

June 10, 2019

The Honorable Kathleen Taylor
Chairwoman
Oregon Senate Subcommittee on Natural Resources
900 Court Street, NE Room H-178
Salem, OR

Dear Chairwoman Taylor,

On behalf of the National Marine Manufacturers Association (NMMA), I thank you for the opportunity to express the association's strong opposition for House Bill 2352 which includes unnecessarily punitive and unworkable requirements as well as a significant tax on boat owners in a newly-created towed watersports program within the State Marine Board.

NMMA is the leading recreational marine industry trade association in North America, representing 1,500 boat, engine, and accessory manufacturers. NMMA members collectively produce more than 80 percent of the recreational marine products sold in the United States. Recreational boating is a popular pastime in Oregon, with more than 168,000 registered recreational boats. The recreational boating industry contributes \$1.6 billion and almost 6,000 jobs to the state's economy

NMMA is an active supporter and advocate for universal mandatory boater education, most recently in California and Florida, and supported Connecticut's addition of a mandatory towing safety education element that was enacted in 2015. Our commitment to towing safety includes providing free display space at our boat shows for state officials to alert Connecticut boaters to the towing safety requirement.

We understand the intent of HB 2352 to support boating safety, however NMMA believes that several parts of the bill are counterproductive, unnecessarily punitive, and it establishes an unnecessary tax on boat owners. Our concerns include:

- HB 2352 only requires towing safety education for those using the Willamette River between river mile 30 and river mile 50. If the legislature supports mandatory towing safety education, it should require every boat operator in the state to take it.
- There is no phase-in period to allow boat operators time to comply with the educational mandate and receive a towed watersports endorsement.
- There was no convincing argument that safety will be enhanced by assessing up to a \$90 biannual tax on all boats, including personal watercraft, that use the waterway to tow a tuber, skier, wakeboarder or wakesurfer. Given the controversy in recent years over the use of ballasted boats in this section of the Newburg Pool Congested Zone of the Willamette River, it appears this tax was created as a punitive measure to dissuade wakesurfing in this section of the river.

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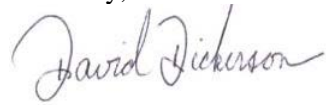
- The new revenue from the \$90 tax will be collected only from boaters who tow within the Newburg Pool Congested Zone, but will be used to pay for on-water enforcement of towing laws and safety programs throughout the state. If the marine board has inadequate resources to patrol state waters and provide education, despite the significant dollars paid to the state by powerboat owners through federal and state gas taxes, registration and titling fees, the legislature should appropriate general fund dollars to the agency.
- Although we have not done a thorough analysis, we believe HB 2352 would make Oregon the only state that mandates a one-year suspension of all boating privileges after two infractions, except for a conviction of boating while intoxicated. These two infractions within three years could be allowing a passenger to ride on a bow or failing to have a lookout on board when towing. NMMA does not agree there is an equivalency between these infractions and BUI. While these clear violations of the law and the boat operator should be ticketed and fined, NMMA believes the one-year suspension of all boating rights is much too harsh.
- And HB 2352 goes even further. The second infraction triggers an additional punishment directed at the boat owner. A second infraction mandates, without exception or redress, that the marine board confiscate the vessel's towed watersports motorboat certificate for one year.
- In sum, HB 2352's punishments prevent a person from operating a boat in any manner for one year and suspends towing rights for a boat he may not even own, also for one year.
- It is worth noting that the legislation gives the court no discretion in these punishments. "Upon conviction for an offense listed in section 8 of this 2019 ACT, a court **shall** (emphasis added) issue a notice of suspension to the State Marine Board," after which the board must issue the suspensions.
- The intent of this legislation could be construed to require boaters to repeat the educational requirement every two years. Oregon's existing mandatory boater education examination and certificate does not expire, and we know of no reason or evidence to support the expiration of towed sports training certification. The bill may also require the boater to pay a fee to retake the course and test to retain his or her towed watersports endorsement.
- Why does the bill require a boat owner to submit information regarding the make, model, length, dry gross weight and maximum factory ballast capacity specifications of his boat? These specifications provide no appreciable value to safety or law enforcement. The vessel's size, weight and capacities have no impact upon the cost of the tow boat sticker and should therefore not be required of every family boat used to tow children on a tube.
- In addition, Section 3.2 (c) requires the marine board to establish and enforce carriage requirements for vessels, such as weight capacity. Only the U.S. Coast Guard has the authority to determine such limits under federal law. Although the state does adopt the USCG's regulations, it has no authority to establish carriage and safety requirements.

Overall, NMMA views this bill to be unworkable, harshly punitive, and overly demanding of the boating public. It will prevent those who might occasionally want to enjoy tubing or other tow sports from doing so, unless they to pay the State of Oregon up to \$90, plus the time and cost of taking the towing-specific education – and even then may be unable to enjoy towing his or her family if the towing education permit has expired.

This bill appears to be more geared toward preventing towed sports in Oregon than it is toward enhancing boater safety.

For these reasons, NMMA opposes the towed watersports program as called for in HB2352. If you should have any questions, please contact me at ddickerson@nmma.org.

Sincerely,

A handwritten signature in cursive script that reads "David Dickerson".

David Dickerson
Vice-President State Government Relations