BEFORE THE NEW YORK STATE SENATE STANDING COMMITTEE ON INVESTIGATIONS AND GOVERNMENT OPERATIONS

PUBLIC HEARING

TO EXAMINE THE CURRENT LAWS AND REGULATIONS ON BOATING SAFETY IN NEW YORK STATE, AND WHETHER CHANGES ARE NECESSARY TO PROTECT THE PUBLIC ON OUR WATERS

Town of Oyster Bay
54 Audrey Avenue
Town Board Hearing Room, Town Hall East
Oyster Bay, New York 11771

August 8, 2012
11:00 a.m. to 3:00 p.m.

PRESIDING:

Senator Carl L. Marcellino
Chair

SENATE MEMBERS PRESENT:

Senator Kenneth P. LaValle

Senator Jack Martins

ASSEMBLY MEMBERS PRESENT:

Assemblywoman Sandra Galef

Assemblyman David McDonough

Assemblyman Michael Montesano

SPEAKERS:	PAGE	QUESTIONS
Michael Della Attorney and Partner, Gruenberg, Kelly, Della Testifying on behalf of Paul and Lisa Gaines	9	16
Rose Harvey Commissioner Brian Kemp Director, Bureau of Marine Services NYS Office of Parks, Recreation, and Historic Preservation	18	24
Sgt. John T. Owen Deputy Commanding Officer Nassau County Police Dept. Marine Bureau	45	49
District Commander Lawrence Postel District 3 - Long Island Larry Weiss NYS Legislative Liaison U.S. Power Squadrons	59	75
Chris Squeri Executive Director NYS Marine Trades Association	96	108
Jackie Martin Commodore Greater Huntington Council of Yacht and Boating Clubs	122	132
Vincent Archdeacon Commodore Huntington Yacht Club	122	132
Justin McCaffrey Commissioner of Public Safety Town of Oyster Bay	143	169
Ed Carr Director, Maritime Services Harry Acker, Sr. Harbor Master Mark Cuthbertson Councilman Town of Huntington	143	169

SENATOR MARCELLINO: Could we all rise for the Pledge of Allegiance, please.

(The Pledge of Allegiance was recited.)

SENATOR MARCELLINO: Good morning.

My name is Senator Carl Marcellino, and I am the Chairman of the New York State Senate Committee on Investigations and Government Operations.

We are here this morning to have a public hearing on boating safety and the laws that affect boating on the waters around and in New York State.

I am joined today by my colleagues, Senator Jack Martins, to my right; Assemblyman Michael Montesano of the 15th Assembly District, to his right; and to my left, Assemblyman David McDonough of the --

I believe 19th Assembly District, David?

-- the 19th Assembly District.

If others -- we expect a couple of others. Senator LaValle had indicated that he would be here, and Assemblywoman Sandra Galef had said she would attend. As they come, we will invite them up and introduce them as they're here.

As I said earlier, the purpose of this hearing --

And the people who are testifying, by the

way, was by invitation only.

-- we're here to discuss boating safety and the laws that affect it in New York State.

We are not here to discuss or investigate any particular accident that occurred in the waters.

I do, and I will say to you, that the impetus for this hearing, of course, was the incident, the accident, that occurred on the 4th of July, resulting in the deaths of three children. That certainly sparked our interest, and it certainly stimulated the hearing that we're holding here today.

But we're not police, and we're not equipped or capable of investigating the cause of that accident at all.

What we are looking at -- and hopefully, we'll get good information and good testimony from people who are experts in the field, we're looking at the laws that exist in our state.

Are they comprehensive?

Do they effectively cover the boating public?

Do they provide for a safe experience when people are on the water?

Are they enforceable?

Do they need to be modified; do they need to

be changed?

Totally, completely, redo the whole thing?

I mean, I've heard comments from everybody, from one extreme to the other, on this issue.

I personally have -- and this Committee has not supported or sponsored any particular piece of legislation.

Many have been put forward in recent days and weeks since the incident, and some before.

We decided some time ago to wait, one, for the results of this hearing; and, two, the results of the investigation that's going on in the incident. Want to hear what the cause was, to find out if there's anything we can do to actually impact and affect what goes on out there on the water.

We've invited a number of speakers, and one of which was the Coast Guard, and they've declined to testify. And I'm really sorry about that, because they're the ones who write the laws; they're the ones who set the limits and the parameters. But they don't feel it's their -- that they should do this.

I disagree.

However, respectfully, there's been no animus

between us, and I don't have any animus in that respect, so that we're -- we're more than willing to work with them in the future, and continue to work.

To that end, they've sent me a book of statistics. Boating statistics in New York and the United States in 2011.

It's somewhat interesting. It's relatively thick, a lot of pages, and it has a lot of boating statistics.

Sandra, come on up.

Come on up. There's a seat for you.

There's Assemblywoman Galef. We're gonna let her come up and join us at the table, at the dais.

Pick a side, or, you can sit next to Dave, or anyone you want.

As I said, we're not talking about individual laws; we're talking about the whole package as a situation.

Let me give you some background.

New York State is a leader in the number of vessels registered. There are almost 468,000 -- more than 468,000 registered boats, and many other vessels that do not require registration.

New York State Office of Parks and Recreation and Historic Preservation, along with the

United States Coast Guard Auxiliary and the United States Power Squadron, provides boaters of New York State with approved boating education courses that are recognized in all 50 States and Canada.

New York State annually educates 18,000 boaters on boating safety.

Last year, there were 28 deaths in boating accidents in the state of New York.

4,588 boating accidents nationwide last year, resulting in 758 people losing their lives. 3,081 were injured in those incidents.

Nationally, the fatality rate was 6.2 deaths per 100,000 registered recreational vessels.

89 percent of the deaths incurred [sic] in boats where the operator had not received boating safety instruction.

Let me repeat that: "89 percent of the deaths occurred on boats where the operator had not received boating safety instruction."

Operator inattention, improper lookout -- I guess that means not looking where you're going -- operator inexperience, excessive speed, and machinery failure rank as the top five primary

contributing factors to accidents.

The primary contributing factor to death on the water, is alcohol. Is alcohol use.

So, we have, as you can see, a lot of data. This book contains a huge amount.

We're gonna process that. My staff will be crunching numbers for quite a while when we make our recommendations eventually for, and it will be as expeditiously as we possibly can, towards any legislation that we think we want to deal with.

As I said, we haven't promoted, nor will we as a Committee, without -- promote any legislation without hearing first from the experts and the witnesses who can give us good testimony and good input.

We have invited the -- Paul and Lisa Gaines, who very tragically lost their daughter in the incident, in the accident, on July 4th in the waterways at Oyster Bay Harbor.

Michael Della is their attorney.

And I assume, Michael, will you speak for the family?

MICHAEL DELLA: Yes.

SENATOR MARCELLINO: And we do wish the family all the best, and our prayers are with you,

especially at this time of your grief and your loss.

Michael.

MICHAEL DELLA: Thank you very much.

Thank you very much, Senator.

On July 4, 2012, 7-year-old Victoria Gaines was tragically killed when the boat that she was in capsized on its way back from watching the Dolans' family fireworks show in Oyster Bay Harbor.

Victoria would have celebrated her 8th birthday just two days later.

She was a beautiful child with an amazing smile and an engaging spirit.

She is survived by her father who's sitting beside me today, as well as her mother, Lisa, and brother, Ryan, both of whom were on that boat on the 4th of July.

The entire family, needless to say, is devastated by the loss of Victoria.

In addition, two other children died that evening.

This incident caught the attention of local and national news, and rightfully so, not only because of the catastrophic loss of life of these three beautiful children, but because this could have, and should have, been prevented.

Numerous mistakes were made that night, and the Gaines family refuses to accept that her death will have been in vain.

They are determined to see changes that are made in all laws, so that such accidents never happen again, and so that no other family will have to experience the pain that they are going through.

The public outpouring has been overwhelming.

I received calls and e-mails from hundreds of people, thanking me and the Gaines family for trying to create change.

Every one of these concerned citizens had a different story, about the laws being so lax on the waterways, and wished our representatives would act to create laws that can better protect us on the water.

Quite frankly, the public is scared. I can't tell you how many other people have come up to me and said that they'd never go on a boat again.

And that's a shame, considering where we live on Long Island, surrounded by water.

If ever there was a time to act, it is right now.

Encouraging, is that these changes are limited and don't restrict boaters from enjoying

themselves.

Will there be a little resistance? Maybe, but the added safety of our community far outweighs any inconvenience felt by the boaters.

If we can save one life, we have done our job.

Similar to the evolution of the vehicle and traffic laws, boating laws must change with the times.

When motor vehicles became popular, and more and more cars were on our roads, the government designed safer roadways; implemented speed limits; had stop signs, yield signs implemented; and there were licensing requirements.

Additionally, DWI laws were more strictly enforced, and more policemen were employed to control the use of our roads.

Countless lives were saved because of those changes.

On the water, we need similar changes.

The waterways are becoming more and more populated, and the roadways need to be safer for everyone, to be better policed.

Our goal is to make laws, not proposals.

The most glaring issues that stand out from that fateful night were as follows:

Number one: Occupancy limits.

While we are not going to rush to judgment, as the investigation of the 4th of July incident is still ongoing, we are pushing for maximum occupancy limits and weight restrictions for every pleasure boat, not just ones under the size of 20 feet.

Such limits and restrictions should be clearly and conspicuously posted on the vessel so that anyone boarding it could readily see it.

While this may seem like common sense to an experienced boater, beginners may have no idea of a boat's capacity. Not everyone is a boater, just like less of us are pilots.

Would anyone here know how many people or the amount of weight that could be on a certain plane? Of course not.

This small restriction to boating is absolutely necessary, and will cause boaters little to no inconvenience.

Number two: Safety courses.

Right now, there are no safety training or licensing requirements for boaters.

You need a license to operate personal watercrafts, such as jet skis and WaveRunners, yet you don't need one for a boat.

That does not make sense.

As Senator Marcellino pointed out, of the 89 percent of all boating fatalities last year, the operators did not undergo a safety training course.

That is unacceptable.

Currently, anyone without any experience or training may buy a boat and just drive it away without any knowledge on how to operate it. They are not required to know anything about buoys, how to dock, how to drop an anchor, how fast you can go, how close you can be to another boat, how close you can be to a swimmer.

Does anyone buy a car before passing a road test and obtaining a license?

The safety course should be on the actual water and a certain amount of hours with an experienced boater should be required.

As for people who have been boating all their lives, a test should be conducted, and if passed, they can forgo that safety course.

Again, this should not be heavily objected to

from an experienced boater, since they want safe waterways just as much as anybody.

And, finally, boat-traffic control:

When there's an event, like a maritime fireworks display, a concert at Jones Beach, or, Hemstock in Hemstock Cover -- or in Hemlock Cove, I apologize, which took place a few weeks ago on the Great South Bay, it is common knowledge that many boaters will attend.

There should be a requirement that proper security is in place to direct traffic and to enforce all other boating rules and regulations.

Whether it should be the responsibility of the event planner, the town, the county, or the U.S. Coast Guard, someone must make sure that every boater can get into and out of a congested waterway where an event takes place.

Not only have I received calls from strangers on that issue, but I have read in the newspapers, about people waiting an hour after an event to start up their engines, because for everyone to try and exit at the same time is a recipe for disaster.

At Yankee Stadium, at a concert, we all have ushers standing by every exit way, to make sure

the flow of traffic is proper and that no one gets trampled.

On the east end, at a celebrities' Hamptons party, there's police officers stationed at the end of the block, to make sure that only the invitees or people that live on the block are able to go down that roadway, because of safety.

These three points make up what the Gaines family is trying to employ as "Victoria's Law," in the memory of their lost daughter.

I just want to take this final opportunity to applaud Senator Fuschillo, who we have met with, and who has dealt with boating safety in the past for years, and has proposed more changes to make us safe.

I also want to thank Senator Schumer, who we've also met, with who seems to be trying to put in place some occupancy-limits changes as well.

And, I do look forward to Senator Marcellino, his input here, and thank him very much for holding this hearing in the first place.

And, I would also like to thank Paul and Lisa Gaines, who have gone through this tragedy, and, after the first couple of days, they made it their mission to try to create change. And,

they just have outstanding bravery for coming here in front of you elected officials, and meeting with all types of different politicians; not just sitting back and allowing this to ever happen again.

They've taken a very proactive approach, and they should be commended for that.

Victoria will not die in vain.

This Gaines family is determined, but they do need the help of our community, and our government.

Thank you very much.

SENATOR MARCELLINO: Thank you very much.

Any questions?

Okay, thank you.

And I will state, that I do appreciate the fact that you have made it your mission to make sure that your daughter did not die -- and the other children that died that night, did not die in vain.

We appreciate that, and we will look forward to assisting you in any way we can, in any way that's appropriate.

And I do believe you ought to be commended with your courage in speaking, and especially speaking to politicians. That's not an easy thing to do.

So, I appreciate the fact that you've come,

and that you've been to many different events.

I know you were in Huntington last night at their hearing.

Many different levels of government have been holding Boating Safety evenings and instruction periods, and so forth, throughout the Long Island, and throughout the state, as a result of this incident.

We think that's a positive thing. But, we wanted to make sure that -- and I'm sure you agree, that it goes on all the time, and not just one time, and disappears and dissipates.

So, we want to keep the interest going.

But, we look forward to working with you, and we will keep you informed every step of the way.

And we would appreciate the same from yourselves as well.

Thank you very much for your testimony, and your hearing today.

MICHAEL DELLA: Thank you very much, Senator.

MR. GAINES: Thank you, Senator.

SENATOR MARCELLINO: Anyone who would like to see this, by the way, just to announce to the public, that this hearing is being live broadcast by

the Senate video operations.

So, that anyone who's out there, and we did promote this through e-mail, and so forth, that this is a live broadcast.

And if anyone would like to see this and hear it repeated, they can view it on the New York Senate website, which is:

New YorkSenate.gov/committee /investigationsandgovernmentoperations.

You can put that on. It will be re-broadcast as frequently as you wish. It will be up there for quite a while.

The next speaker will be the commissioner of the New York State Office of Parks and Recreation and Historic Preservation, Commissioner Rose Harvey.

Commissioner?

Commissioner, would you introduce your co-speaker.

COMMISSIONER ROSE HARVEY: Thank you.

Good morning, and thank you for inviting us, and we're glad to participate in this hearing.

And, I'm Rose Harvey, and I'm Commissioner of Parks, Recreation, and Historic Preservation.

And I have with me Brian Kemp, who's director of our Bureau of Marine Services, and has been there

for many, many years, and could help answer some questions.

I also just want to express my deepest condolences to the Gaines family, and thank them for their bravery and courage to come forward and try to make a difference.

Boating is a major recreational activity in New York State.

Currently, New York State ranks seventh in the nation in the number of watercrafts, with 468,000 registered boats, plus a large number of small crafts, such as canoes and kayaks that do not require registration.

Millions of people participate in boating on waters across the state, providing outdoor recreational activities and making a significant economic contribution to local communities.

Parks administers boating safety initiatives through our Bureau of Marine Services. The agency is also responsible for a number of regulatory functions upon those waters which the federal government has no authority, primarily inland and lake waters.

We inspect and license commercial passenger-carrying vessels;

Replace and maintain navigational aids on several major inland lakes and waterways;

We issue permits for regattas and floating objects;

We administer the State Financial Reimbursement Program to counties enforcing state navigation laws;

And, finally, we administer the Boater Education Program that the State requires of youth and personal-watercraft operators.

So let me just give you a brief overview of each of these programs.

With respect to safe-boating education programs, 1959, New York State launched the earliest boating education program in the country. It's in partnership with the United States Coast Guard Auxiliary and the United States Power Squadron.

New York provides nationally recognized courses of boating safety instruction. Participants are required to complete an 8-hour course and pass a proctored written exam in order to receive boating safety certificates.

The boating education is required of youths, age 10 to 18, to operate a motor boat; and all

operators of any age, of personal watercraft. That's, essentially, jet skis.

Our certified instructors teach nearly 20,000 boaters annually, the fundamentals of safe boating.

