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REPORT TO THE JOINT STANDING COMMITTEE ON
FISHERIES AND WILDLIFE REGARDING THE ESTABLISHMENT
OF A MANDATORY BOATING SAFETY COURSE

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REPORT TO THE JOINT STANDING COMMITTEE ON FISHERIES AND
WILDLIFE REGARDING THE ESTABLISHMENT OF A MANDATORY
BOATING SAFETY COURSE

FROM THE DEPARTMENT OF INLAND FISHERIES AND WILDLIFE IN
CONSULTATION WITH THE DEPARTMENT OF MARINE RESOURCES

REQUIRED BY PUBLIC LAW 1989, CHAPTER 469

In 1988, the 113th Maine Legislature established a Special Commission on Boating to respond to the growing public sentiment concerning unsafe operation of all types of watercraft on both the inland and coastal waters of the State.

The Commission, which consisted of 12 members, held a total of 6 public hearings at locations in Portland, Bangor and Augusta during the height of the boating season, to listen to public testimony about problems associated with boating in Maine. The Commission also received many letters containing comments on this very controversial issue.

After extensive review of numerous comments and complaints related to watercraft safety, including potential solutions and other pertinent information, the Commission developed recommendations as part of the report which was required to be submitted to the Legislature by January 31, 1988.

Largely as a result of recommendations of the Special Commission on Boating, several pieces of legislation designed to enhance boating safety were signed into law by Governor McKernan during the First Regular Session of the 114th Legislature. A majority of these changes were included in L.D.#80 (An Act Concerning Boating and Other Water-based Activities) which was enacted in June of 1989 (Public Law 1989, c. 469) and became effective on September 30th, 90 days after Legislative Adjournment. Public Law 1989, c. 469, Section 9, included the following provision: The Department of Inland Fisheries and Wildlife in consultation with the Department of Marine Resources, shall submit a report to the Joint Standing Committee on Fisheries and Wildlife regarding the establishment of a mandatory boating safety course including, but not limited to:

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1. The benefits to be obtained by requiring a mandatory boating safety course;
2. The age limit, if any, at which a mandatory boating safety course should be required;
3. A proposed phase-in period, if necessary, for a mandatory boating safety course;
4. How to deal with out-of-state boaters, including reciprocity agreements;
5. Effective date of implementing a mandatory boating safety course requirement;
6. A summary of the training currently available and who provides that training, an estimate of how many people will need to be trained if a mandatory boating safety course is implemented and a proposal regarding who should provide that training; and
7. An estimate of the cost of providing training if a mandatory boating safety course is implemented and who should pay for that training.

This report was to be submitted, together with any recommended implementing legislation, during the Second Regular Session of the 114th Maine Legislature.

LAWS RECENTLY ENACTED

Several laws pertaining to boating safety have been recently changed, largely as a result of recommendations by the Special Commission on Boating. The major changes are listed below:

- No person is allowed to operate any watercraft in any water safety zone (200 feet from any shoreline) at greater than headway speed, except to pick up or discharge water skiers or while actively fishing. (Headway speed is defined as the minimum speed necessary to maintain steerage and control of the watercraft.)

- Unlawfully permitting operation - A person is guilty of unlawfully permitting operation of a watercraft:
 - A. If that person owns a watercraft and negligently permits another person to operate the watercraft in violation of any section of this subchapter; or
 - B. If that person is the parent or guardian responsible for the care of a minor under 18 years of age and the minor operates a personal watercraft in violation of any section of this subchapter.

- Personal watercraft may not be operated between sunset and sunrise and may not be operated by persons under the age of 12. Anyone operating a personal watercraft, or any passenger, must wear an approved Type I or II personal flotation device at all times. (Personal watercraft is defined as any motorized craft less than 13 feet in length, capable of reaching speeds of 20 miles per hour and having the capacity to carry not more than the passenger and one other person. It includes jet ski, wet bike, surf jet, miniature speedboat, hovercraft, and others.)

- Municipalities which border inland waters now have authority to appoint harbor masters to enforce the watercraft laws of the State on any water within the jurisdiction of the municipality. Harbor masters have full powers to enforce watercraft laws within their jurisdiction, including powers of arrest, except as otherwise determined by the municipality.

