

LALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

March 25, 2004

1:45 p.m.

TAPE(S) 04-13

MEMBERS PRESENT

Senator John Cowdery, Co-Chair
Senator Thomas Wagoner, Co-Chair
Senator Gene Therriault
Senator Donny Olson

MEMBERS ABSENT

Senator Georgianna Lincoln

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 93(FIN)

"An Act relating to boating safety, registration, and numbering; extending the sunset date of changes in ch. 28, SLA 2000; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 93

SHORT TITLE: BOATING SAFETY,REGISTRATION, NUMBERING

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

02/12/03	(H)	READ THE FIRST TIME - REFERRALS
02/12/03	(H)	TRA, STA
02/18/03	(H)	TRA AT 1:30 PM CAPITOL 17
02/18/03	(H)	-- Meeting Canceled --
02/25/03	(H)	TRA AT 1:30 PM CAPITOL 17
02/25/03	(H)	Heard & Held
02/25/03	(H)	MINUTE(TRA)
03/27/03	(H)	TRA AT 1:30 PM CAPITOL 17
03/27/03	(H)	Scheduled But Not Heard
04/01/03	(H)	TRA AT 1:30 PM CAPITOL 17
04/01/03	(H)	Moved CSHB 93(TRA) Out of Committee
04/01/03	(H)	MINUTE(TRA)
04/02/03	(H)	TRA RPT CS(TRA) NT 1DP 2DNP 2NR
04/02/03	(H)	DP: HOLM; DNP: KOHRING, MASEK;

04/02/03 (H) NR: OGG, FATE
 04/03/03 (H) STA AT 8:00 AM CAPITOL 102
 04/03/03 (H) Heard & Held
 04/03/03 (H) MINUTE(STA)
 04/08/03 (H) STA AT 8:00 AM CAPITOL 102
 04/08/03 (H) Moved CSHB 93(TRA) Out of Committee
 04/08/03 (H) MINUTE(STA)
 04/09/03 (H) STA RPT CS(TRA) NT 6DP
 04/09/03 (H) DP: SEATON, GRUENBERG, HOLM, LYNN,
 04/09/03 (H) DAHLSTROM, WEYHRAUCH
 04/09/03 (H) FIN REFERRAL ADDED BEFORE RLS
 04/14/03 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/14/03 (H) Heard & Held
 04/14/03 (H) MINUTE(FIN)
 01/22/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 01/22/04 (H) Heard & Held
 01/22/04 (H) MINUTE(FIN)
 01/29/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 01/29/04 (H) Moved CSHB 93(FIN) Out of Committee
 01/29/04 (H) MINUTE(FIN)
 02/02/04 (H) FIN RPT CS(FIN) NT 4DP 6NR
 02/02/04 (H) DP: MEYER, FATE, FOSTER, WILLIAMS;
 02/02/04 (H) NR: HAWKER, STOLTZE, JOULE, CROFT,
 02/02/04 (H) CHENAULT, HARRIS
 02/04/04 (H) TRANSMITTED TO (S)
 02/04/04 (H) VERSION: CSHB 93(FIN)
 02/06/04 (S) READ THE FIRST TIME - REFERRALS
 02/06/04 (S) TRA, STA, FIN
 03/25/04 (S) TRA AT 1:30 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE BRUCE WEYHRAUCH

Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 93.

MS. LINDA SYLVESTER

Staff to Representative Weyhrauch
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Answered questions pertaining to HB 93.

COMMANDER MIKE KENDALL

Chief of Search & Rescue Branch
 17th Coast Guard District
 United States Coast Guard (USCG)

Juneau, Alaska

POSITION STATEMENT: Supports HB 93.

MS. SUE HARGIS

Boating Safety Specialist
United States Coast Guard (USCG)
Juneau, Alaska

POSITION STATEMENT: Supports HB 93.

MR. JEFF JOHNSON

Boating Law Administrator
Division of Parks & Outdoor Recreation
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Available to answer questions on HB 93.

MS. MARTHA MOORE

Division of Public Health
Department of Health & Social Services (DHSS)
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Supports HB 93.

ACTION NARRATIVE

TAPE 04-13, SIDE A

CO-CHAIR JOHN COWDERY called the Senate Transportation Standing Committee meeting to order at 1:45 p.m. Present at the call to order were Senators Therriault, Olson, and Co-Chair Cowdery. Co-Chair Wagoner arrived while the meeting was in progress, and Senator Lincoln was excused. Also present was Representative Weyhrauch.