Over the past 12 years, more than 250,000 people have participated in the safe-boating courses, and we rank sixth in the nation in the number of students that take boating safety courses each year.

In addition to boating education, Parks' Marine Services' staff make presentations at boating events across the state, provide safety information on its website, and we partner with organizations, like the National Safe Boating Council and Brookfield Renewable Power to air public-safety advertisements.

With respect to the New York State navigation law, over the last two decades, New York has taken a number of steps aimed at improving the state's navigation laws.

I'll mention just a few.

Beginning in 1995, New York was the first -- one of the first states to require children under the age of 12 to wear a life jackets.

In 1998, New York became one of the first states to require that all personal-watercraft operators take an improved course in boating safety.

In 1998, the State passed a zero-tolerance law prohibiting the consumption of alcohol by those less than 21 years of age on mechanically driven vessels.

In 2009, New York became the first state in the nation to require wearing life jackets on any vessel less than 21 feet, between the cold-water months of November and May 1st.

With respect to marine law enforcement, a number of state, county, town, and village agencies, including, also, parks, State police, and DEC, provide law-enforcement services.

These marine patrols provide a valuable service to the boaters, through education, compliance, and as first responders.

Parks sponsors a number of training programs for these marine law-enforcement personnel.

We also administer a State-funded financial assistant program that reimburses up to 50 percent of eligible marine law-enforcement expenses

incurred by the counties and municipal agencies for patrolling the waters.

Continued support of all these agencies is critical to ensure a safe boating environment.

Finally, with result to boating safety -- boating safety results, New York's efforts in boating education, safety laws, and enforcement, combined with federal laws and requirements, have improved the safety of our waterways.

Over the past 30 years, the number of reported recreational boating accidents has decreased, and the number of boating fatalities has dropped by one-half.

Despite having the seventh-largest number of registered vessels, last year New York accounted for 3.4 percent of boating-related fatalities in the United States.

Parks tracks detail statistics on the types and causes of boating accidents in New York, and reports that information in an annual recreational-boating report.

The 2011 report is available online right now. I mean -- yes, it is online right now.

Here, in New York, we will continue to promote and advance our boater safety training

programs, our public-education efforts, our law-enforcement support, to enhance the safety in New York's waterways.

We appreciate the Committee's active role in convening this hearing.

We look forward to hearing from our federal and local partners, as well as boating organizations, on ideas for further promoting boat safety in New York State.

Thank you very much for asking me to testify.

SENATOR MARCELLINO: Thank you, Commissioner.

Just a couple of quick questions, and I'll turn it over to some of my colleagues who may have some follow-ups.

In your opinion, are our laws and regulations in New York State strong enough?

COMMISSIONER ROSE HARVEY: New York State has always been very focused on boating safety, and we worked very well with the Legislature to promulgate laws with respect to boating safety.

And, we will continue to look, consider, work with you and all our partners, to think about further laws, further regulation, further legislation.

SENATOR MARCELLINO: In your opinion --

Let me put you on the spot a little bit. I'm sure you're used to it.

You heard the testimony from the attorney representing the Gaines family.

Boating safety courses: If -- and there are many bills out there right now that would require an expansion of the "boating safety course" provision in the state law right now.

-- are we equipped, currently, to give everybody -- or, require everyone who has a boat or buys a boat, to take a boating safety course?

Do you have enough people to do it?

COMMISSIONER ROSE HARVEY: Right now, as you know, in New York State, it's mandatory, from 10 to 18, and then all operators of jet skis. And, we do everything we can to make sure, to even provide them with courses. And, also, to make all boaters aware of the courses so that they're -- those that volunteer.

And, we're sixth right now in the number of students that attend both voluntary and required.

So, you -- everything is -- it's a very complex interrelated area and issue. And it all -- everything is in the details, and we would have to look at everything, and consider it, to know whether

we are equipped.

But --

SENATOR MARCELLINO: The other aspect of the testimony that we heard, was about licensing.

We don't currently require it in the state.

How would you implement something like that?

That's been a question that's been rattling around in my head: How would you do that?

I understand how we do it with motor vehicles, and so forth. There's a written test, and then there's a road test.

How would you do it on the water with:

Different boats; sail, motor, different sizes?

Different conditions; marine, lakes, rivers?

COMMISSIONER ROSE HARVEY: Jurisdictions.

SENATOR MARCELLINO: Different jurisdictions -- crossing jurisdictions, and so forth?

How would we deal with that?

COMMISSIONER ROSE HARVEY: It would be very difficult and very complex, and would require a lot of thought. It would be very hard.

SENATOR MARCELLINO: Okay.

Gentlemen?

Jack?

SENATOR MARTINS: Good morning. How are you?

COMMISSIONER ROSE HARVEY: Good. Good.

SENATOR MARTINS: Thank you.

Just to follow up on that last question: Right now, we do have different types of licensing, or licenses, for different motor vehicles, don't we? Tractor-trailers, passenger vehicles, motorcycles.

And it is complicated.

And we do have different types of watercraft.

Can we not, sort of follow the model that's already been established for automobiles, in terms of licensing, and the requirements for different size boats, and required training as a result, commensurate with the type of boat or watercraft that a person be using?

COMMISSIONER ROSE HARVEY: Again, the boating issues' environment are very different. And, I think it would be very complex.

And, I don't have the answers. I don't know.

And, we would, you know, need to look at all of this, and think about it in context of all the

many jurisdictions, all of the -- that have enforcement, and don't have enforcement, and so forth and so on.

SENATOR MARTINS: You mentioned --

You mentioned that --

SENATOR MARCELLINO: You've got to point your microphones down, I'm told.

No, just point the microphones down.

The microphones, point them down.

SENATOR MARTINS: I'll try again.

SENATOR MARCELLINO: We're still getting the feedback, guys.

SENATOR MARTINS: I'll go with that. Thank you.

You mentioned that there are currently 20,000 boaters, annually, that take some sort of course -- safety course.

I assume that those include youngsters, 10 to 18, as well as those who use personal watercrafts, like jet skis.

What's the breakout?

Out of those 20,000, how many are boaters, 10 to 18, and how many are people actually, just, recreational crafts, like jet skis?

COMMISSIONER ROSE HARVEY: We can -- unless

Brian knows it, I think we can get back to you and give you that.

SENATOR MARTINS: And we require, I guess, safety instruction, up to 18. But that first day after the 18th birthday, that person no longer has to take a class.

And so, yet, we still require it for people who are on jet skis out on the water, and not power boats.

Do you see that as a possible avenue towards expanding safety on the waterways, just as a simple point, and that sometimes these age restrictions may be arbitrary?

Is that possible?

COMMISSIONER ROSE HARVEY: Well, again, we promote boater safety courses and education, and go out and actively encourage everybody to take them. And awareness of their importance is a huge part of it.

And, we'll give you the breakdown of how many are -- or those not required by law.

And that is -- we're very focused on it. We do PSAs. And more awareness of the importance of it, the more participation you will get.

But we, again, welcome working with the

Legislature, to look at other proposals, and, you know, anything that can further enhance and improve.

SENATOR MARTINS: No, I appreciate that.

You know, I'll just relay a quick experience, my own personal experience.

I have a person I know who decided, in his thirties, to buy a boat.

So, decided to buy a boat.

Found one in Massachusetts. Never having actually owned a boat, or piloted a boat, bought the boat; drove to Massachusetts, got on the boat, and piloted it back to Long Island, not ever having taken a course.

And there's something just inherently wrong about that.

And when you consider it, and, you know, the rules, regulations, or laws that make that possible. And, I think a lot of what we're discussing here today bring that into stark contrast with some of the other requirements that we have on the road.

I did just want to point out, I noticed that, for boats that are less than 20 feet -- 21-feet long, between the months of November and May, that people have to wear life vests. But, after May,

and before November, they don't.

Yet, I would think that the risks associated with wearing the life vests between those months are still there, between May and November, during, you know, the nicer months; yet, the need for those life vests are foregone.

So, I do appreciate the testimony, I appreciate the details, but I think that they also raise some valid points for discussion as we go forward.

Chairman, thank you.

SENATOR MARCELLINO: Thank you very much, Senator.

Before we take a -- or go any further, I would just like to thank the Town of Oyster Bay and Supervisor Vanditto and the Town Board for providing us the use of the hall. They've been very cooperative with their staff and the people, in using the facilities.

So, we do appreciate their time.

Assemblywoman, do you have some questions?

Senator?

ASSEMBLYWOMAN GALEF: Thank you very much, and it is a pleasure to be here.

And thank you, Senator.

I don't think I've ever been to Oyster Bay. I live in Westchester County.

But I must say, you know, it was very important that the Gaines family was here.

And, we also lost somebody in our area, that was at City Island, but lived in Ossening, in a boating accident too.

So, it's an issue around all of our waterways among the Hudson River.

One of the things that really bothers me, is that the State of Connecticut and the State of New Jersey do require boat safety courses. And it just --

SENATOR MARCELLINO: We do have a chart over there on the side, that --

ASSEMBLYWOMAN GALEF: Oh, you do? Okay.

SENATOR MARCELLINO: -- this, New York's requirements, and -- with respect to the courses, and whatever.

ASSEMBLYWOMAN GALEF: Right, and our neighboring --

SENATOR MARCELLINO: As is with New Jersey and Connecticut.

ASSEMBLYWOMAN GALEF: Right, and our neighboring states.

It just seems -- I mean, because so many of our waterways kind of go between, you know -- I don't know about Massachusetts, but, you know, coming through all these waterways and having different rules and regulations, and I don't quite understand that.

The other aspect of the testimony, actually, that was given by the attorney for the Gaines family, about the boaters that are out there, even if we start with the process of getting -- you know, our younger people getting boat certificates, and so on, what do we do about the older boaters that have been out in the field?

And I know I've spoken to a lot of people.

Could we do anything with insurance like we do with cars?

We were talking before about having something, kind of, tracking our automobiles.

If people were to take preventive courses, even though they've been boaters for a very, very long time, that they would get a discount.

I know some insurance companies do that, but could we require something like that, so, you know, that we can encourage more people to do this?

You know, it sounds like your department is

limited in how many people we can get taking all of these courses, you know, at this point, but is there another approach to getting others?

It isn't all the new people. It's reminding people, again and again, about, you know, not drinking, as you've said, and what to do, you know, when you're on the side of the -- I mean, we had somebody in New Rochelle, coming from Connecticut, and went right into a stone wall, you know. And some of this you don't understand, but some have been boaters before.

Any comments on this?

COMMISSIONER ROSE HARVEY: Again, we agree with you that awareness of the issues of boater safety is paramount, and we need to educate.

And, we spend a lot of time with PSAs, and promotional, and bringing people into our education courses.

And with -- and, again, we're completely open to all of the ideas that you all are putting forward. And we just -- you know, we're going to need to consider it in context of our ability to implement, our ability to enforce, and, you know, with respect to the multi-jurisdictional nature of all of this.

But, we appreciate all of these ideas, and look forward to further discussions on them.

SENATOR MARCELLINO: David?

ASSEMBLYMAN McDONOUGH: Thank you, Senator, and thank you for holding the hearing.

And thank you, Commissioner, and Mr. Kemp, for being here today.

Are you -- we've talked about a couple of neighboring states.

Are you familiar with any of the larger boating states, like Florida and California? Does Florida have -- do you know, Mr. --

Is it, Kemp?

BRIAN KEMP: Yes.

ASSEMBLYMAN McDONOUGH: -- do you know, Mr. Kemp, does Florida have a strong boating law, or stronger than ours?

BRIAN KEMP: I can tell you that California has no requirements at all for education.

ASSEMBLYMAN McDONOUGH: None at all.

BRIAN KEMP: Florida recently implemented mandatory education, and they're in the process of phasing that in.

SENATOR MARCELLINO: Could you speak up a little bit. I don't think -- I couldn't hear you,

barely. I'm sure they --

ASSEMBLYMAN McDONOUGH: You said Florida recently introduced --

BRIAN KEMP: Florida recently introduced legislation, to get everybody into a boating safety course.

ASSEMBLYMAN McDONOUGH: Okay. I spent a lot of my years growing up in south Florida, and I -- the boating there is, you know, just -- even bigger than it is here.

I represent the 19th Assembly District, which is the south shore of Nassau County, and covers most of Jones Beach. So, there's a lot of watercraft --

BRIAN KEMP: Oh, yeah.

ASSEMBLYMAN McDONOUGH: -- in the waterways, just -- you know, as well as in the ocean, so, there are many accidents.

All boaters have to be licensed in New York State. You see that; on every boat you see the license number, I believe. You see it on sailboats. I've seen it on other crafts.

BRIAN KEMP: There's a little confusion between the terminology.

"Licensing," is really registration.

ASSEMBLYMAN McDONOUGH: Registration?

SENATOR MARCELLINO: Registration.

ASSEMBLYMAN McDONOUGH: So you know who the --

BRIAN KEMP: The motor vehicle, that's the registration process.

ASSEMBLYMAN McDONOUGH: So the State of New York, then, whether it's Parks or -- the State knows who the owners of every boat are?

BRIAN KEMP: That's correct.

ASSEMBLYMAN McDONOUGH: Okay, and that's all they've to do, is register their boat; right?

BRIAN KEMP: In the case of most boaters, yes.

ASSEMBLYMAN McDONOUGH: And most boaters? Why would it not be --

BRIAN KEMP: If they're youthful operators, or if they're personal-watercraft operators, which are boats as well --

ASSEMBLYMAN McDONOUGH: Right.

BRIAN KEMP: -- they have to be registered, and they also have to be certificated.

ASSEMBLYMAN McDONOUGH: Well, at that age, from the personal watercraft, under 18, or any personal watercraft --

BRIAN KEMP: All personal-watercraft operators.

ASSEMBLYMAN McDONOUGH: But, as I understand from the commissioner's testimony, and what we know, is that nobody has to be registered to operate a larger boat, over 18 years of age.

BRIAN KEMP: Again, the boat has to be registered and/or documented through the Coast Guard, and the operator does not have a requirement that he be certified to operate the boat.

ASSEMBLYMAN McDONOUGH: Okay, so we really need -- Commissioner, you and I talked about this, we really need legislation, don't we? Something?

I mean, we can talk about the funding for it in a minute, but, don't we need some type of legislation?

We've got two or three things that New York has done already, insofar as the age we just talked about, but, do we need some legislation, just like we do with DMV, where you must have some training in order to get a driver's license?

COMMISSIONER ROSE HARVEY: Again, I -- we have worked -- New York State actually has led the -- many of the states in some of its

legislation, and its concern for boater safety.

And, we look forward to continuing to work with you in considering it. But, what the -- we need to review what the legislation is, and take it -- take into consideration the issues of our ability to enforce, to deliver, and all, again, the multi-jurisdictional aspect of this.

ASSEMBLYMAN McDONOUGH: Okay, well, I'm the ranking member on the Transportation Committee in the New York State Assembly. And I understand what you're saying about the local jurisdictions. But if we have some State requirements, as you do for the personal watercraft, and stuff like that, that trumps any local jurisdiction. Correct?

COMMISSIONER ROSE HARVEY: Correct.

And then there's federal.

SENATOR MARCELLINO: Different state.

ASSEMBLYMAN McDONOUGH: And there's federal also, which --

COMMISSIONER ROSE HARVEY: Which trumps State.

ASSEMBLYMAN McDONOUGH: Right, okay.

So, it's not unreasonable to hope that we could get some type of legislation at a state level, that would require the training courses, whether

it -- now, the funding of it, obviously, could be through the fees.

I don't know what the registration fee is, Mr. Kemp.

Do you know what the registration fee is for a boat, just the registration?

BRIAN KEMP: It does vary. It's a three-year registration. There's also a surcharge on that.

But I believe it ranges, anywhere from $18 for a boat under 16 feet, to somewhere around $60 for a larger vessel, for the three-year registration.

ASSEMBLYMAN McDONOUGH: Costs a heck of a lot more to get a driver's license, too.

BRIAN KEMP: Probably does.

ASSEMBLYMAN McDONOUGH: Right?

Isn't that amazing.

So, if we were able to get something like that, of course, the first thing the State would be thinking about, is how do we pay for these training courses? Who pays for it?

The operator of the boat would have to pay for it, I believe.