- Operating a watercraft while under the influence of alcohol:
 1. A person is now considered in violation if he or she operates a watercraft while having .08% or more by weight of alcohol in the blood.

2. A person is now required to submit to blood-alcohol testing when so requested by a law enforcement officer who has probable cause to believe that the person is operating under the influence or when the person is the operator of a watercraft and is involved in an accident which results in the death of any person. (Failure to submit to a blood-alcohol test is a civil violation).

3. Penalties have been substantially increased for persons convicted of operating a watercraft while under the influence.

BOAT LAW ENFORCEMENT

Activity sheets submitted by Inland Fisheries and Wildlife Game Wardens indicate boat law enforcement in Maine during fiscal year 1989, increased by more than two thousand (2,000) hours over 1988. More effort was placed on high-visibility enforcement and the number of boating violations detected were only one half the number encountered in 1988. Major violations including operating under the influence of alcohol, operating to endanger, and unsafe motor boats stayed approximately the same as the previous year, even though enforcement efforts were increased, indicating somewhat better compliance.

BOATING ACCIDENTS IN MAINE

Based on accident data provided by the Safety Division of the Department of Inland Fisheries and Wildlife, reportable watercraft accidents in fiscal years 1988 and 1989 totaled two hundred and twenty six (226). Any watercraft accident is reportable if it results in the death of a person, a person's losing consciousness or receiving medical treatment or property damage of more than one hundred dollars (\$100.00). Four (4) out of the one hundred and one (101) reportable watercraft accidents in 1988 involved boaters under 18 years old. Only two (2) of the one hundred and twenty five (125) reportable watercraft accidents in 1989 involved

boaters under 18 years of age . In short, people under the age of 18 years are not often involved in watercraft accidents, and a mandatory watercraft education course targeted only to this age group would probably have little immediate impact in reducing boating accidents.

There were eight (8) boating fatalities in FY 88. Of these eight, only two (2) involved motorboats. The other six (6) fatalities involved canoes or sailboats. Inclement weather was the most frequent cause of fatal accidents. In FY 1989, there were twenty one (21) water related fatalities, ten (10) of which were motorboat related. For both years, only one accident involved an inexperienced operator.

BOAT OPERATORS IN MAINE

The number of individuals who operate motorboats in Maine, and therefore have the potential for needing a motorboat safety course if one were mandated, is difficult to estimate. In 1989, the Department registered approximately 132,000 motorboats. However, since some individuals own more than one boat and some boats are operated by more than one individual, the number of operators, although considerable, can not be calculated from boat registrations.

In an attempt to obtain an estimate of the number of people who participate in motorboating, a question was added to a recent survey conducted by the University of Maine. A random sample of the 342,000 heads-of-households in Maine were asked whether they participated in a variety of outdoor activities in 1989. Forty-four percent of the respondents, representing 150,000 heads-of-households indicated they participated in motorboating. Those who participated in motorboating exceeded those who participated in snowmobiling (19%), skiing (26%) and bicycling (32%). Not all participants would be motorboat operators, but individuals other than the head-of-households also operate boats

Everything considered, the number of Maine residents who operate motorboats probably exceeds 100,000 and may approach 150,000 individuals per year. An unknown number of nonresidents also operate motorboats in Maine. How many of these operators might need a boating safety course, if one should become mandatory, would depend on the specific criteria contained in the legislation. If the education

requirements were to include all boat operators, not just motorboat operators, the number of people affected by a mandatory program would be a great deal higher.

PUBLIC LAW 1989, C. 469, SECTION 9, REPORT

1. The benefits to be obtained by requiring a mandatory boating safety course.

The benefits of a mandatory boating safety course can be considered in two ways, the short-term and the long-term effect of the program.

To provide immediate short-term results, the education would need to include adults. In the long-term, benefits could be obtained by providing the instruction only to teenage boat operators, with the ultimate goal of eventually reaching all operators.

For reference and comparison purposes, the following list represents safety education programs within the Department of Inland Fisheries and Wildlife which are either currently mandated by State Law or are provided on a voluntary basis to interested participants.