HB 93 - BOATING SAFETY, REGISTRATION, NUMBERING

The committee took up HB 93.

REPRESENTATIVE BRUCE WEYHRAUCH, sponsor of HB 93, testified that the original bill passed in 2000 and had sunset dates that would take effect this year unless extended. This effort captures the federal marine highway funds, has a positive fiscal impact to the state, and more importantly was implemented in attempts to save lives in Alaska through the Kids Don't Float program, educating the public about the benefits of boating safety, and putting the regulatory registration scheme under state rather than federal authority. Concerns were raised by different

entities in the House concerning registering one kind of vessel as opposed to another. Through the [House Finance Committee], a sunset date was added to address whether those concerns would be perceived as problems in the future.

CO-CHAIR COWDERY informed members that Amendment 1 was from the [Alaska] Outdoor Council, and Amendment 2 was from Senator Olson.

SENATOR THERRIAULT recalled that HB 108 had passed and there had been talk about repealer or sunset clauses if federal funds weren't forthcoming; he asked if those funds had been forthcoming.

REPRESENTATIVE WEYHRAUCH said he understood that yes, federal funds have been forthcoming. He reported that when HB 93 was introduced, it had been demonstrated to save lives and so the continuation of the program in the state is important. Also, this provided for an important educational effort - under state rather than the federal jurisdiction - and if the state discontinues this, the federal government will do something less desirable. Lastly, HB 93 provides the mechanism to receive federal funds.

SENATOR THERRIAULT read from the sectional analysis, "The provisions found in sections 3, 5, ... are minimal boating safety provisions that not only fall short of the federal guidelines ..." and asked if those sections pertained to the previous legislation.

REPRESENTATIVE WEYHRAUCH replied this was correct.

SENATOR DONNY OLSON asked about floatplanes.

REPRESENTATIVE WEYHRAUCH responded this wasn't considered to be a boat.

SENATOR OLSON asked if there was a distinction between internal combustion engines on motorized watercrafts as opposed to electric motors - such as a smaller two-horse - and asked if these were also covered under this legislation.

REPRESENTATIVE WEYHRAUCH said he wasn't sure but suggested this pertained to motor fuel and fuel tax; he maintained that the [U.S. Coast Guard] "Coast Guard" was available to address the question.

LINDA SYLVESTER, Staff to Representative Weyhrauch, told members that "[mechanical] propulsion" is delineated.

SENATOR OLSON asked if any exemptions were involved for crafts, electric or not, and whether or not a fuel tax is paid.

REPRESENTATIVE WEYHRAUCH said with the definition of [mechanical] propulsion, an electric motor would be in the same category as a gas motor.

SENATOR OLSON mentioned that recreational vehicles, such as mini-sub, are gaining in popularity throughout Alaska, and asked if these were exempt.

REPRESENTATIVE WEYHRAUCH mentioned that he saw one in Auke Bay with a sticker on it; he deferred to the Coast Guard.

MS. SUE HARGIS, a boating safety specialist with the United States Coast Guard (USCG), responded that "[mechanical] propulsion" indicates that any kind of machinery propulsion - whether it's electric or gas or any kind of fuel, would not be exempt. If a boat is equipped with machinery propulsion, even if the engine isn't functioning, then registration is required. Underwater subs are boats. Floatplanes, when not operated on the water, are considered as aircrafts, and are regulated by the FAA.

COMMANDER MIKE KENDALL, Chief of the Search and Rescue Branch for the 17th Coast Guard District in Alaska, read the following testimony:

When the Alaska Boating Safety Act was signed into law in May 2000, Alaska became the last state to establish a boating safety program joining us as an ally in the effort to address Alaska's high boating fatality rate. A sunset provision was included to address concerns about the continuity of federal funding, since the Wallop-Breaux trust fund was up for re-authorization at that time. Federal funding has been re-authorized, and legislation currently before Congress will actually increase funding to the states for boating safety, due to a shift in the Wallop-Breaux distribution formula.