And, in order to get a license to operate a boat. Just like, these younger people, and anybody

operating a personal watercraft, they have to pay for their training course -- well, no, actually, I think the Coast Guard Auxiliary gives those for free. Right?

BRIAN KEMP: There's a combination of courses.

We have free courses; we have instructors that teach at the proprietary level, and they charge for those courses; and the Coast Guard Auxiliary and the Power Squadron also offer free courses of training.

ASSEMBLYMAN McDONOUGH: In response to Assemblywoman Galef's remarks, I believe that there is some discount from insurance companies, if you've taken the boating safety course. Just like --

BRIAN KEMP: Yes.

ASSEMBLYMAN McDONOUGH: -- we get a discount on our driver's license if we take that safe-driving course, and you get points reduction, and it gets down on your insurance.

BRIAN KEMP: That's in the statute.

ASSEMBLYMAN McDONOUGH: But there is some.

BRIAN KEMP: Yes.

ASSEMBLYMAN McDONOUGH: You agree with me, I think there is. Right.

And, of course, we've DWI laws. And, we don't have strong enough BWI laws, I believe. Not as strong as our DWI laws.

And that's something I know that Senator Marcellino and Senator Martins and Senator Fuschillo have been working on, strengthening those laws.

You had an accident some years ago on Lake George, which was a licensed operator. That was a terrible accident, where a boat capsized.

So, there's much of this happens in State parks; right?

Not just in our waterways, but you have all of the lakes, and all of that, you have a lot of boating accidents.

BRIAN KEMP: Yes.

ASSEMBLYMAN McDONOUGH: We had a fatality just prior to this accident on July 4th, where a boat, literally, ran over another boat because of DWI [sic].

Okay, well --

SENATOR MARCELLINO: Last question.

ASSEMBLYMAN McDONOUGH: -- we're going to work for more legislation, to help you.

SENATOR MARCELLINO: Assemblyman Montesano?

ASSEMBLYMAN MONTESANO: No, I'm okay. Thank you.

Thanks.

SENATOR MARCELLINO: Commissioner, I appreciate your coming. I know you came a long way to be here, and thank you for your testimony.

And I understand your department has to work with, in cooperation with other agencies, and on multiple levels. And I think that's where the confusion can be, as to which level is going to pass what bill, and what law is going to -- supersedes other laws, and when a New York boater crosses the Sound and floats into Connecticut waterways, could be impacting other sets of rules and regulations as well.

So, we want to make sure that whatever is done is coordinated.

Has there been any -- just one last question: Has there been any thought to setting up some type of meeting with the powers that be in Connecticut, New Jersey, and surrounding jurisdictions, so that we can have a uniform set of boating rules and regulations, especially on a place like Long Island Sound, where we share the waterway with more than one state?

ASSEMBLYMAN McDONOUGH: Who knows?

BRIAN KEMP: We are members of the National Association of State Boating Law Administrators, and we do collaborate on different things. We do exchange information, and we compare laws and, we develop model acts, many of which have found their way into state law.

So, we do that at a national level, and to some extent, at a regional level as well. We're aware of what different states are doing.

SENATOR MARCELLINO: Being aware, and us having the same law, is what I'm getting at.

I mean, we're aware there are differences.

What I'm trying to get to is, I'd like to see some movement in the direction of some type of uniform set of rules and regulations, so the boater who goes out there, knows the rules, assuming they've taken, or read the books; and that enforcement agencies -- police, Coast Guard, auxiliary -- whoever's out there, knows there's one set of rules, no matter where they are, that can be enforced, so we don't have this hodgepodge.

COMMISSIONER ROSE HARVEY: We will always work to coordinate. And we can work harder, and we can be more deliberate.

And, also, our boating courses are all -- they're the same course materials that are used by all the states.

SENATOR MARCELLINO: Yeah, that's true.

The boating safety program is accepted everywhere, including Canada --

COMMISSIONER ROSE HARVEY: Right. Right.

SENATOR MARCELLINO: -- so that we've that commonalty, as far as the educational things.

However, the laws and the enforcement varies from place to place, and in some cases.

So I think we're going to have to take a long -- a hard look at that and see what we can do with that, and how we can better coordinate on that basis.

But I do appreciate you coming, and I thank you. And thank Governor Cuomo for, hopefully, reimbursing you on your expenses.

COMMISSIONER ROSE HARVEY: Thank you.

SENATOR MARCELLINO: Next speaker will be Sergeant John T. Owen, Deputy Commanding Officer of the Nassau County Police Department Marine Bureau.

SGT. JOHN T. OWEN: Good afternoon, State Senator Marcellino, members of the Senate Standing Committee on Investigations and Government

Operations, ladies and gentlemen.

My name is Sergeant John T. Owen. I've been a member of the Nassau County Police Department since 1986. I have been assigned to supervisor in the Department's Marine and Aviation Bureau since 2001.

In addition to my normal patrol duties, I have taken part in the recovery efforts of TW Flight 800, during July of 1996; and I have taken part in the immediate response and recovery efforts at the World Trade Center on September 11, 2001, and during the weeks that followed.

Additionally, I've completed the Department's comprehensive five-week marine law-enforcement training program, which are all approved by the New York State Division of the Criminal Justice Services.

I am a certified boating-accident investigator, by the National Association of Boater Law Administrators.

My police colleagues and I have more than ample experience with regional marine law enforcement and the many issues regarding recreational boating safety.

The Nassau County Police Department continues

to take a focused approach to marine law enforcement and recreational boating safety in New York State's marine district.

In 2011, the Nassau County Police Department connected more than 30,000 hours of marine law enforcement.

Since 2002, official statewide statistics indicate that there's been nearly a 12 percent decline in registered recreational vessels in New York. Nevertheless, regional marine law-enforcement statistics provides for an important facts.

Official statewide statistics for 2011 indicate that nearly 7 percent of New York State's recreational vehicles are registered in Nassau County, and Nassau County is but one of 62 statistical counties in New York State.

Nearly 9 percent of all boating safety-enforcement cases prosecuted in New York State were conducted in Nassau County in 2011.

Official statewide statistics for 2011 further indicate that more than 12 percent of the reported boating accidents in New York State occurred in Nassau County, and 10 percent of the

arrests made for boater-while-intoxicated were made by the Nassau County Police Department.

As a side note, I am proud to report that, to date, the Nassau County Police Marine Bureau has made 5 BWI arrests in 2012.

Marine law-enforcement recreational-boating safety seems to be a very important policing issue in the Long Island region. Clearly, the Nassau County Police Department has 80 years of broad professional experience in the area of marine law enforcement and recreational boating safety.

The marine patrol experience of this department has generally indicated that educated operators are smarter and safer boater operators. Education appears to be the key component of safer boating.

At the present time, operators of recreational vessels, as we spoke before, between the ages of 10 and 18, must attend an approved boater safety course, and must be boater-safety certified in New York.

All operators of personal watercraft in New York must attend an approved boater safety course, and must be boater-safety certified, in order to lawfully operate personal watercraft on

New York waters.

Official statewide statistics have indicated that reported personal-watercraft accidents have declined by half over the last ten years.

And I think it's due to the education.

Again, education appears to be key components of safer boating. Safer boating equates to less injuries and less fatalities on New York State waterways.

Needless to say, public safety is the number one concern of our department.

And I'm grateful for the opportunity to address the Committee on behalf of the Nassau Community Police Department, especially in relation to the important regional issue of recreational boat and safety.

Thank you.

SENATOR MARCELLINO: Sergeant, thank you very much.

Let me ask you the question I asked the commissioner to open up with: In your opinion, are our laws and regulations strong enough in New York State?

SGT. JOHN T. OWEN: I think the laws are --

they're very -- you know, the laws are fine, with regard to, you know, the number of them, and the scope of them.

The problem is the follow-up.

Right now, my associates in the town of Oyster Bay can write a boater seven or eight NAV tickets, navigational tickets. We can write somebody seven or eight navigational tickets.

That same boater can go down to the town of Hempsted and be cited again.

There's no -- there's no -- each one -- every agency keeps track of their own tickets. There is no State database where the tickets are recorded. More importantly, BWIs are not recorded under DMV.

So you can have a BWI, and when it's not recorded anywhere, with regard to, you know, your driving record, I understand it's a separate issue, but, a person who boats while intoxicated, I would say, wouldn't have a -- would be likely also to drive while intoxicated.

So this is something that --

SENATOR MARCELLINO: He's got to get home.

SGT. JOHN T. OWEN: Pardon?

SENATOR MARCELLINO: He's got to get home.

SGT. JOHN T. OWEN: Yes, sir.

Also with regard to, you know, the laws -- the NAV laws that are in place, on the end, it's just like I said, each agency takes -- keeps track of their own tickets.

Same thing with BWIs. You know, there's no end -- there's no depository, where the town of Oyster Bay or the Nassau County Police or the New York City Police can say: Well, this guy is a horrible operator. He shouldn't be --

SENATOR MARCELLINO: When you give John Q. Public, or Jane Q. Public, to be politically correct, a ticket, and Jane seems to be under the influence, that ticket stays within your agency? There is no centralized database, so nobody else knows that you gave that person a ticket but your department?

SGT. JOHN T. OWEN: No. If we were to lock someone up for BWI, that person, all they have to do is, go -- if they were on the north shore in Oyster Bay, they would go down to the south shore, there's no way for the Coast Guard or the Town of Hempsted Bay Constables to know that that person has a previous arrest for BWI. It's not recorded anywhere.

SENATOR MARCELLINO: I see what you're saying. Okay.

Because it's -- in the case of a driver, it would be on his license. The points, then they could look it up in the DMV and they would know everything, so that there would be -- there's a common area to pin it to, so you could follow it there.

SGT. JOHN T. OWEN: Also, with regard to driving, you know, with a certain number of tickets, there's Scoff laws. And, you know, if you don't pay your tickets, you know, they come and boot your car, or impound your car.

Not so with -- you can have numerous tickets, and you could still boat. There's no -- right now, there's no mechanism to discourage people.

You know, they go to court, they dispense of -- with the fines, but they can continue to rack them up -- rack tickets up, and operate a vessel. There's nothing -- there's no end -- you know, there's nothing on end, to say, you know, if you get X amount of tickets, or you're cited by, you know, the town of -- I'm using the town of Oyster Bay because we work closely with them -- but,

if you're cited by the Town of Oyster Bay, you're cited by the police, after X number of tickets, we're going to impound your boat. We're going to take away your -- you know, I understand they're registered, and so we have -- we can easily do that. I mean, we know who owns the boats.

So, that would be something that maybe your Committee could look into, with regard to the --

SENATOR MARCELLINO: So if some way, the -- that wouldn't necessarily tell you who was driving the boat, because people do lend their boats to others, or, the person driving the boat might not be the owner of the boat, as was the case on the 4th, apparently, and -- in that accident where the children died.

If you applied the tickets to the registration, the boat registration, at the very least, you'd be able to track that boat?

SGT. JOHN T. OWEN: Yes.

SENATOR MARCELLINO: Not necessarily who was operating the boat at that given time?

SGT. JOHN T. OWEN: That's correct.

If -- if -- say, for instance, I was operating my friend's boat, and my friend had -- was a reckless operator and had gotten a number of

tickets on a number occasions from different agencies, and it was some -- and we ran it, you know, we were able to check either through DMV or some other, you know, interconnected database, then, either the Town of Oyster Bay, the police departments, or whoever, would be able to impound that vessel until either the owner paid the tickets.

If -- you know, right now, I don't believe there's a very strong impetus to pay NAV tickets. You know, and I don't think the fine schedule is, you know, really cumbersome.

I'm not familiar with them, but I know it's not like Vehicle and Traffic Law tickets.

SENATOR MARCELLINO: Okay. So if -- all right, you've opened up an area, frankly, I hadn't even thought about: the inability to track, or, to keep, and get handle on, who's a scofflaw, and isn't in sharing the database.

So, we need some type of sharing of information.

That's interesting. That's -- you've taught me something today, Sergeant. I appreciate that.

SGT. JOHN T. OWEN: You're welcome.

SENATOR MARCELLINO: In your opinion, and if

I'm putting you on the spot, you can decline to answer: Is there enough enforcement capability out there on the water?

SGT. JOHN T. OWEN: Yes, there is.

SENATOR MARCELLINO: There is enough enforcement capability?

SGT. JOHN T. OWEN: Yes, there is.

SENATOR MARCELLINO: In your departments, towns, counties, whatever, you feel it's adequate?

SGT. JOHN T. OWEN: Yes.

SENATOR MARCELLINO: We've been joined by my colleague in the New York State Senate, Senator Ken LaValle, from the 1st District, who deals with both points, both forks, of Long Island.

SGT. JOHN T. OWEN: How are you, Senator?

SENATOR MARCELLINO: If you would like -- okay, Assemblyman Montesano.

Thank you, Sergeant. Appreciate your time.

The Assemblyman has some questions for you.

ASSEMBLYMAN MONTESANO: Sergeant, I just wanted to ask you: One of the things that came up earlier in some of the testimony, is the safety-vest issue, that, for so many months out of the year, I believe, November to May, they have to wear safety

vests under a certain age on boats, and then the other six-month period they don't.

Could you explain that to me, why they might have such a regulation?

SGT. JOHN T. OWEN: I'm unfamiliar with the -- I -- if it's -- it's a year-round -- I believe it's a year-round requirement that -- I don't know, I'm not sure of the ages off the top of my head, they have to wear -- if they're aboard a vessel they'd have to wear it. It doesn't -- it's not a month-to-month thing.

ASSEMBLYMAN MONTESANO: I know, because the commissioner of Parks had indicated, that if the vessel is less than 21 feet, then, between the cold-water months of November 1st to May 1st, it's not mandatory to wear a life jacket.

SGT. JOHN T. OWEN: Well, I'm not familiar with that.

ASSEMBLYMAN MONTESANO: Okay. All right.

And the other question is: What's your opinion of the fact that people over the age of 18 do not need a boater safety certificate to operate boats?

You know, do you have an opinion based on your years of experience?

SGT. JOHN T. OWEN: Well, I could tell you from my own experience: Years ago, when I first purchased a boat, I took a Power Squadron boater course in Massapequa. It was excellent.

Also, I also attended, the Nassau County Police Department gives a boater safety certificate. I attended that. And it was excellent.

Along with my other training.

It never hurts to, the information. I mean, we got a lot of good people out there. Like I said, you got the Coast Guard Auxiliary, you got the Power -- various Power Squadrons. These are very dedicated people, dedicated to, you know, safe boating. And it can't be overlooked -- that resource can't be overlooked.

ASSEMBLYMAN MONTESANO: Okay, thank you very much.

Thank you, Chairman.

SENATOR MARCELLINO: Senator Martin?

SENATOR MARTINS: There's a common theme, I think, in what we've heard so far, and that's, education is key.

And I think you testified to that yourself.

I have seen some -- perhaps some arbitrary

distinctions between different age groups, different types of vehicles.

Is it fair to say that requiring some level of education, as a basic condition to operating watercraft, would make a tremendous difference in terms of boater safety?

SGT. JOHN T. OWEN: I'd have to -- based on my experience, I'd have to agree with that.

Like Mr. Della had said, you can go, tomorrow, to any boat, and buy whatever boat you can afford, register it, put it in the water, and go.

That's -- that seems to be problematic.

SENATOR MARTINS: I appreciate that. Thank you.

No further questions.

SENATOR MARCELLINO: Senator LaValle, would you like to --

SENATOR LaVALLE: (Shakes head.)

SENATOR MARCELLINO: Assemblywoman?

SENATOR MARTINS: No.

I learned a lot about the lack of connections with all of this ticketing, which is very interesting.

SGT. JOHN T. OWEN: Ticketing and the BWI and, like -- like the end result, there's nothing to

discourage somebody from doing that.

SENATOR MARCELLINO: Okay. Thank you very much, Sergeant. Appreciate your time.

SGT. JOHN T. OWEN: Thank you, Senator.

SENATOR MARCELLINO: Our next speaker would be District Commander Lawrence Postel of the U.S. Power Squadrons, District 3 - Long Island.

