person who can exhibit to the court before which the person is summoned to answer to the charge a valid operator's license issued to that person which was valid on the day that person was charged shall be subject to a fine of not more than \$100, in addition to any reasonable court costs the court may impose. Notwithstanding the provisions of this subsection, the court may, in its discretion, dismiss a charge regarding the failure to exhibit an operator's license brought pursuant to the provisions of this section.

f. The penalties provided for pursuant to subsection e. of this section shall not be applicable in cases where failure to have actual possession of the operator's license is due to an administrative or technical error by the Division of Motor Vehicles.

g. A person who is under 16 years of age and was issued an operator's license pursuant to section 7 of P.L.1954, c.236 (C.12:7-34.7) before July 1, 1996 may operate a power vessel equipped with an outboard motor until the expiration date of that license.

L.1995,c.401,s.3; amended 1997, c.152, s.1.

53:1-11.10. Definitions

As used in this act:

- a. "Bureau" means the Bureau of Marine Law Enforcement established in section 2 of this act.
- b. "Waters of the State" means, but shall not be limited to, the waters of the Atlantic ocean for three nautical miles eastward from the shores of this State; all navigable and non-navigable, tidal and non-tidal, rivers, bays, streams, and inlets; and any other water within the jurisdiction of the State.
- c. "Superintendent" means the Superintendent of the Division of State Police in the Department of Law and Public Safety.

L. 1986, c. 150, s. 1.