Just as important as secure funding, is that the establishment of a state boating safety program in Alaska has brought an increased focus and awareness of

boating safety, and has saved lives of Alaskans. The Alaska Boating Safety Program supports valuable programs such as Kids Don't Float, which is a clear winner. The Kids Don't Float program has saved the lives of at least nine children since the start of the program, and just reached the level of 387 lifejacket loaner sites in more than 140 communities throughout the state. This program started in Alaska, and is now a model for other states. Particularly important is that sites are located in virtually every region of the state, and predominate in areas such as inland lakes and rivers where there is no Coast Guard presence.

Many more Alaskans have received boating safety education, due to the increased partnership of the Alaska Boating Safety Program, the Coast Guard Auxiliary, and the Alaska Marine Safety Education Association (AMSEA). Education efforts have reached more than 40,000 students, primarily children, since state efforts began. The Alaska Boating Safety Program alone has reached nearly 12,000 of these students. In comparison, the Coast Guard Auxiliary was able to reach only 3,000 students in the same period. Innovative programs include a peer education program, where rangers and other educators train high school students to teach elementary school students. This means that 15 to 17 year-old 'high risk' boaters must internalize safety messages, and be role models in order to teach younger children.

Some people have asked, 'Why would the state of Alaska do this mission, since we have the Coast Guard in Alaska? Isn't this really the Coast Guard's mission?' Let me answer that. In 1971, Congress transferred responsibility for the boating safety mission from the Coast Guard to the states, due to the fact that boating safety is much better regulated at the state level. A 'one-size-fits-all' federal approach doesn't fit boating safety very well, due to vast differences in ways and reasons that people use boats, as well as extremes of operating environments around the nation.

1:58 p.m.

At that time, the Coast Guard's involvement in boating safety became primarily one of response, through search and rescue. This doesn't benefit most

Alaskans, since many boating accidents occur on interior rivers and lakes, or in areas without a Coast Guard presence. Although we are fully committed to partnering with the state in boating safety efforts, we need Alaska's continued involvement to be able to have a significant impact on Alaska's high rate of boating fatalities.

Since passage of Alaska's Boating Safety Act, events have dramatically changed the course of our nation. The Coast Guard has been given new tasking that has significantly reduced our ability to engage in non-essential missions. Here in Alaska, we are fully engaged in escorting cruise ships, maintaining the security of our harbors and waterways, including the Alaska Pipeline terminal in Valdez.

Missions such as boating safety, that we tried to pursue in the absence of a state program, simply can't compete with maintaining the security of our state and nation. Our commitment to making our nation's waterways more safe and secure means that we really need the State of Alaska to fulfill its responsibility to boaters in our great state. By continuing a proven program that educates boaters on ways to be safer and more circumspect on the water, the State of Alaska is helping the Coast Guard free up more of our resources to address homeland security issues.

We still have a lot of work to do together to make boating a safer activity in Alaska. Please join us in continuing this effort by re-authorizing Alaska's Boating Safety Program.

CO-CHAIR WAGONER asked if life preservers from the Kids Don't Float program were taken from the harbors without being returned.

COMMANDER KENDALL responded no, that the program is well respected by communities throughout the state. He added that the program benefits more than children, as there are now adult lifejackets being used by adults.

SENATOR OLSON asked how long ago [Alaska's Boating Safety] Program was instituted.

MS. HARGIS responded that the program was first passed to the states in 1958; however there was no funding mechanism, so in 1971 Alaska put forth, "If you're going to have us do this program, give us money for it." Congress passed the Federal Safe

Boating Act in 1971, which provided a funding mechanism for the states. By 1986, with the adoption of New Hampshire's program, Alaska was the one outstanding state without a program until 2000.

SENATOR OLSON asked how many states not situated on the coastline are affected by this program.

MS. HARGIS responded that every state in the nation has a boating safety program, including Wyoming, Colorado.

SENATOR OLSON identified one obstacle as being the impracticality of registration, with decals and adhesive needing to be attached to certain types of watercraft [vessels].

MS. HARGIS validated this as a common problem in certain areas because, in addition to umiaks, decals are difficult for rubber boats like Zodiacs. The issue of registering boats is not about whether the decals are adhering, but about identifying boats for search and rescue if necessary. If a boat is lost or stolen or there is an emergency, that boat can be identified. If decals don't stick, people have put the decal and numbers on a piece of plexiglass and wire-tied it to the forward half of the boat. She reiterated that registration is about the safety aspect of identifying boats.

SENATOR OLSON contended this was impractical for some of the more traditional boats.

CO-CHAIR COWDERY referred to Amendment 1, and indicated that he would entertain a motion.