DIST. COMMANDER LAWRENCE POSTEL: Good afternoon. My name is Lawrence Postel --

SENATOR MARCELLINO: No, it's good afternoon, I'm sorry.

DIST. COMMANDER LAWRENCE POSTEL: Oh.

[Laughter.]

DIST. COMMANDER LAWRENCE POSTEL: I was hoping to be first.

[Laughter.]

SENATOR MARCELLINO: It's about twenty after twelve. We've got to be specific.

DIST. COMMANDER LAWRENCE POSTEL: My name is Lawrence Postel, and I'm representing United States Power Squadrons, "USPS," not to be confused with the United States Postal Service who is also "USPS."

Some personal background: I've been boating for over 30 years.

I am a life member of the United States

Power Squadrons, which means I have had 25 years of service, and at least one merit mark for each of those years, making it 25. And you get one merit mark for each year, for providing significant service to the organization.

I carry the grade of Senior Navigator, which means I've taken every advanced-grade course, including celestial navigation, and six elective courses offered by the organization.

I equate this accomplishment to a Ph.D. in boating safety.

I have not pursued a captain's license because my boat and I are not for hire, but I do volunteer my time to teaching safe boating for the organization.

Currently, I am the commander of District 3, and responsible for overseeing the 18 squadrons on Long Island, covering the area from Brooklyn to Montauk Point.

Who, and what, is the "United States Power Squadrons"?

It's still the best-kept secret.

It's a national organization covering the entire United States, including Puerto Rico and Hawaii. It's made up of 33 districts, with

District 3 being one.

Our mission is to teach safe boating, starting with the basic ABC course, and later followed by advanced-grade and elective courses.

Our ABC course is both U.S. Coast Guard-approved and National Safe Boating -- National State Boating Law Administrator-approved.

I have -- we have signed an "MOU," a memorandum of understanding, with the State of New York, and we are one of three organizations qualified to issue the certificate of completion, recognizing that a student has taken a safe-boating course.

Initially, we only offered our ABC course to the public. You had to become a member of the organization to take further courses.

Recently, the USPS changed its philosophy, and opened some of our advanced-grade and elective courses to non-members. This change was brought about to fulfill an identified need to further our public education offerings.

We've also developed an on-the-water training class, featuring classroom sessions and hands-on environment aboard a vessel.

Any member of USPS is teaching a public course, must be certified by the United States Power Squadrons. They must maintain this certification by attending recertification classes on a regular basis.

Why did USPS make these changes to offer more public courses?

It came to our attention, while the USPS ABC course is a premier course offering tremendous value to the student, it only offers the basics, and you need more than that to be a competent, safe boater.

To support this concept, I will compare piloting a boat to driving a car.

The traffic lanes are not marked and easily viewed white lines, but by a buoy system that can have significant distance between successive buoys.

I've tried to paint those white lanes each time I go out, but they constantly disappear.

There are no entrance and exit lanes to enter or leave a lane -- traffic lane.

There are no traffic lights to control the traffic.

Boaters depend upon rules of the road,

common sense, and courtesy to prevail.

There are no shoulder lanes to pull off, to wait out sudden storms or fog which may pop up at any moment due to sudden weather changes.

There are no street lights to light the way for night boating.

There are no headlights on boats.

While search lights are available, they are not used while on the way. If someone uses a search light constantly, you will blind other boaters.

Boaters depend on moonlight, ambient light, and vessel-markings' light to navigate the waters.

While we cover these basics in our above-basic boating course, we cannot get into detailed lectures on these topics.

The United States Power Squadrons fully supports all efforts to mandate that every boater take at least the basic boating class.

We further suggest that New York State consider some combination of at-home computer learning, augmented by the classroom instruction, as part of the 8-hour classroom requirement currently required by the State.

We would like to offer our CD we provide to

each student with the ABC course material as an example of this computer learning.

We recommend that the implementation of any legislature [sic] receive careful consideration as to instructor and material availability.

The last thing we would like to see is legislation passed and services not being able to be provided.

Please do not legislate anything that will allow individuals to fill their pockets with money, and send people out on the water with a false sense of security, to satisfy a mandated requirement. This will not accomplish the intent of the educating boaters to reduce the needless accidents and death.

The United States Power Squadrons stands ready to help and design and implement a process that will be viable to meet the demand and meet the requirements of educating the public.

I would like to thank Senator Marcellino for -- and the State Senate Committee, for the opportunity to voice our opinion on boater education, and help in any way we can.

I would like to add, there were a couple little comments:

I would like to see that there be -- there is an insurance incentive for taking a safe-boating class. It usually is about 10 percent offered by insurance companies.

We would also like to see, if you take advanced courses, that number increase. That would encourage people to take more and more education.

As an example: My boat is insured by the New York State Power Squadrons' insurance company, and, because I have the senior navigator, I'm receiving a 45 percent discount in my premiums. And, they augment, and go up, the more and more I learn.

There is no more for me to learn, so I can't get any bigger discount.

I did notice some things here, that some people were confusing registration with licensing.

You must register a boat in New York State in order -- as long as it has a motor on it.

That is not a license to operate it. That's just a way of tracking that there is a boat on the water, and paying New York State a fee. And those fees do change by the size of the boat.

My registration fee just came up. It's for three years, it was $95.

Okay?

So that covered a three-year period.

No, it does not run commensurate with that registering my automobile, which is much, much more.

All right?

The other thing that was mentioned by the State, in that, the various laws, the State does trump federal requirements.

Federal requirements say that you have to be 14 years of age. If you are 14 years of age, or younger, on a boat, you must wear a life jacket while contained in a cabin.

New York State mandates 12. That law trumps federal law.

All right?

So, in New York State, when we teach the courses, we say you must be 12 and -- if you're 12, and under, you must have a jacket on.

Okay?

SENATOR MARCELLINO: A jacket is worn inside a cabin, and outside?

DIST. COMMANDER LAWRENCE POSTEL: There is -- according to the law, the way it reads: If a child is riding within the cabin of a cabin boat, they do not have to wear the life jacket.

If they are outside the cabin -- in the cockpit area or up on a fly bridge -- or any part of the open boat -- then you must wear that life jacket.

So, inside the cabin, it is not mandatory.

I'm not going to get into it, and I'm not allowed to give my personal opinion on that, but, a life jacket is a life jacket, okay, and a child is a child.

Sitting alongside of me is Larry Weiss, who is the representative of -- New York State legislative representative for the Power Squadron.

I know he has a couple of other points to make.

If any of you would like to question me, please shoot your questions at me.

SENATOR MARCELLINO: We're going to hear Mr. Weiss first, before you do that.

And he is the New York State Legislative Liaison to the U.S. Power Squadron.

So, Mr. Weiss?

LARRY WEISS: Okay.

I have submitted some very extensive written testimony. I'm not going to go through all of that. I just want to make a couple of points.

SENATOR MARCELLINO: God bless you.

LARRY WEISS: Thank you.

So -- but, first of all, in addition to other qualifications, I need to say that, my family and I boat right here in Oyster Bay. I'm the past commander of Oyster Bay Power Squadron. This is our community.

We were out at the fireworks show that night, July 4th, and I'm sure as the emergency operations were going on.

And, I have to tell you that this community is still reeling from this tragedy. It is talked about every day, and a lot of people are very concerned.

And from that place, on behalf of United States Power Squadrons, and my family, and myself, and fellow boaters here in Oyster Bay, I do wish to extend our most sincere condolences to anyone and everyone who has experienced a loss due to a boating tragedy, whether recently or in years past.

These accidents deeply touch all of us who enjoy the water, but we can only imagine the pain and anguish one must feel upon suddenly losing a loved one who was simply engaged in the enjoyment of

what is otherwise one of New York State's most delightful recreational experiences.

So, I currently serve as United States Power Squadrons' New York State legislative liaison. I report to the national United States Power Squadrons' Government and Partner Relations Committee.

It's my responsibility to provide United States Power Squadrons' resources, information, and guidance to any state legislator who's exploring or involved with any legislation that might be related to recreational boating.

My job also includes working closely with any legislator interested in boating safety and education, and to report any state legislative activities that may be related to recreational boating back to my committee, the Government and Partner Relations Committee.

To this end, I would like all of you to know that I am at your disposal, and through me, the resources of United States Power Squadrons.

I want to cover a couple of points from United States Power Squadrons and our Committee, much of it reiterates what Commander Postel talked about, but I want to elaborate on a couple of

things.

United States Power Squadron members support state mandatory recreational boater education, that at the very least, meets "NASBLA" standards; National Association of State Boating Law Administrators. And that includes proctored examinations.

We say "at the very least," because NASBLA-approved courses barely scratch the surface of education truly needed to operate a vessel in a safe and confident manner.

United States Power Squadrons encourages every recreational boater to continue their education on an ongoing basis, gaining knowledge in, if not mastering, seamanship, piloting, navigation, handling, weather, electronics, engine maintenance, and more.

Boats and boat operations are complicated, far more so than automobiles. There are many aspects to safe boating. They simply cannot all be covered in a basic 8-hour NASBLA-approved course. And all of these aspects are important for the safe operation of a recreational boat.

United States Power Squadron members are concerned about the manner in which mandatory

education is introduced to the public.

If not carefully phased in over time, and you've heard this already, the sudden demand could very well overwhelm the current available resources of the Power Squadron, the Coast Guard Auxiliary, Parks Department, and other teaching organizations.

We have to do this very carefully.

United States Power Squadron members believe that any state licensing of recreational boat operators should be based on strong educational requirements.

U.S. Power Squadron members are not in favor of recreational boat-operator licensing as a revenue generator for the state. That should not be the purpose of doing this.

USPS members will continue to provide education support in all states of the United States.

About BUI: Beyond agreeing that boating under the influence is a very serious matter, and we certainly take it very seriously, United States Power Squadron members do not take a position on the specific determination or penalty aspects of boating under the influence. These are state-by-state issues.

However, and we teach this in our basic safe-boating class, we would advise this Committee, and all State legislators, to be aware that drugs and alcohol can affect boaters in ways that they might -- in more ways than they might affect others who are not on the water.

Not only can alcohol and drugs affect judgment, clear thinking, and reflexes, they can also affect one's ability to survive if he or she falls overboard, or otherwise finds him or herself in the water.

It can also make much worse a phenomenon known as "boater's fatigue." This is a drunk-like condition that research shows can result from overexposure to noise, vibrations, sun glare, wind, and water motion that one would normally experience on the water.

United States Power Squadron members believe wearing personal flotation devices should be mandatory for everyone age 12 and under.

That is the rule here in New York State, and we're glad for that.

USPS members further support requiring the wearing of PFDs while underway, drifting, or at anchor, for everyone on board small open boats, thus

potentially increasing a person's chances of surviving small-boat accidents, to death by drowning.

The rest of my testimony you have.

I would like to cover -- make two very quick points:

We do not necessarily believe that safe-boating courses should be taught in one 8-hour sitting.

Most of these courses, at least the basic 8-hour course, is designed to be taught over four 2-hour sessions, giving opportunity for students to do homework, read the text, absorb the material.

Sitting through one long 8-hour course, I mean, we're sitting through a couple-of-hour hearing today, and it's going to get tiring.

Imagine sitting through a full day of this stuff, trying to absorb it, and then go boating.

We encourage that these classes be taught over many sessions.

The other piece, which is a slight tangent, but it needs to be mentioned: It's my understanding, based on a report from the Boat U.S. organization -- Boat Owners Association of United States -- that among the top ten boating

states, all of them, except New York State, earmark for boating purposes, taxes collected on the sale of boat fuel.

As I understand it, fuel taxes paid by New York State boaters go to a general fund that covers highway improvements, even though boats don't run on highways.

And we would like to suggest that monies collected by New York State from taxes on boat fuel, may be even sales taxes on boat purchases and marine supplies, go to be earmarked for a fund for boating purposes. Such a fund could pay for the administration of the types of mandatory education that we're talking about.

It could also provide grants to increase boating safety, such as providing new boats and staffing for marine police bureaus, bay constables, fire departments, dive teams, plus new pump-out facilities, launch ramps, environmental aspects, and more.

So, we just want to make you aware of that; there's funding right now in the boating world that's going to the highway world, that might be better served taking care of the issues that we're discussing today.

And I want to thank all of you for hearing us, and hearing what the United States Power Squadrons has to say.

SENATOR MARCELLINO: I thank you both.

Just to emphasize one of your points, according to the Coast Guard statistics that I referred to earlier:

Only 11 percent of the deaths occurred on boats where the operator had received boating safety instruction.

Only 7 percent of the deaths occurred on vessels where the operator had received boating safety instructions from a NASBLA- -- or the National Association of State Boating Law Administrators- -- approved course provider.

So, obviously, it is a very effective program in protecting lives and property.

Let me, if I might, just ask you the same question I asked the sergeant and the commissioner and people before you: In your opinion, are the laws strong enough?

The laws that exist today, are they strong enough to protect the public?

DIST. COMMANDER LAWRENCE POSTEL: The laws that we currently have are State-mandated laws, and

the Power Squadron really can't comment on those. But, as a State person, I will say the laws are not strong enough.

Okay?

That's my personal opinion.

LARRY WEISS: I would add, that New York State has extensive boating regulations, and --

SENATOR MARCELLINO: They're expensive too.

LARRY WEISS: Yeah. Sometimes, yeah.

But the issue, really, is not so much about the boating regulations, following this -- you know this rule or that rule, about how to conduct one's self on the water. The issue is about boaters understanding, being aware of, and following those regulations.

In addition, there's something we call the "three Cs," when we teach our boating course: courtesy, caution, and --

Oh, my goodness, my brain just fried.

DIST. COMMANDER LAWRENCE POSTEL: Common sense.

LARRY WEISS: -- and common sense.

Thank you.

SENATOR MARCELLINO: At least you didn't say

"Oops."

[Laughter.]

LARRY WEISS: Right. Yeah, that's right.

Courtesy, caution, and common sense: You can't legislate courtesy, caution, and common sense, and we can try to teach it in a class, but we can't instill it. That's a societal thing, and it seems to be getting weaker and weaker. And, we see it on the water as boaters get a little crazier and crazier.

SENATOR MARCELLINO: One more question, the enforceability: Do you feel that there is adequate enforcement capability out there on the water today?

DIST. COMMANDER LAWRENCE POSTEL: Personally? No.

There is -- I think what we need to do, is take a look at the number of boats that are registered in New York State, and compare that to the number of officers, or different form. You have the bay constables out there, the towns have State constables out there, and, the county and -- there's actually the two counties, Suffolk and Nassau, both have people out there on the boats.

But it is not -- if you look at a per-capita

basis, it's nowhere near the number of officers that are patrolling the roads.

Okay?

And an officer did tell me, at one point in time, you cannot just stop a boat for any old reason and ask to do an investigation. There has to be a reason.

They have to either see no registration on the boat, possibly erratic operation of the boat, or doing something totally wrong.

But you just can't ride along the water, and say: You, I want to board the boat and take a look at it.

Okay?

So, we need to look at some of those things.

And, again, that the Power Squadron can't get involved in that because we're a national organization, and these are state-regulated things.

So --

LARRY WEISS: I willed add, here in Nassau County, we have a couple of police boats that are responsible for the north shore of Nassau County. That's from the Queens line, to Huntington.

It can take an hour, hour and a half, to get

from one end to the other.

If someone's in distress, it takes a long time, sometimes, for those involved in public safety to arrive on the scene.

We encourage boaters to also stand by. I think we've a -- sort of a rule about -- a Good Samaritan-type rule, that, we must come to the aid of boaters in distress, as long as it does not endanger anyone on our boat or our vessel, because it can take a lot of time for help to arrive sometimes.

It would be nice if some of that help was a little closer by.

SENATOR MARCELLINO: Senator Martins?

SENATOR MARTINS: No. Thank you.

SENATOR MARCELLINO: Let Kenny go.

Ken, go ahead.

SENATOR LaVALLE: Thank you.

Two points, if you could react to it:

Do we have the educational infrastructure to meet a demand should the Legislature mandate an education requirement?

DIST. COMMANDER LAWRENCE POSTEL: It would have to be ramped up, I believe.

Okay?