All Terrain Vehicle Training §7853 (Effective 7-1-87). A person under 16 years of age is required to successfully complete a training program approved by the department prior to operating an ATV on any land other than the land on which that person is domiciled or land owned or leased by that person's parent or guardian. The training program includes instruction in the safe operation of ATV's, the laws pertaining to ATV's, the effect of ATV's on the environment and ways to minimize that effect, courtesy to landowners and other recreationists and other materials as determined by the department. (No person less than 10 years of age

is allowed to operate an ATV, except on land on which that person is domiciled or on land owned by that person's parent or guardian.)

Hunter safety course §7071 (1983). Any person who applies for a Maine license to hunt with firearms other than a juvenile license shall submit proof of having successfully completed a hunter safety course as provided in section 7035, an equivalent hunter safety course or satisfactory evidence of having previously held an adult license to hunt with firearms in this State or any other state, province or country in any year beginning with 1976. The hunter safety course offered by the Department is designed primarily to train individuals in the safe handling of firearms.

Archery Hunter Training Program §7102 (1989). Any person who applies for an archery hunting license, other than a junior license, shall submit proof of having successfully completed an education course of the type described in subsection 8 and approved by the commissioner, or satisfactory evidence of having previously held an adult archery hunting license in this State or any other state, province or country in any year after 1977, or having successfully completed a hunter safety course as provided in section 7035, subsection 10. The archery hunter education program is designed to train individuals in safe and responsible archery hunting skills and behavior.

Trapper Education Program §7133 (1989). Any person who applies for a state license to trap other than a junior license shall submit proof of having successfully completed an education course established by the commissioner to train individuals in safe and responsible trapping skills and behavior.

Snowmobile Safety Training. In 1974, the Department developed a voluntary snowmobile safety course. The course is offered to snowmobile operators 10 years of age and older.

Boating Safety Training. In 1985, the Department developed a voluntary safe boating course. The course is offered to boat operators 10 years of age and older.

2. The age limit, if any, at which a mandatory boating safety course should be required.

Watercraft accident statistics in Maine do not seem to indicate that it would be beneficial to target any particular age group for mandatory watercraft safety training. However, from a practical standpoint, if mandatory training is considered by the Legislature to be necessary, it would seem appropriate to follow the lead of other States such as Massachusetts, New York and New Jersey who mandate training for all operators who are 16 years of age and under. This approach would allow the training to be handled through the school system and would ensure that most boat operators would eventually be exposed to the program.

3. A proposed phase-in period, if necessary, for a mandatory boating safety course.

A mandatory boating safety course for boat operators 16 years of age and under, if considered necessary, would require a phase-in period of at least three years.

4. How to deal with out-of-state boaters, including reciprocity agreements.

If mandatory watercraft safety training is determined to be necessary in the State of Maine, the only practical approach to dealing with out-of-state boat operators would be to require them to successfully complete the Maine course or be able to show proof of having successfully completed an acceptable watercraft safety course in some other state or province. However, since many states do not mandate watercraft safety training, there would be many nonresidents coming to Maine for short durations during the summer

months who would not be able to satisfy the training requirements and would therefore be unable to operate a watercraft in Maine waters. This would create public relations problems for the State and could well have an adverse impact on them.

5. Effective date of implementing a mandatory boating safety course requirement.

If a mandatory boating safety program is determined to be necessary and adequate funding is made available, such a program could become effective prior to the start of the 1994 boating season.

6. A summary of the training currently available and who provides that training, an estimate of how many people will need to be trained if a mandatory boating safety course is implemented and a proposal regarding who should provide that training.

Current Training

Maine currently has seventy three (73) volunteer boating instructors and offers courses in eighteen (18) Maine communities. The U.S. Coast Guard Auxiliary offers courses in eight (8) locations along the coast. Although these courses are not mandatory, over nine hundred (900) students took advantage of this training during 1989.

How many people will require training.

A mandatory watercraft safety course for Maine residents who are from 10 through 16 years of age would result in the potential need for training a maximum of 117,000 young people prior to the effective date of this requirement. (These figures are based on Maine Population Projections from the Department of Human Services.)

Obviously not all of these young people would be watercraft operators. However, if 44% of the people falling within this age group were to require training (the same percentage as surveyed heads-of-households who indicated participation in motorboating), there would be an immediate need to train more than 50,000 juveniles.