SENATOR THERRIAULT moved Amendment 1 for the purpose of discussion [which reads as follows]:

23-LS0230\S.2
Luckhaupt
12/7/04

A M E N D M E N T 1

OFFERED IN THE SENATE
TO: CSHB 93(FIN)

Page 2, line 12, following "boat":

Insert "operated on the freshwater lakes and inland waterways of the state that is under 17 feet in length and"

CO-CHAIR COWDERY, noting there was no objection, asked for further explanation, acknowledging that there was no one from the [Outdoor] Council at the meeting.

SENATOR THERRIAULT referred to Amendment 1 and mentioned that this would exclude whitewater kayaks; he questioned if these were already excluded because of the requirement for mechanical propulsion.

MS. HARGIS explained that the amendment from Finance had exempted all non-motorized boats from registration. Alaska chose, when the original bill was passed, to include all boats not equipped with machinery propulsion. This amendment would take out the section that excludes non-motorized boats and read [page 2, line 12]: "a boat that is not equipped with mechanical propulsion operated on the freshwater lakes and inland waterways of the state that is under 17 feet in length and ... ". This exempts non-motorized boats that are operated anywhere inland - on fresh waters and lakes - and requires any boat on saltwater (such as a sea kayak) to register.

SENATOR THERRIAULT asked for the bill sponsor's opinion.

REPRESENTATIVE WEYHRAUCH responded that he thought this to be a policy issue for the Coast Guard and the U.S. Coast Guard Auxiliary to assess. He said he desired the continuance of the [Alaska Boating Safety Act] so the state would continue to receive funds, coverage would continue, and the safety aspects of the bill would continue. He stated he was neutral and would defer to the Coast Guard regarding whether the amendment dilutes the bill.

CO-CHAIR COWDERY informed members that it was not his intent to move HB 93 today.

MS. HARGIS indicated this was consistent with the Coast Guard's requirement that there be no conflict with federal requirements; the Coast Guard requires registration of every boat in the state equipped with [mechanical] propulsion. This amendment was proposed to address some of the controversy pertaining to paddlers and non-paddlers. The program is much too important to lose, so if this helps to diffuse that controversy and keep the program going - and this refers to non-motorized boats paying \$10 for a three-year period - "we don't want to see the program sink, so to speak, because of that."

SENATOR THERRIAULT asked if the previous battle of "who has to pay for the cost and are they going to spread the cost" is reflected by this amendment bringing some non-motorized boats back into the pool of helping to pay for the cost.

MS. HARGIS confirmed this was correct.

REPRESENTATIVE WEYHRAUCH said there was also the aspect of dealing with people with smaller boats in the Interior who didn't like the idea of having to register them all.

SENATOR OLSON said Alaskans don't want to cultivate the mentality of having to register everything or having "big brother looking over us all the time" and that people have been operating boats in one form or another for some time and now there is somebody from the outside saying, "Unless you have a number on the side of your boat, I don't care whether it was there last week, it's not there now, and we're going to assess you a penalty." He asked what the penalties are, if the amendment is adopted.

MS. HARGIS responded that there is no penalty for adopting the amendment, and that the law for registering boats is not a new regulation, but was part of the 1958 act.

SENATOR OLSON asked if the state's benefit from federal funding was about \$350,000 per year.

MS. HARGIS replied it was currently \$450,000.

SENATOR OLSON asked if this amendment would influence that amount, and received confirmation this was so. He then asked about including fresh water and salt water.

MS. HARGIS responded that her understanding of the fiscal notes was that if all non-motorized boats were eliminated from the bill, there would be a cost differential to the state of about \$35,000. Splitting that in half, the state would make about \$17,000 with this amendment, whereas if all paddlers were in, it might be \$35,000.

SENATOR OLSON said his question pertained more to federal funding.

MS. HARGIS said there would be no change because the way the state chose to do this particular amendment, non-motorized boats don't have to display numbers in the same manner because of the

similar issue of "trying to get it on their boat"; the state doesn't actually receive federal funding for the paddlers.

CO-CHAIR COWDERY re-iterated that the bill wouldn't be moving out of committee today and invited Senator Olson to explain his amendment to those present.