It depends upon us -- that's why I said, we would love to be part of the implementation plan, so that both the State and us, and the other instructors that could do it is the Coast Guard Auxiliary, that between us, that we could determine: Will we have this?

Because the last thing you want to do is mandate something that we can't officiate and make happen.

So, I -- I cannot answer the question definitively, but I will say, I think we could be lacking, if it was implemented too quickly, and too fast, to meet it.

And that has happened in other states. I will not mention the states, but, there were other states that implemented things, and they did not have the forces to teach the people in time, and there was screaming, ranting, and raving.

SENATOR LaVALLE: You would need a couple of years?

Two years? Three years? Five years? -- to --

DIST. COMMANDER LAWRENCE POSTEL: I would say a couple of years. But, again, what we need to do is look at the demographics of what we're going to

try and do, where we're going to do it.

I'm here on Long Island. But you do this for the state, you got to realize that covers the lakes, the rivers, throughout New York State. So, Lake George, and all of the other lakes, would be covered by this.

Again, that has to be looked at: What is it like in that area?

I can speak for Long Island, for this area, but I'm not too sure about the other areas.

So I think a working committee is also important to getting the legislation passed.

SENATOR LaVALLE: Mr. Weiss mentioned something, and I chuckled, because I underlined it, and I wanted to just ask your reaction.

Commander Postel, you made a point; you said: Boaters depend on rules of the roading, common sense, and courtesy to prevail.

You reinforced that, your remarks.

So, what are we looking at?

Do most people follow rules of the road, are courteous, use common sense?

Or, is it just a bunch, a small percentage of cowboys out there?

Mr. Weiss mentioned something that I think

is dead on; that our society now is at a point where people seem -- rules of the road are not as important as they once were in other society.

So, what are we dealing with?

A small percentage or a large percentage?

DIST. COMMANDER LAWRENCE POSTEL: We're dealing, a small percentage of the people out there, and you heard it.

I will tell you, that 10 percent of the boaters that are on the waters have taken a safe-boating class.

Without having taken a safe-boating class, you've got no knowledge of rules of the road. You don't know what it is.

Which way do you pass, meeting vessels? -- things like that, are all things that you need to understand when you're operating a boat.

And only 10 percent of the people on the water know that.

And I'll tell you, of the rest of the people out on the water, there's probably zero common sense.

All right?

LARRY WEISS: Or less.

DIST. COMMANDER LAWRENCE POSTEL: Or less.

Common sense does not prevail.

And there is a -- like an unwritten rule, which is kind of ridiculous, but, bigger is mightier.

Okay?

A bigger boat always appears to be mightier than a smaller boat.

So when I come up against a big huge ferry, there's no way I'm going to challenge what he's doing. Whether he's right or wrong, I'm backing down.

There are people out there that won't back down.

SENATOR LaVALLE: I know that firsthand, because my craft is 14 1/2 feet. It's called a "kayak." And, so, I know that firsthand.

Thank you, Senator Marcellino.

SENATOR MARCELLINO: Senator LaValle has the only powered kayak in the state.

[Laughter.]

SENATOR MARCELLINO: Senator Martins.

SENATOR MARTINS: Thank you.

Just to follow up on a question that Senator LaValle just posed, or a comment: I sense that education is a key component to what you're

advocating today. As a basic, even if it's just an 8-hour course, it's better than nothing. And, certainly, the status quo with no education is not an option.

Would that be fair?

DIST. COMMANDER LAWRENCE POSTEL: Yes.

LARRY WEISS: Yes.

SENATOR MARTINS: Commander, you mentioned that you've been boating for 30 years.

And, I would expect that over the last 30 years, there's been a dramatic increase in number of boats and boaters on the waters, especially around -- in and around Long Island.

Would that be fair?

DIST. COMMANDER LAWRENCE POSTEL: Yes.

SENATOR MARTINS: So, with the accessibility of boats, with more and more people purchasing a boat and using it, besides adding an educational component or a licensing component, are there any other recommendations that we should be focusing on in terms of providing for safety?

DIST. COMMANDER LAWRENCE POSTEL: I can't really think of any at the moment.

But I would like to say, that what we were saying about insurance, and things like that, to

make people want to take more courses, because you got to put a little bait on the hook.

Okay?

And if you -- once you hook them, then you can try to say: Well, if you take more courses, we can get a -- you could receive a reduction from your insurance company.

So, the State needs to work with the insurance companies, to provide that.

And as I said, the Power Squadrons offers me a 45 percent discount for taking all of the courses that I did, over someone who did not take any courses.

SENATOR MARTINS: You know, we are -- I am loath to creating another layer of infrastructure, another State mandate, requiring people to do certain things and restricting people's abilities to do certain things.

But this seems, to use your own phrase, common sense; that, you know, the equivalent and alternative in our world, for most of us here, is to give the keys to your car to, you know, your 16-year-old, or 17-year-old, and say: Congratulations, you just turned 16. Here are the keys, go.

Not understanding the rules of the road, not understanding the basics of stopping, starting, lane mergers, lane changes; just, "Here are the keys, and go."

And it appears very much, like, the rules and regulations currently in place, and the structure currently in place, for boating, is very much that way; without there being any requirements for proper education, formal education, learning the rules of the road, and, making sure that people have a basic understanding, to the extent that there isn't common sense, to the extent that there isn't common courtesy, a basic understanding of what they should be doing out there.

Fair?

DIST. COMMANDER LAWRENCE POSTEL: Yes.

LARRY WEISS: Yes.

SENATOR MARTINS: Thank you.

LARRY WEISS: There is something to add to that, if I may --

SENATOR MARTINS: Sure.

LARRY WEISS: -- is that, a very big difference between operating a boat, operating a car.

SENATOR MARTINS: Of course.

LARRY WEISS: As Commander pointed out, you know, driving an automobile, you have roadways, you have traffic lights. You have, if need be, police directing traffic. It's easy to do, because cars stay on the road and follow the lanes. It's very easy to direct.

On the water, it's very hard to communicate what is needed, from law enforcement to a large group of boaters.

It's very hard to direct traffic, or redirect traffic, or detour traffic.

A boat is kind of an isolated little world. And, the operator of a boat, or the captain of the boat, if you will, has a tremendous responsibility to everyone else on the water, to the safe operation of everybody else on the water, to everybody that is on board their boat.

And, that responsibility requires that they know what to do, because it's very hard for law enforcement, or any other type of safety rule that you guys might want to put into law, it's very hard to communicate to that, to an individual.

Once they're out on their boat, they're on their own.

SENATOR MARTINS: And that just highlights

the need.

LARRY WEISS: Yeah.

ASSEMBLYWOMAN GALEF: Thank you.

SENATOR MARCELLINO: Sandra? Mike?

ASSEMBLYWOMAN GALEF: Just -- yes, just two quick questions, one of which was brought to my attention, that, maybe, within the 8-hour boat-safety course, that there might be, if you're going to be using your boat, particularly in the New York City area, and so on, that maybe there's a different highlight within that course, than something you might use elsewhere.

Do we do that in our course?

Do we think about where the boater is maybe going to spend most of their time boating, and the course is tailored to those kinds of needs, which might be a little different?

DIST. COMMANDER LAWRENCE POSTEL: In general, as you teach throughout, we'll say, [unintelligible] course, you're teaching at various different points on Long Island, so you're addressing students that come from that area.

But one of the main questions that I always ask is: Where are you going to boat?

And a prime example is, the difference

between the north shore and the south shore.

On the south shore, you're boating in very, very shallow waters, but it's only a sandy bottom. And if you ground the boat, you're not going to do a lot of damage.

ASSEMBLYWOMAN GALEF: Right?

DIST. COMMANDER LAWRENCE POSTEL: You go up on the north shore, and you go anywhere near the rocks, you're going to put a big hole in the boat.

So, there is a difference as to where you're boating, and that.

If you're boating in New York City -- I've been around Long Island four times -- and you get into Manhattan, there's a whole different traffic situation. I mean, you're dealing with barges and huge ships coming in and coming out of -- under the Verrazano Bridge.

So, that is something, you know, we do teach it, but, until you see it, it's a very difficult thing to understand.

LARRY WEISS: There are also differences in laws. We were talking before about state trumping federal, trumping local.

New York State law, for example, requires that vessels operate at a no-wake speed within

100 feet of a dock, the shore, swimming areas, another boat that's anchored, for example.

In the town of Oyster Bay, the law is 200 feet.

And, so, when we teach in Oyster Bay Power Squadron here, we need to remind boaters that it's 200 feet.

So, it does get tailored.

And we also have something called the "U.S. Navigation Aid System," and the "Inland Waterways Navigation System."

We don't teach inland waterways extensively here on Long Island, because we're using the main navigational aids.

But in Lake George, or some of the other inland waters, they might teach the different navigational-aid systems with emphasis.

So, there are differences.

ASSEMBLYWOMAN GALEF: Right. Okay, thank you.

My other question is actually about Lake George, and other places.

What do we do with the tourism industry?

As I was working on crafting legislation, one of the issues is: Okay, tourism. Lakes, people

go to Lake George for the week, and they want to go out on a boat, and so on.

And how do we deal with people having to have boat safety courses in situations like that?

Are there other states that have good examples of what they've been able to accomplish?

I'm sure people go to Florida and go out on a boat without some experience.

What do you suggest?

LARRY WEISS: Well, there are a couple of aspects.

The first is, the accident we had on Lake George was a commercial operation, which United States Power Squadron doesn't really involved. We're more involved with recreational boating.

However, as far as recreational boats go, if anyone is to rent a boat -- whether you're on Lake George, as a tourist, you can rent a boat right here in Oyster Bay and go fishing -- the person who is renting the boat has the responsibility, right, to make sure that there are enough life jackets on the boat, that the boat is meeting all of the requirements.

And, in this case, if education is mandated,

that would be part of the mandate: The person renting the boat needs to have that certification.

That's what we would recommend.

DIST. COMMANDER LAWRENCE POSTEL: Where that -- actually, where that also falls into very quickly, is these personal watercrafts.

All right?

If you go to rent a personal watercraft, it's the obligation of the renter to check to see that you have had a safe-boating course.

And if you haven't had one, they are obligated to give you one. It might be a four-hour, quick, one, two, three, class in, but they are obligated to give you one before you can actually rent that boat.

SENATOR MARCELLINO: Senator?

ASSEMBLYMAN MONTESANO: Thank you, Senator.

I just want to ask, you touched on a moment ago, about the navigational aids, and things of that nature.

So, not being a boater, if you could explain to me: So, you educate people who operate in the waters here. On Long Island and New York City, you said has its own situation, with cruise ships coming in and out, cargo ships.

But, are the rules of the waterways the same, whether it be a river, the ocean, or anything?

DIST. COMMANDER LAWRENCE POSTEL: Yes.

Well, the rules are basically the same for the buoy system, okay, within the inland waters.

Okay?

Red, right, return; which way are you going?

Returning from sea, going to sea?

Those are all things that you need to understand, and those are the lane dividers of how a boat is run.

These markers do change in color. There are different things. There are yellow markers meaning something different. White markers meaning something different.

No clamming, no fishing, doing things like that, there are restrictive-type markers out there.

ASSEMBLYMAN MONTESANO: But -- so what situation would we've to address?

Because you indicated that places like Lake George, and other places up in north country, may have different situations.

So, we have to create a course that's going be universal throughout the state?

LARRY WEISS: It is universal.

DIST. COMMANDER LAWRENCE POSTEL: It's universal.

But what I was referring to, I think, was that I cannot attest to what is -- how many instructors are available in Lake George area, what was the material that would be available. I'd have to even -- that's outside of Long Island, so I'd have to see whether the United States Power Squadrons has a district that covers Lake George.

LARRY WEISS: We do have a Lake George --

ASSEMBLYMAN MONTESANO: But suffice it to say, though, the basic 8-hour course would apply to a boater, even if he gets certified here in Nassau, and he goes somewhere in upstate New York, he could still operate, and the rules would be the same?

DIST. COMMANDER LAWRENCE POSTEL: Yes. Yes.

ASSEMBLYMAN MONTESANO: Thank you, Senator.

LARRY WEISS: The material is there. We just made place in the classroom, extra emphasis on what's going on locally, because it's where boaters are going to boat.

ASSEMBLYMAN MONTESANO: Right. Thank you.

Thank you, Senator.

SENATOR MARCELLINO: Thank you, gentlemen.

Appreciate your time, and appreciate your coming up for the testimony.

DIST. COMMANDER LAWRENCE POSTEL: And before I leave, I have a present for you. I will leave it with you.

This is a little flyer, with a picture of Long Island, showing where all the squadrons are. On the back, it's our advanced-grade courses.

This is the material that we teach.

Okay?

I'm giving you a divider and a plotter.

In addition to the base course, which is 8 hours, we offer another 4 hours worth of teaching, to show you how to plot courses on a piece of paper.

And today what's happened is, the world has become electronic. And they suddenly think: Oh, I got my GPS, I got my chart plotter.

But they forget one little thing: The fuse blows, you got nothing.

LARRY WEISS: Right.

DIST. COMMANDER LAWRENCE POSTEL: Okay?

So we teach you how to plot that on a piece of paper, so that if something happens, you can get back home.

SENATOR MARCELLINO: I'll accept it for the Committee as long as it's not worth more than $25.

[Laughter.]

DIST. COMMANDER LAWRENCE POSTEL: I paid it.

SENATOR MARCELLINO: Thank you very much.

DIST. COMMANDER LAWRENCE POSTEL: Thank you.

SENATOR MARCELLINO: The next speaker will be Chris Squeri, the executive director of the New York State Marine Trades Association.

CHRIS SQUERI: Good afternoon, Chairman Marcellino, Senator Martins, Assemblyman Montesano, Assemblywoman Galef, and Senator LaValle.

My name is Chris Squeri. I am the executive director of the New York Marine Trades Association.

On a personal note, I am a lifelong boater. Been on a boats since I'm two years old. I was taught the rules of the road by my father, and, friends and family have learned the water. I live on the water, and I enjoy the water very much.

So, I practice what I preach.

And I can answer that "under 21 feet" question with the life jackets for you, when you're ready, so...

The NYMTA was founded in 1928, and is the

oldest marine trade association in the country. We represent marine businesses, from Montauk, to Staten Island, to Westchester. We operate the Long Island Boat Show and Tobay Beach In-Water Boat Show.

The NYMTA is also a member of the Empire State Marine Trade Association, which is also called "ESMTA."

Our mission is to promote the general welfare of the marine industry, and to advance the safe and proper use of boats, marine accessories, and facilities through any and all means consistent with the public interest and welfare.

At NYMTA shows, we provide free space to both the U.S. Power Squadron and the U.S. Coast Guard Auxiliary to promote safe boating and education.

The NYMTA, along with the ESMTA, has worked with the Legislature in proved boating safety, compel increased use of life jackets and flotation devices, and to establish stiff penalties for BWI, and, leaving the scene of a boating accident.

In this regard, we have supported several pieces of legislation in these areas, many of which have become law.

I appreciate the opportunity to testify

today, about the current laws and regulations on boating safety in New York State.

New York is a safe-boating state.

As the hearing notice indicates, recreational boating has, and continues to be, an important part of New York State's recreational landscape.

New York is among the states with the highest number of vessels, with about 470,000 registered boats, and many other vessels, like canoes, kayaks, and rowboats, that do not require registration.

22 percent of the total registrations, or about 105,000 vessels, are in Nassau, Suffolk, and New York City.

Registration fees and surcharges for motorized vessels generate about 6 million in revenue to State each year, with a portion of those collections going to localites for marine and law enforcement.

In 2011, more than 2.1 million was provided to 45 counties, 6 municipalities, and the Lake George Park Commission for marine law enforcement.

It is to be noted that that money is capped, per county, at, I believe, 200,000 now.

So, even though a county may have a bulk of the registrations, they still get capped, so, they have to do more in those counties.

Nassau and Suffolk are the ones -- Suffolk is number one in registrations; Nassau, number two. So, those counties are capped. Meanwhile, they're -- you know, they get shortchanged a little bit on that funding.

While some media reports indicate Long Island County Marine Enforcement Bureau's resources are stretched and may be understaffed, it is important to note that these agencies are not the only ones paroling the waters.