In addition, the State of Maryland found that their mandatory boating safety course for juveniles resulted in 40% attendance by adults who wished to obtain the training along with their children. Therefore, Maine might expect that as many as 20,000 parents might request to obtain the training even though they would not be required to participate.

Finally, depending on how out-of-state boaters were handled, it would probably be necessary to provide training opportunity to a large number of nonresidents.

Who should provide mandatory Watercraft Safety Training.

Since the Department of Inland Fisheries and Wildlife and the U.S. Coast Guard already provide this type of training on a voluntary basis, it would seem appropriate for these two agencies to continue to provide this training under a mandatory program.

- 7. An estimate of the cost of providing training if a mandatory boating safety course is implemented and who should pay for that training.**

The National Association of State Boating Law Administrators (NASBLA) has adopted guidelines for states wishing to implement mandatory watercraft safety education, and some states have passed legislation based on these guidelines.

In the State of Maryland, effective July 1, 1988, any person born on or after July 1, 1972, must obtain a certificate of boating safety education prior to operating a numbered or documented vessel

for pleasure on Maryland waters. However, a number of exceptions are included in the law which greatly reduces the number of people who require the training. Funding for the program is being accomplished through annual grants (\$150,000 in Waterways Improvement Grants and \$150,000 through Coast Guard Grants) in addition to an existing \$100,000 boating safety budget. The State of Maryland certified 4,081 students in FY 88 and 6,497 students in FY 89, or a total of 10,578 students over the past two years. Maryland anticipates a course load of 14,000 students a year by FY 92, even with the numerous exemptions in their law. In addition to staff which already existed at the time the mandatory training program was implemented, they have had to add four full time people to their staff. They also estimate that they spend a minimum of \$20 for each person trained. Any results of their mandatory watercraft safety training are not yet available.

If a mandatory watercraft safety training program were implemented in Maine for people from age 10 through 16, and if nonresidents and adults who wished to participate in the program were allowed to do so, we could expect to train more than 70,000 people initially and perhaps 10,000 annually thereafter.

The expense associated with a program of this magnitude could be expected to cost 1.5 million initially and in the vicinity of \$300,000 annually after the program became established and immediate training requirements had been satisfied.

As to who should pay for this training, this could be handled in one of several ways:

- Any person who received the training could be required to pay an application fee covering a portion of the cost of the program.
- Watercraft registration fees could be adjusted upward to fund the program.
- The State's General Fund could pick up the entire cost of the program.

(Since the Department of Inland Fisheries and Wildlife no longer operates on dedicated revenue and all monies collected by the Department are deposited into the General Fund, it would seem appropriate that any mandatory watercraft safety training program should be funded up-front with General Fund dollars. Any monies specifically earmarked to pay for the costs of the program, either from application fees or increased watercraft registration fees, would then be deposited back into the General Fund as collected.)

CONCLUSION

Maine's boating safety record, watercraft accident statistics, amount of waterborne traffic on most internal waters and the high cost of implementing and maintaining a mandatory watercraft safety training program do not appear to warrant this type of program in Maine at the present time.

Public concern about increased use of Maine's internal waters and the associated increased potential for safety problems is justified. As a result of these concerns, several new watercraft safety related laws have been enacted, and the Departments of Inland Fisheries and Wildlife and Marine Resources have increased watercraft enforcement efforts to the extent possible with existing resources. In addition, towns having inland bodies of water with an excessive amount of waterborne traffic now have the option to employ the services of a harbor master for purposes of boat law enforcement.

Prior to 1989, Maine already had a very comprehensive Federally approved boating law. The addition of several new watercraft related laws which resulted from recommendations of the Special Commission on Boating will accomplish a great deal in resolving the boating related problem which currently exist within the State, primarily in southern Maine.

The Department of Inland Fisheries and Wildlife and the Department of Marine Resources will continue to monitor watercraft activity on inland

and coastal waters and will make every effort to determine the effectiveness of these recent changes. During the First Regular Session of the 115th Legislature we will present a complete report of the important issues pertaining to the use and operation of watercraft in Maine and, at that time, will submit any additional legislation which we feel is necessary to ensure the safe and responsible use of the internal waters of the State.