SENATOR OLSON moved Amendment 2 [which reads as follows]:

23-LS0230\S.1
Luckhaupt
12/7/04

A M E N D M E N T 2

OFFERED IN THE SENATE
TO: CSHB 93(FIN)

BY SENATOR OLSON

Page 2, line 21, following "government":

Insert ";

(6)

a handmade umiak with a walrus or
sealskin covering"

SENATOR THERRIAULT objected for purposes of explanation.

SENATOR OLSON explained that in looking at how things have been done in the last years, decades, and centuries, regarding traditional transportation in Bush Alaska, having to comply with putting on some type of registration is encumbering, and "I don't think they should be encumbered." From a practical standpoint of having to put decals on [boats], "the last time I was in Diomede where there are skin boats, nobody had access to decals with adhesive out there." He suggested that even if decals were available, it would be against boating safety to put wires through the skin of a watercraft to hang a decal. "I see the element of practicality being done away with by people who are sitting in some office holding onto the purse strings of almost half a million dollars, and I've got a problem with that."

REPRESENTATIVE WEYHRAUCH said as an aside, if the amendment passes, it would be interesting because it would be the only bill ever in the Legislature with "umiak" in the content of the bill. He asked if the difficulty was with the decal itself or with attaching it. He asked if umiaks were made of walrus hide.

SENATOR OLSON replied that most were but that some of the traditional kayaks were made of sealskin.

REPRESENTATIVE WEHYRAUCH suggested perhaps using the definition of an animal skin umiak.

SENATOR OLSON repeated that it doesn't make sense to poke holes in the skin of a boat.

MS. HARGIS clarified that the holes are not put into the hull of the boat, but are usually tied around the seats. Also, she stated that this pertains to boats equipped with machinery propulsion, as those can get far enough offshore to get into trouble, and may possibly need to be rescued. "We do spend time every couple of years, going out and rescuing people that are in those umiaks that are out there walrus-hunting or whale-hunting." She said money has been spent on those rescues, and while there is no guarantee, the rationale for registration is to assist in saving people's lives by being able to find them.

SENATOR OLSON said with all due respect, he's been on searches as well, and seeing those decals would be yet another difficulty.

MR. JEFF JOHNSON, the Boating Law Administrator with the state, testified from Anchorage that he was available to answer questions.

SENATOR OLSON asked if Mr. Johnson would have the effects to the fiscal note related to Amendment 1, if it passed.

MR. JOHNSON referred to DMV for that information.

MARTHA MOORE, Trauma Registry Coordinator with the Division of Public Health, Department of Health and Social Services (DHSS), testified on behalf of DHSS in support of HB 93, and provided the following testimony:

Alaska has had the highest drowning rates in the country for many years. In the 20 years prior to 1999, the state's drowning rate averaged five and a half times the national average. Over half of those deaths occurred to non-commercial boaters. But we finally started to turn the corner on these really bad statistics and in the last five years the rate has dropped dramatically.

From 1998 to 2000 the number of boating deaths went from 38 to 16. Before the Boating Safety Office was established in 1998, Alaska averaged 29 drowning

deaths per year. Since then we've averaged 21 deaths per year. Eight lives saved per year is a very significant number for a state of our low population, and represents a much greater cost savings when you consider preventing the loss of the head of a family, a breadwinner, a productive member of society.

The Boating Safety Act is scheduled to sunset and this bill proposes to extend that sunset date to July, 2010, so that Alaska would continue to be eligible for about \$450,000 per year in federal boating safety funds, and through that money, continue the support of some very successful boating safety programs such as Kids Don't Float and boater safety education. The department feels that this bill is a good deal for Alaska both financially and in making Alaska safer for boaters and supports passage of this bill.

SENATOR OLSON referred to the comment of comparing 1979 and 1999, and between 1998 and 2000, stating that certainly any boating fatality is a tragedy, and asked, "How do we know that this has been attributed to the program that's in question? Even more significantly, how does registering a boat allow less fatalities?"

MS. MOORE responded that the point wasn't necessarily the registration of boats - as people have been doing this for a number of decades - but the critical issue is the establishment of the Boating Safety Office and the [Alaska Boating Safety Act]. She said there is no way to guarantee cause and effect at work here, but she studies injury and statistics, and it does seem convincing. There are documented saves directly related to the Kids Don't Float Program.

CO-CHAIR COWDERY asked if she had any problem with the two amendments.

MS. MOORE responded that she did not.

There being no further business to come before the committee, CO-CHAIR COWDERY adjourned the meeting at 2:25 p.m.