In addition to the county marine bureaus, there are also town bay constables, U.S. Coast Guard, and State DEC officers, and in some cases, New York State Park Police and/or local village police that also engage in marine enforcement.

So, there is -- it is common for a boater to be stopped two or three times in a day to get checked.

I have been checked for no cause whatsoever, and, you know, checked for safety. Make sure I have my life jackets, my flares, my horn, you know, all the devices that we need to have on a registered

vessel.

U.S. Coast Guard and New York boating statistics demonstrate that recreational boating has an exemplary safety record, and that over time, boating accidents, injuries, and fatalities have all steadily decreased, even when the number of recreational vessels has increased.

These statistics also show that New York ranks among the top states with the best boating safety records, despite being among those states with the highest boat registrations per capita.

In the last four years that data is available, New York has averaged less than 12 boating-related deaths per year.

Also, it is to be noted, from 1980 to 2011, we have -- from 1980 to 2011, boating registrations have increased 50 percent. It was about 320,000 in 1980, to -- in 2011, we were at 470.

At one time, in 2006, we were at 530,000.

Okay?

In that same time period, between 1980 and 2011, boating fatalities per 100,000 registrations decreased 75 percent. Went from about 20 to about 5.

So, we've increased our registrations

50 percent in 31 years, but we've decreased our fatalities 75 percent. It's a big -- you know, that -- those numbers jump out at you.

We've done a lot of work, and we've done a lot of good things here.

It is also to be known, in 2006, when registrations hit an all-time high of 530,000, we only had 14 deaths in New York State. That's a record low.

While serious boat accident and fatality numbers continue to remain low, when you consider that about half of these fatalities involve non-registered vessels, including rowboats, canoes, kayaks, paddle boats, et cetera, the safety record of motorized boating in New York is remarkable.

Okay?

In 2011, for example, 12 of the 26 fatalities were on these non-motorized watercrafts.

In 2010, 11 of the 24 were on the type of vessels. Out of those 24, 3 of the deaths were due to carbon-monoxide poisoning on a non-operational houseboat in Huntington.

In 2009, 5 out of 21.

In 2008, 10 out of 21.

So almost 50 percent of deaths, fatalities, on the water each year, are -- you know, are boating-related, but yet they're not non-registered boats -- they're non-registered boats. So 50 -- boating takes a hit, the registered boats.

You know, all these canoes, kayaks, rowboats. You know, we had a City Island issue a couple of years ago, where four kids got on a little rowboat and tried to row to an island, they wound up drowning. Those are not registered vessels.

They're -- so, one of the issues that we have is, is -- you know, and it's a law-enforcement issue as well, because we find a canoe or a kayak upside down somewhere, what it does mean to us?

It either means that it fell off someone's dock, or, someone fell over and there's someone missing.

So, now, law enforcement has to look around, has to, you know, spend resources and time, and do a search, to see if there is; whereas -- because there's no way to identify the vessel because there's no registration on it.

So, 50 percent of the deaths every year are because of these vessels.

Okay?

How do we reach out to them?

How do we make sure that they're done?

How do we know that -- you know, we're missing half of the deaths because we have no way to reach these people. You know, there's no way to make them aware of the issues and concerns.

So, I believe that is an issue that we do need to address, moving forward.

While collisions between two or more vessels is still the most common type of boating accident and results in the most injuries, there were no deaths from boat-to-boat collisions in 2011.

In fact, the majority of fatalities in 2011 were due to capsizing.

These are -- these statistics and state law -- these are amazing statistics, and state lawmakers are to be commended for enacting laws that have been so effective in protecting the public on the water.

NYMTA believes that these current laws address the primary contributing factors of accidents, injuries, and deaths, as identified by the Coast Guard and the Office Parks, Recreation, and Historic Preservation.

Boating safety certificates: Currently, anyone between the ages of 10 and 18 wishing to operate a mechanically propelled vessel without adult supervision, or anyone who is 14 or older wishing to operate a personal watercraft in New York State, must first obtain a boating safety certificate from the Office of Parks, Recreation, and Historic Preservation, the U.S. Power Squadron, or the U.S. Coast Guard Auxiliary.

While NYMTA and other marine-industry organizations support mandatory education for youthful and most personal-watercraft operators, NYMTA encourages all adult boaters to voluntarily take a safe-boating course.

To the right here -- my right, you see that neighboring states, Connecticut and New Jersey, according to New York State Office of Parks, Recreation, and Historic Preservation --

Say that a couple of times, you know.

-- our neighbor states do have mandatory education.

Our fatality rates in New York, according to the State, is better than theirs.

So, you know, we need to really look at, what is going to help us reduce more deaths?

What's going to help us reduce fatalities, and get the numbers lower than what they are right now?

So, just to say mandatory education is going to solve it is not always the answer, because our neighboring states have it, and it doesn't prove that it's true.

BWI laws and enforcement: New York has some of the toughest BWI laws in the country, and the State Legislature has regularly acted in enhanced penalties so that they remain commensurate with DWI laws.

NYMTA and ESMTA have supported these efforts.

State Parks also conducts an impaired-boater recreation program -- recognition program for law enforcement, which is similar to the training received by highway patrols for recognizing intoxicated operators. Participants are taught the standard sobriety test for determining if a subject is intoxicated, as well as tests that were specifically designed for use on boats.

In 2011, there were 14 vessel accidents caused by alcohol. Two of these accidents were

fatal which resulted in five deaths. Four of these deaths were due to the boat hitting a fixed object.

The NYMTA supports reasonable legislation to improve boater safety.

Education: Responsible marine-industry organizations support legislation to improve boating safety, that is well thought out, and takes into consideration the instructive accident and fatality statistics that are compiled by the Office of Parks, Recreation, and Historic Preservation, the U.S. Coast Guard, and other such agencies.

Voluntary education efforts, sponsored by the U.S. government, New York's departments and agencies, organizations like NYMTA and ESMTA, and private-sector marinas and boat dealers, is a strong ingredient to a safer boating environment.

We in the industry will continue to work with you, our elected officials, to find ways to enhance education efforts without unduly burdening the boater or creating impediments to boat ownership, or fishing, recreational, and vacation rentals.

BWI: NYMTA, and ESMTA support bills to enhance penalties for drinking while operating a boat. These include making certain, convictions for

operating a boat while under the influence predicates for other operating-under-the-influence convictions, and requiring anyone convicted of a watercraft-related alcohol-related offense to complete a boating safety course.

Okay?

NYMTA, ESMTA, also support a bill to increase the penalties for persons leaving the scene of a boating accident.

That was done several years ago by Assemblyman Sweeney.

Conclusion: The marine industries, like most others businesses, are struggling to survive the recession. Many of our members are mom-and-pop family businesses that continue to struggle from tight credit, reduced consumer demand, development purchasers of waterfront properties that restrict boater access, increased environmental and other government relations, and higher energy, real estate taxes, and other costs of doing business.

That is why we are so appreciative of the strong working relationship we have with you, Chairman Marcellino, and other state and local elected officials here on Long Island and throughout the state.

It is through this cooperative approach that we've been able to make great strides in improving boater safety in New York, while minimizing negative impacts on the marine industries that are responsible for providing jobs, recreational, and tourism opportunities that benefit all New Yorkers.

We -- please continue to look to NYMTA as a resource, as you seek ways to improve the safety of boating in New York.

Thank you for your time today.

SENATOR MARCELLINO: Chris, thank you for your testimony.

Let me just ask the same question I've asked of the others: With respect to the strength of the laws in New York State, what is your organization's opinion, or personal opinion, as to the ability of the laws of New York State to make boating a safe hobby or a safe practice?

CHRIS SQUERI: We work hand-in-hand with the State Office of Parks, Historic -- Recreation, and Historic Preservation. They do an outstanding job.

Brian Kemp, who was here earlier, does an outstanding job. I communicate with Brian all the time.

I believe the Legislature, in working with that department, and all of the agencies, and boaters, have done a very good job.

I believe New York is a leader in boating, in terms of registrations, and, also, providing as much safety as possible.

The agencies do a very good job. We're very fortunate to have a lot of -- even on the local level, the towns are very proactive.

We are very fortunate, especially on Long Island, to have some really good departments, such as, the Oyster Bay department that handles the waterways in; the Town of Hempsted, they -- they do a phenomenal job; Town of Babylon...I could probably go on and on...but there are some, really, that do a phenomenal job.

And I believe that we have been at the forefront, and we will continue to help make sure that we are at the forefront.

SENATOR MARCELLINO: What do you perceive as the main hazard to safe boating?

CHRIS SQUERI: The main hazard to safe boating?

SENATOR MARCELLINO: Yeah.

CHRIS SQUERI: BWI.

Boat -- you know, "boating while intoxicated" is probably the number one issue that we have to deal with. It's not -- it's not necessary. It's, just, it's a major issue, and words cannot express that something has to happen.

And just as it is with drunk driving, it's just -- it's -- it's unneeded, it's uncalled for. It's, just -- it's something that shouldn't be happening, and it does every day.

And, you know, it gives everyone, whether we drive -- we need to drive every day, so, you know, drunk driving is there.

Boating is a recreation. It's not -- we don't need it to go to work -- some people do need it to go to work every day. But, not everyone, it's not their primary thing, so, it's a recreation, it's discretionary. And it just -- so it gets highlighted more than some of the other drunk-driving accidents.

But it's -- boating is safer than driving. Sometimes it's safer than walking. Pedestrian accidents are probably more common than, you know per 100,000, than they are for boating.

So, we could look at the numbers and we could talk all day about, you know, where we're at, but,

boating is still a family activity that can be safe if done right.

SENATOR MARCELLINO: Does there need to be stronger enforcement?

CHRIS SQUERI: I think enforcement, I think communication between agencies, and working together, there are several that work together.

I do believe that we do have enough on the water. Like I said, sometimes, in some areas, you have six or seven different agencies patrolling the area.

You know, I boat out of Freeport, New York. I have the Coast Guard in my backyard. I have, the Village has a police boat. I have the town of Hempsted Bay Constables. I have the Nassau County. I have the DEC Police around all the time. And I have, near Jones Beach, New York State Park Police.

So, I have six agencies that are in the area, you know, that I could be stopped by at any time.

SENATOR MARCELLINO: Michael?

Thanks, Chris.

ASSEMBLYMAN MONTESANO: I'll get the answer to my life-vest question.

CHRIS SQUERI: Yes. That bill was initiated

by State Parks Department, and, we had discussed it.

What happens is, is that, as we can see, when we looked at the boating report that the Senator referred to earlier, from 2011, that's issued every year by Brian and the State Parks.

And when we look at it -- I decipher it every year. And we look it, we notice trends.

And what we noticed was, is during the winter months, on small crafts, we saw an uptick in some of the -- or, some unneeded deaths, because what happens is, between those months of October and May, the water temperatures are much, much colder.

So what happens is, guys that are sitting there in duck boats, guys that are just using regular finishing boats, that winter fish up and near the bridges, and stuff like that, they would go out on small crafts. And, if they fell in the water, the water temperature was so cold, that hypothermia would set in a lot quicker.

We give them a -- and because there's less activity on the water during those times, it's not as easy for them to be found quicker.

But if they were wearing a life jacket, the

studies show that hypothermia will not set in as quick.

So, we give them more of a chance to survive if they have a life jacket. So, we add a couple more minutes, hopefully, so we can find them and get to them.

So, it was a way to increase, you know, hopefully avert, you know, losing anymore lives during those times because of the hypothermia, it was the main issue, because when you fall in the water -- in the cold water, you know, you panic, you try and swim in the cold water. It just -- it restricts you so much quicker.

So at least the life jacket, you don't have to exert as much energy and it offsets hypothermia.

SENATOR MARCELLINO: Okay.

SENATOR LaVALLE: Chris, in your conclusion, you say, "Marine industries, like most of the businesses, are struggling to survive the recession."

In my Senate district, as you know, marine industries/tourism, it's a big part of our economy.

Are you suggesting that increased education requirements, or having education requirements, would affect these businesses?

CHRIS SQUERI: It's possible, yes.

SENATOR LaVALLE: And in what way?

CHRIS SQUERI: People that may not want to buy a boat, because it's another detraction, it's another -- it's another hurdle to purchase that boat.

You know, right now, we go through a lot of issues, especially with credit. You know, it just -- during these times, it's, just, I watched several businesses close in the last three years, guys that have been in business for a long time, some in your district. And, you know, we saw a drop of 530, to 470, registrations in New York, so, we dropped 60,000 registrations in a matter of almost three to four years.

We've seen, especially in Long Island, I believe almost 25 percent reduction in Nassau County. And I believe Suffolk County is not as drastic, but I believe the number for Suffolk County went from 76 to 70 in registrations, off the top of my head.

SENATOR LaVALLE: But isn't that just because of the economy, having nothing to do with --

SGT. JOHN T. OWEN: Oh, yes, it has ever everything to do with the economy right now. We

just feel that, right now, another hurdle to buy the boat would be tough on -- most of our dealers do provide on-hand experience.

I own a marina in Freeport as well. A customer comes in, they just bought a boat. We send the captain out with them, to teach them the waterways, we show them the ways.

You know, just like I was taught rules of the road -- red, right, return -- we do the same thing for our customers. You know, we offer that assistance.

A lot of our dealers have programs like that.

Staten Island Yacht Sales has a -- you know, they provide a captain for two or three hours, to take them out on the water and show them the water.

This -- the experience that we give them is hands-on. We go out on the boat with them. It's not a classroom thing, where we sit for 8 hours.

I've always been a believer, in that, you learn more by actually doing something than actually -- you know, not to detract, but I worked for a Hall of Fame basketball coach in college. And I learned more on that court, about life, and

business, and everything else, than I probably did in most of my classrooms. And I use that experience every day.

There's nothing more than, experience will trump everything. And that's what we provided for a lot of our customers.

SENATOR LaVALLE: Also, were you suggesting that we register canoes, kayaks, paddle boats?

CHRIS SQUERI: That has been a discussion between me and State Parks for a long time. And I believe that that is something that should be investigated. I believe that's something should be looked into.

Whether -- it will be tough to actually register them, only because they don't have a hull number.

In order to register, you need a VIN number or HIN number. Boat-wise, it's a "HIN number," Hull Identification Number.

We were thinking more along the lines of a user registration, or a user sticker, so, that way, if do you find a canoe or a kayak floating upside down, you can -- the law enforcement can grab it, go to it, and there's, like, a user number on it. We don't have to put all the registration numbers, but

the registration number, or a regular sticker, just like we put on documented boats.

Documented boats from the U.S. Coast Guard do not get registration numbers, but they do have to put their New York State registration sticker on there.

So, we put the registration sticker on there, there's still a way to track it, and law enforcement can then utilize, and say: All right, it belongs to Joe Smith at 395, you know, Smith Street.

You know, and then we can find out if there is someone missing, and, do we need to send out a search and rescue?

It would save valuable time and effort. And not only that, those users do utilize our law enforcement, they do utilize ramps, docks, and other resources that are paid for other -- by registered vessels today.

SENATOR LaVALLE: My wife put campaign bumper stickers on both of our kayaks. Everyone would know --

CHRIS SQUERI: It's yours.

SENATOR LaVALLE: -- well, at least, call LaValle to find out if --

Thank you.

ASSEMBLYWOMAN GALEF: Do I get a question?

SENATOR MARCELLINO: Sandy?

ASSEMBLYWOMAN GALEF: In your testimony, the only place you really, I think, suggested having the safety courses, when it's BUI.

I think that's what I got --

CHRIS SQUERI: Yeah, well, we --

ASSEMBLYWOMAN GALEF: -- out of your testimony, and then to require it.

All right, but if we were to go in our state, and require everybody, like Connecticut and New Jersey, to have a safety course, an 8-hour, whatever, how could we structure it?

Because you want to sell boats. And you don't want somebody, I guess, to have to go take the safety course before they go and purchase the boat, because that's too-far-ahead thinking. Right?

So -- so, you go -- you know, you decide, you're sitting home, and you want to go get the boat, and you go that weekend and you get it.

Could there be a time frame within which a boat safety course could be taken?

You know, allow the people to get the boat. Maybe the captain, you know, comes in and gives that 2-hour session.

Could there be a time frame within which would be -- would accommodate this, so that we wouldn't -- you know, this is the same issue, probably at Lake George, when people are renting.

You know, how do we deal with the people, to get them into the process, and not require too much right away, but still get as many people as we can with safety courses?

I don't know.

Do you have any input for me?

SGT. JOHN T. OWEN: That's -- you know, selling boats is one thing, but actually making a difference is another.

And I -- this is why I brought up New Jersey and Connecticut. You know, they have mandatory education for everyone. Our fatality numbers are better than theirs.

You know -- you know, I mean, and it sounds -- I hate the way that sounds, because, you know, no fatality number is good. I think it's -- you know, I -- you know, I get chills, you know, just thinking about the incidents that happened over the last two months, you know, one on the south shore, one on the north shore.

And, you know, it -- how should I say that?

I don't want to -- I want to use a word that I can't right now.

But, it stinks.

And, you know, we need to come up with something that's going to make a difference.

You know, sitting someone down in a classroom for 8 hours, obviously, according to New Jersey and Connecticut, has not shown to be as effective as they would think.

So, how do we actually, you know -- you know, we can make change for the sake of change. And if we get no difference in results, what have we accomplished?

So, we really need to look at, what is going to make a difference?

Obviously, like I said, you know, I'm a numbers guy, I'm a statistics guy. I mean, you know, the fact that, you know, we've increased the amount of traffic -- as was said before, earlier, we have more and more boats out on the water. We've increased the amount of traffic on New York waterways, 50 percent, from between 1980 and today -- and 2011; but, yet, we decreased -- we decreased fatalities 75 percent.

I think that we need to go back and look at:

Well, ell, how did that happen?

How did we accomplish that?

And what did we do right?

And maybe take that as a step to move forward, to say: All right, what have we done in the last 31 years? And maybe, like, let's examine what steps were taken, and then continue to work on those, and increase those.

You know what I mean?

Because, those numbers do speak volumes.

I mean, you know, 50 percent jump up, and 75 percent decrease. You know, that's -- I mean, I don't know what other areas that you can see those numbers, but we've done it.

So, maybe there's -- maybe we need to look back, and say: What have we done in last 31 years? Okay, let's maybe look at doing that, or, taking those steps, forward.

ASSEMBLYWOMAN GALEF: Okay, you don't have an answer for me, though --

CHRIS SQUERI: No, I believe it needs more discussion, because, to be honest with you, up until I did those numbers last night, when I looked at the numbers, actually, those numbers come right from the report in 2011. There's a chart, from

1980 to 2011, and it basically shows the curves.

And one goes up this way, and one goes up this way.

And, that really struck me. That really hit me, and said, well, what -- you know, 24 hours hasn't given me enough time to sit there, and go: What have we done in 31 years to do this?

So, I would need more time, and I would work with Brian Kemp, to say: What have we done to make that continue?

SENATOR MARCELLINO: Thank you, Chris. I appreciate your time, and your testimony.

CHRIS SQUERI: Thank you very much.

SENATOR MARCELLINO: The next speaker is, two: Jackie Martin, Commodore, Greater Huntington Council of Yacht and Boating Clubs; and Commodore Vincent Archdeacon, from the -- who's the commodore of the Huntington Yacht Club.

JACKIE MARTIN: Good morning -- or, good afternoon, I should say, Senator Marcellino, and members of the Committee.

SENATOR MARCELLINO: Good afternoon.

JACKIE MARTIN: My name is Jackie Martin. I am the commodore of the Greater Huntington Council of Yacht and Boating Clubs.

Before I begin my testimony, two things:

I have with me, and it's certainly less than $25, a pamphlet for you, and it's a little information about the Boating Council, a copy of our incident report inside, and also a list of our member clubs.

SENATOR MARCELLINO: Thank you.

We'll get it later. Just leave it there.

Thank you.

JACKIE MARTIN: Just as a little background, because I've now had the opportunity to listen to several of our speakers, and I've found their comments extremely interesting and enlightening:

My husband and I own a sailboat. We have been sailing the boat for -- well, we're on our third sailboat, but, we've been sailing our boats for 20 years.

Prior to that, we were friends of -- very good friends of power boaters, and kind of got our feet wet with them on their power boat.

We pretty much decided to buy a sailboat, after sailing once on friend's boat, and saying: Gee, this is different than power boating. We'd like to start boating. We'd like to own our own boat, and we'd like to have a sailboat.

Prior to purchasing the boat, we did take the United States Power Squadron basic boating course, and passed it.

And, throughout the entire first summer that we owned our boat, we mentored with other very experienced sailors, taking them out on our boat with us, showing us everything.

So, it was a lot of hands-on training on our own boat, strictly on a voluntary basis by my husband and myself, and, also, the Power Squadron course.

Since that time, I have joined the National Women's Sailing Association, and been to several of their conferences and seminars.

My husband and I have both taken a coastal navigation course.

And I have taken the suddenly-in-command course given by the United States Power Squadron.

I also am certified in CPR first-aid, the use of AED and oxygen.

So, my testimony.

By way of introduction, the Greater Huntington Council of Yacht and Boating Clubs was founded 27 years ago, to act as a liaison between organizations with a boating and

waterfront interest, and federal, state, and local governments.

Our mission includes, promoting and protecting the sport of recreational boating, and advocating safe-boating practices.

Our membership is limited to the areas of Cold Spring Harbor and the Greater Huntington Bay Complex. We represent 21 member organizations, including several yacht clubs, waterfront-community organizations with boating members, recreational fishing clubs, a rowing club, a lighthouse preservation society, and a Sail and Power Squadron.

At present, we estimate our membership to be about 4,500 people. We meet ten times a year with each member organization represented to the council by a club representative and an alternate. Our officers are elected on an annual basis, and all our officers' club representatives and committee members serves on a volunteer basis.

During the past 27 years, these are some of the things that we have advocated for:

Police patrol seven days a week;

The designation of marine emergency pickup stations;

Establishment of night enforcement patrols on the water;

Additional marine patrols in Cold Spring Harbor;

The implementation of a 5-mile-an-hour zone north of the Huntington Lighthouse;

Establishment and monitoring of maritime incident reports;

Dredging of Centerport Harbor, establishing a channel to the Gold Star pump-out facility;

Implementation of two free pump-out vessels;

Donation of atrial-defibrillation device equipment to both the Huntington Harbor Master and the Coast Guard Auxiliary rescue boat;

We have lobbied for the continued operation of the Eatons Neck Coast Guard station;

Lobbied for the installation of lighted flashing entrance buoys for North Port, Centerport, and Cold Spring Harbor;

We have a decal identification program for dingys, canoe, and other small craft, in cooperation with the Town of Huntington and the Coast Guard.

And just let me say something about that:

And that addresses abandoned small

watercraft. It is a sticker program. The owner of the vessels put a contact telephone number in indelible ink on the stickers, attach them to the dingys. And if they are found by either a passerby, Coast Guard member, auxiliary member, or one of the town harbor masters, or bay constables, that number can be called, to see if the dingy or small kayak canoe has just merely floated away, or if there was perhaps a person that should have been attached to that vessel.

We have sponsored boating safety programs with the -- with presentations by Suffolk County Police, the United States Coast Guard, the Coast Guard Auxiliary, Huntington Harbor Master's Office, Centerport Fire Department, and Neptune Sale and Power Squadron, most recently last evening.

And I want to thank the Huntington Town Board for that, Councilman Cuthbertson, and, Harry Acker, our harbor master.

We have also tried to broaden our membership by outreaching past member organizations, and offering affiliate-memberships' status to boaters who are not members of any of our participating clubs.

Here are our observations on boating safety:

Many opinions have been expressed to the council, both in a formal and informal way, regarding the status of maritime safety in our area waters.

Many of our members are experienced yachtmen with a lifetime on the waterways.

Ideas have been shared with several of our flag officers by fellow members, local legislators, and town officials.

It is difficult to get a true consensus at the present time, although, all of our club members seem to approve of some sort of boater education for improved boating safety.

Whether or not it should be mandatory for all, is not an opinion that can be expressed by the this organization at this time, as we have had -- not had an opportunity to formally discuss this matter at length, nor have been any proposals made to our group as a whole, by any elected official from the State or the County.

Initially, the idea of implementing mandatory education for an entire population of boaters in just Suffolk County alone will need careful review and planning. The content of the classes given and number of hours of training will need to be

reviewed as well.

There have been suggestions about the idea of planning, of -- excuse me -- of phasing in those of a younger age and less experienced into the boating safety program.

Does that omit a first-time boat owner of more maturity with less experience?

The idea of a certificate of course completion before an owner can register his boat, may phase in boaters to a program, but a demographic study would need to be conducted to determine the number of boaters who would become eligible for safety courses in any one year.

High-water alarms have also been suggested as a standard operating equipment on boats, but how does that relate to the recreational kayaker or the operator of a vessel without a bilge?

The use of mandatory life jackets at all times on board a vessel is another suggestion, to make sure that boaters stay safe in case of an accident.

Increased presence of law enforcement on our harbors and waterways has also been mentioned.

You can educate the boating public, but you can't change behavior. Unfortunately, the increase

in boating population has brought with it the kinds of behaviors seen behind the wheel of automobiles, and vessel operators who have little regard for the rules of the road and common courtesy.

Vessels operating at a higher speed should be responsible for their own wake and the damage it may cause.

The proliferation of kayaks, paddle boards, canoes, and other small craft also raises the question of: How much do their operators understand what the rule is -- or, what their role is in navigable waters?

In conclusion, I would like to say that, personally, I think it would be an excellent idea to have boaters present a boater-safety certificate when they register or renew their registration. It is an effective way to enforce the needed education, and allows a phase-in.

I think that it is a better alternative to licensing, which can cumbersome and expensive for the State, or mandating, all at once, that all boaters have a boating certificate.

Our neighboring states, in New Jersey and Connecticut, already require safe-boating

certificates, as do other states.

As for the continued renewal, perhaps, once a course is completed, others should be recognized as further education, thus allowing for a further insurance reduction to the boat owner. These courses would be completed on a voluntary basis.

Since New York State provides all the agencies with boating-safety course material, it should take the lead in passing legislation on the implementation of regulations regarding mandatory courses.

To reduce the impact, the implementation needs to be phased in, and planned.

New York State would need to study statistics about the number of boaters to be educated, when, and where, so that the planning can begin.

The educational organization could then render an opinion on the implementation. Unless the implementation is properly phased, there could be a shortfall in instructors and facilities.

Our organization, the Greater Huntington Council of Yacht and Boating Clubs, would like to assist in any way possible, in crafting any legislation, or requirements, and assisting and

supplying information to our membership.

Thank you for your interest in boating safety, and I would be happy to answer any questions that you might have.

SENATOR MARCELLINO: Jackie, thank you for your testimony.

And, Vince, thank you for coming, and being available as a resource.

Jackie, I would suggest that your organization begin now, a serious look at that educational requirement.

I would rather hear input from you and your organizations, and what you think makes sense, working with the Power Squadrons and others who are actually on the water involved in boating, who do it, and -- than have people who really may not have your expertise, draw up these laws and draw up these requirements.

That may happen, unless you provide input now.

So, I mean, there are several different bills already beginning to circulate about educational requirements.

You hear me asking the question constantly, you know: Can we do it? Is there money?

Assemblywoman Galef said the same thing: How could you do it? Could you do it right away?

Excuse me.

These are questions that have to be answered, but -- and your organizations have the expertise, and the knowledge of the water. And the boating communities' interests, are your interests, and all of our interests, obviously, but, you have invaluable information that could be imparted to us.

So I would strongly suggest that you start now. Get your organizations to meet and discuss these things, and put a proposal out there, if you want to. I mean, obviously, it's a request.

JACKIE MARTIN: I think we'd be interested in doing that.

SENATOR MARCELLINO: I think that would be something that would be extremely helpful to me, and to my colleagues, in the future.

Your opinion on laws and regulations: Are they strong enough now as they exist?

JACKIE MARTIN: No, I don't -- personally, no, I don't think so.

SENATOR MARCELLINO: Do you think there is sufficient enforcement?

JACKIE MARTIN: No. Unfortunately, no, I

don't think there is.

I think one of the issues that we have, is we have a lot of jurisdictions in many areas of our state. And we have incorporated villages which have harbor patrols, but, probably are not doing as good of a job as they could.

SENATOR MARCELLINO: So, basically what -- and, Vince, chime in -- what should the State be doing, or what more should we be doing, to improve safety on the water?

VINCENT ARCHDEACON: Excuse me.

I'm Vince Archdeacon, the commodore of Huntington Yacht Club.

I have somewhat of a dissenting opinion, but I -- and the club supports the Greater Huntington Council Yacht and Boating Clubs, and what they stand for.

I have been on the water and around boats all of my life. My initial training came in the Navy, seamanship and navigation. I have a pilot's license, which added to that.

I have been a recreational boater for 26 years.

And, I firmly believe -- as a matter of fact, I was getting concerned that I had chosen an

inherently dangerous pastime, until Chris Squeri made his comments, and I suddenly felt much relieved that I was not doing something inherently dangerous.

And I can tell you, in those 26 years, the only time I felt concern was in bad weather.

And I'm mindful of the fact that you cannot legislate away lack of judgment, stupidity.

I also agree that boating while intoxicated is probably the most significant thing.

Most of the boaters I'm aware of are very responsible, and have taken it upon themselves to get the training.

And I have taken all of the courses; and, especially, when my wife got involved with boating, for her sake.

I think that we do have enough enforcement. When you think about it, most of the problems occur when boats are in close proximity to each other.

Now, I can't speak too much about south shore boating, but I would think that's probably the more dangerous area, because you have shallow water, so that you're boating basically in channels, and, they have a lot more boats down there.

On the north shore of Long Island Sound, when

I'm out cruising, I'm rarely within half a mile of another boat.

I'm also mindful that courtesy and common sense should prevail.

I think, and it's been said before, that one of the main concerns I have as a boater, not only from my standpoint in creating one, is a wake. It can cause an awful lot of damage and an awful lot of grief. So I am always very mindful when I'm going in close proximity to other boats and objects, to slow down and take it easy.

But, as far as enforcement goes, I think we have a lot, because most of that enforcement is around the areas that are congested. And I see the -- by the lighthouse of Huntington, I see the Lloyd Harbor Police, I see the Suffolk Police, I see our harbor master's boat out there, especially in those times when it is most congested, people leaving for the day, and then coming back in afternoon.

I would think that it would be extremely difficult to implement a licensing for boating, such as taking a test and then having a hands-on, like a driving test. I don't think that that's practical at all. Every boat is different. All of the

conditions that you could possibly boat under are changeable, every single day.

I think that the best way that somebody can learn is by experience.

And, so, I'm a firm believer, though, in incentive. And I would like to suggest that one of the things that you all might want to look at, is to create greater incentive for people to educate themselves, such as working with the insurance companies, to give them, you know, a greater break on their rates, that they do that, and other things along those lines.

That's my opinion. And, I would be very happy to answer any particular questions.

SENATOR MARCELLINO: Anybody?

Okay.

SENATOR LaVALLE: No --

SENATOR MARCELLINO: Go ahead.

SENATOR LaVALLE: -- I like your suggestion of tying boater safety to the insurance. That's a good suggestion.

SENATOR MARCELLINO: It seems to be a common theme. That seems to have been a common theme amongst the speakers; that the linking of an insurance incentive out there, that would make some

sense.

Your points about the "legislating common sense," if we could wave a wand and make people think, we would be happy to do it. But when you think about what I read just the other day, on, what is, I don't know, the front page of "News Day," I think, or on the second page, whatever it was, a photograph of a gentleman who was stopped, driving while intoxicated, allegedly, in a 21-foot Grady-White. He had 16 children on that boat.

Now, I don't know how you do that. I don't know how you put 16 children on a 21-foot boat.

The Grady-White, I know the boat. It is a relatively narrow boat. It isn't very wide abeam, but it is a common boat around in these waters.

But, still, 16 children on this boat. This man had, according to the police who stopped him, more to drink than he should have.

I don't know what law stops him from doing that.

The night -- last Sunday night, one of the local fire departments also to respond to a call -- an emergency call, to rescue some boaters who were out, I believe off Bayville, who were in trouble, and they were out in the storms.

Now, what they were doing out there, is anybody's guess. I've no idea. That storm was as about well advertised as you could possibly know. They were talking about it for the last week, that we could expect bad weather this week, and then, specifically, Sunday afternoon and Sunday evening.

Yet, there was a boater out there who put, not only himself and herself, whoever it was, at risk, but the people who had to go out and protect them, and bring them back in safely. Those were people at risk.

So, that's what I think we're looking for, some kind of help, and something that will educate the public. And I -- the theme of education makes sense to me, and I'm a former school teacher, so I like it when those things ring -- you're ringing my bell when you talk like that.

But, this idea of making people have some kind of common sense, and be aware of the rules of the road, I don't know how you would enforce common sense, but, making them at least aware of the rules of the road makes sense to me.

Any other -- go ahead.

VINCENT ARCHDEACON: I would like to make one brief comment, when we were talking about

enforcement, and kind of a remark directed towards the 4th of July incident.

I have been, in years past, present at that display, and there was no enforcement. And right after the display was over, people were bailing out just as fast as they can.

And the main problem is the boat wakes.

Now, you don't need a very large boat to create a boat wake. When you get a small boat that's powering up and getting up on plane, it can throw out a significant wake. And you can't see those wakes in the dark.

I'm reminded, also, that I have attended the fireworks displays up in Boston on the Charles River. I was on land, not on a boat. And that Charles River was packed with hundreds of boats, but the police presence was incredible. There must have been 30 or 40 police boats.

And after the display was over, they were able the process an orderly departure down the Charles River back into Boston Bay.

And I would think that, in the future, for something like this at Morgan Park, that -- and more of a police presence, especially one in the daylight while they're starting to raft up and drop their

anchors, you see a boat coming with so many people, you can take that matter in hand then.

But, especially when they are departing, if a police presence, or an authoritative presence, can help an orderly departure, would be most helpful.

SENATOR MARCELLINO: Just one more: What have about the lighting on a boat?

I mean, you're out there at night, especially in that particular occurrence, but there are other situations when you're out there.

I have sat at the club, for dinner, and we watched the boats coming in and out in the evenings. Some boats have one light at the bow, and that's about it. You don't see too much more unless the cabins are lit up.

But other boats, you know, they're lit up like Christmas trees.

Should there be some kind of standard?

Is there a standard?

I don't know.

VINCENT ARCHDEACON: There is a standard. And the --

SENATOR MARCELLINO: Is it enough?

VINCENT ARCHDEACON: -- Power Squadron, and the Coast Guard --

Yeah.

-- and the rules of the road, mandate what kind of lights that you have on a boat at night.

And an educational process will tell you what that means, when you see a red light and a green light and a white light, or don't. It will tell you what that boat is doing in proximity to you; whether it's going away, coming at you, or any different angle.

That is part of the educational process, that is part of the rules of the road. And, that's been in place, like, essentially forever.

But, proper lighting on a boat is necessary, and you need the educational process to understand what that means.

SENATOR MARCELLINO: Is there a standard illumination level for these lights?

VINCENT ARCHDEACON: As far as luminosity --

SENATOR MARCELLINO: Everybody's nodding yes. That's okay.

VINCENT ARCHDEACON: And there's, also, the red and green lights can only be seen, essentially, from a forward angle on the boat.

So if you see a red and green light, the center of that boat is coming at you.

If just see a white light, that means, essentially, the boat is going away from you.

And combinations thereof.

But, I do believe that in the educational process.

SENATOR MARCELLINO: Thank you very much. Appreciate your time. Thank you for being so patient.

The last group of speakers:
Justin McCaffrey, Commissioner of Public Safety, the Town of Oyster Bay; Ed Carr, Director of Maritime Services, Town of Huntington;
Harry Acker, Sr., Harbor Master, Town of Huntington; and Councilman Mark Cuthbertson, Town of Huntington.

Since we're in Oyster Bay, and we're in Oyster Bay Town Hall, Commissioner, you can lead off.

COMMISSIONER JUSTIN McCAFFERY: Good afternoon, Senator Marcellino, and other officials. Thank you for the opportunity to testify before this Committee.

My name is Justin McCaffrey. I'm the commissioner of Public Safety for the town of Oyster Bay.

Part of my responsibilities is the direct

oversight of the town's Marine Enforcement, Bay Constable Division.

As you know, the town of Oyster Bay is only one of two towns on Long Island that have a north and south shore within its jurisdiction.

Our bay constables patrol over 65 miles of waterways, enforcing New York State, Town of Oyster Bay, laws and safety regulations.

The town's 22 bay constables are all New York State Peace Officers who have the authority to issue summonses, make arrests.

The Town's mission of the bay constables is to work closely with our law-enforcement partners from New York State, Nassau County, and the U.S. Coast Guard, to provide a safe and responsible boating environment for our residents and visitors.

Our goal is to minimize the loss of life, personal injury, and property damage, while maximizing the enjoyment of Oyster Bay waters.

Town of Oyster Bay waters are used by many residents and visitor alike, with various activities, including recreational boaters on jet skis, power boats, sailboats, canoes, kayaks, as well as commercial fishermen and ocean-going tankers.

Our strategy is twofold: to both educate the boating public, and when necessary, enforce New York State and TOB laws and regulations.

Education is an essential part of our mission. We try to take the time to educate boaters about rules and regulations and safe-boating practices, as well as the importance of avoiding overcrowding on a vessel.

Bay constables, on a daily basis, stress the importance of having proper safety equipment, including life vests for every passenger on board the vessel.

According to the U.S. Coast Guard statistics, in 2010, three-quarters of all fatal boating accidents, victims drowned, and of those, 88 percent were not wearing a life jacket.

In the last three years, Town of Oyster Bay Constables have issued hundred of warnings and numerous summonses for life-preserver violations.

Our bay constables regularly inspect vessels for proper safety equipment, such as emergency flares, sound devices, proper lighting, and fire extinguishers.

We work closely with the local Power Squadrons and the Coast Guard Auxilliary who

regularly perform free courtesy safety inspections at town launching sites. These free courtesy inspections and examination for safety equipment that is required by the Coast Guard and local laws. These vessel examiners will identify any problems, as well as take the opportunity to discuss boating safety-related issues with the boaters.

According to the National Safe Boating Council, 50 percent of boating accidents that result in death can be traced to alcohol impairment.

The bay constables, along with our law-enforcement partners, have strictly enforced BWI laws.

Bay constables also strictly monitor and enforce dangerous boating violations. Careless, reckless, or excessive speed has been determined to be a major factor in most boating accidents.

In the last three years, bay constables have issued over 200 summonses for unsafe boating violations, which include excessive speed, dangerous wakes, and reckless operation.

For those that don't know, reckless operation includes boats weaving through congested boating or swimming areas without regard for other

boaters, persons, posted speed, and wake restrictions, as well as operating at speeds that may cause danger, injury, and unnecessarily crossing the path or wake of another vessel.

Town bay constables have also terminated over a dozen voyages due to unsafe conditions.

As Commissioner of a department with ever-changing demands, I know the importance of taking a fresh look and re-evaluating any given scenario.

When it comes to boat safety, in light of the recent tragedy, hearings like this one today play an important role in helping to establish a fresh perspective.

While many recommendations have been handed forth today, it's important to caution against any conclusions being drawn on the best cost to move forward until the investigation by various agencies have been completed.

Boating education is essential to a safe environment out on the water.

Additionally, I feel that the safe-boating organizations, such as the Coast Guard Auxiliary and the Power Squadrons play a vital role, and would benefit greatly from grants to help step up their

efforts. These organizations are volunteer groups who have traditionally been well organized, but, unfortunately, underfunded when it comes to boater safety campaigns.

Providing greater awareness to these organizations would go a long way towards helping, specifically, through such programs as informational classes, dealing with safe boating.

An increase in advertising, along with public service announcements for classes hosted by these groups, would also be beneficial.

Additionally, informational signage regarding safe-boating practices, with tips and reminders, could be placed at marinas and boat-launching facilities. These, along with safe-boating materials and instructional DVDs could also be provided to libraries, government buildings, or other easily accessible locations for boaters to take advantage of.

In the effort to make our waterways safer for boaters, enforcement is key.

Recently, New York State Senator Charles Fuschillo introduced two pieces of legislation to the Senate regarding boater safety, one of which would raise the penalties of BUI

offenses, as well as link driving, boating, and snowmobiling under-the-influence offenses, making it possible to charge violaters as repeat offenders.

According to the New York State Office of Parks and Recreation and Historic Preservation, alcohol contribute to 1 in 5 fatal boating accidents in New York State in 2011.

The other bill would require all boaters to complete a boating safety course in order to operate a vessel unsupervised.

Currently, 23 states require boat operators to have boating-safety certificates before they can go out on the water.

Federal and state grant money for increased enforcement of safety and BWI violations is another avenue that could be explored.

To help crack down on unsafe boating practices, currently, grant money is provided to police departments for overtime, for HOV, and speeding enforcement on major roadways.

This program could possibly be expanded to include increased patrols on our waterways, in the interest of boater safety.

Finally, providing additional equipment and

training opportunities for marine-enforcement officers would go a long way towards maximizing boater safety on our waterways.

In fact, later this month, Town of Oyster Bay Constables will be hosting a five-day marine patrol officers class, which is sponsored by the New York State Naval Militia. 30 police officers, Coast Guardsmen, bay constables, and members of the New York State Naval Militia will attend training on boarding procedures, BWI enforcement, navigational rules, marine-theft investigations, and water-survival techniques.

This training is provided through a New York State grant, and it's courses like this that I consider absolutely integral to upholding the high standards of safety enforcement that our bay constables set out for themselves for each and every day.

There is nothing that we hold in higher regard in the town of Oyster Bay than the safety and well-being of our town residents.

Boater safety is an important issue that deserves to be brought to the forefront of the conversation, especially during this busy time of year, when more residents and visitors than ever

will be planning to spend some of their time on the water.

It is our belief that education and awareness is the key to providing the safety and -- safest and most enjoyable environment for all.

Thank you again for this opportunity.

SENATOR MARCELLINO: Appreciate it.

The three gentlemen from the town of Huntington, I guess.

Councilman, you?

COUNCILMAN MARK CUTHBERTSON: Senator, I want to thank you for hosting these hearings.

You and I have attended probably dozens of boating events together over the years, and I know of your concern for the safety of boaters and your love of the water.

I'm here on behalf of the Town Board and the Supervisor.

Boating safety is something that, obviously, the Town of Oyster Bay takes seriously, as do we in the town of Huntington, and all of our towns on Long Island. And I want to provide with you a sense of the Town's efforts to promote boater safety and boater education, which has been a constant theme today.

Beginning in the year of 2002, the Town has partnered with the Centerport Fire Department, to sponsor an 8-hour New York State safety boating course.

Over the past ten years, we have an increasing numbers of attendees.

The first year we had the course, we had about 50 people sign up and attend.

This year we had over 120.

Following the recent tragedy, the Town received enough inquiries from concerned residents, that we scheduled a boating safety forum that was held last night at town hall. This also was attended by over 120 residents.

And, prior to that meeting, for about an hour, Supervisor Petrone and I visited with Lisa and Paul Gaines, and heard firsthand how this tragedy, the loss of their daughter, Victoria, has impacted their lives.

And, I will tell you that I was so encouraged by their -- their commitment to boating safety and boating education.

And, we, at town hall last night, a number of issues were raised during the hearing that we held.

And, in sort of order of priority, those

were:

The need for boater education, the need for boating licenses, in New York State;

The danger of wakes, which I think was just commented upon, from large vessels, and all types of vessels;

The need for vessel-occupancy-guidelines;

Controlled boat departures at the conclusion of large events, like fireworks displays;

And, the need for boat inspections.

So, an increasing number of people are telling us in the town, and told us last night, that they want action. And I think that's good news.

The bad news is, that we have over 5,000 boaters using the Huntington Northport Bay Complex, which means only a small fraction of the people who are on the water are participating in the boating safety classes that we had.

I believe, and I think our Town's position is, the State is right to consider legislation that would require basic safe-boater training for all vessel owners, given the number of boats that are now on the water.

The cost to the Town of Huntington to run our

New York State boater safety course has been relatively small, given the number of participants. And our use of the town's senior harbor master, who you'll hear from, and bay constables, as instructors.

The challenge, should the State mandate that all boaters take this or similar safety course, will be to evaluate the logistics and costs of scaling programs like this, up by a factor of 20, 30, or 40 times.

So, assuming the State were to turn to the towns and the villages to help with this, there are a number of considerations, like physical space, class size, number of classes, that would be very important.

Courses being offered, five or six times a year, are likely to be necessary.

Furthermore, for us to assist in this, I think the optimal time for classroom studies and lecture is during the winter, when our Maritime Services Division are less strapped, and, certainly, trying to stay away from the summer when they are on the water doing what they're supposed to be doing, which is, devoting their time to protecting the safety of boaters.

In addition, we believe that a phase-in period that would allow boaters to earn a boating safety card, or whatever the certificate is, in waves over a few years might be a good idea, to really prevent a crush of people coming and seeking out these courses.

So, we have some suggestions when it comes to boating education.

We wanted to convey what we heard last night in our town, because I know it's an important part of your Senate district.

And, we appreciate the opportunity.

SENATOR MARCELLINO: Thank you.

I apologize for the lack of microphones, but, we don't own the facility.

DIRECTOR ED CARR: Thank you, Senator.

My name is Ed Carr. I'm the director of Maritime Services for the Town of Huntington.

I wanted to give you a brief overview on the town's maritime resources, and highlight some of the challenges that we face.

Town of Huntington has 60 miles of coastline, that extends from Cold Spring Harbor in the west, to Fort Salanga in the east.

This speaks to our greatest challenge of

enforcement; namely, having a limited staff --

SENATOR MARCELLINO: Between the two towns -- excuse me.

But between the two towns, am I right, if I heard you right, correctly, we're talking about 130 miles --

DIRECTOR ED CARR: Yeah.

SENATOR MARCELLINO: -- approximately?

DIRECTOR ED CARR: Yes.

This speaks to our greatest challenge to enforcement; namely, having a limited staff who are responsible for such a large geographic area of open water.

And we're not alone in that. Our staffing levels are consistent with other Long Island townships.

In the off-season, we have one patrol boat on duty during the daylight hours only.

During the summer season, that's Memorial Day to Labor Day, we have coverage day and night.

On summer weekends and holidays, we have a second boat deployed during the daytime only. And that's, really, in the Cold Spring Harbor area.

Given our geographical size, and resources available, it is impossible for bay constables to

be everywhere at once; therefore, having a boating public that is educated, and competent, is essential to mitigate risk.

Councilman Mark Cuthbertson highlighted the Town's efforts to educate the boating public.

And, statistics provided on the U.S. Coast Guard website, in 2011, a staggering 89 percent of fatal accidents involved boaters who had no boating safety instruction.

So, the thrust of my testimony, is to encourage State lawmakers to consider some form of legislation that would mandate boater-safety instruction for recreational operators, since the towns and villages will never have sufficient enforcement resources to be at all places at all times, given the enormous geographic area that needs to be covered.

And I would like to now introduce Harold Acker.

Harry is our Senior Harbor Master. He's my immediate past predecessor in the director's job.

He has 38 years of experience on the Huntington waterfront, and he's going to share with you some of the lessons learned and best practices gleaned from his experience.

HARBOR MASTER HARRY ACKER, SR.: Thank you.

Thank you, Senator.

The beauty of going last, is I can be a little more candid than my predecessors.

SENATOR MARCELLINO: And brief.

HARBOR MASTER HARRY ACKER, SR.: First of all, I want to say --

[Laughter.]

HARBOR MASTER HARRY ACKER, SR.: Exactly.

So you want me to be quick; right?

SENATOR MARCELLINO: Yeah.

HARBOR MASTER HARRY ACKER, SR.: I submitted my testimony to you, plus my qualifications.

SENATOR MARCELLINO: I appreciated that.

HARBOR MASTER HARRY ACKER, SR.: And I also just wanted to applaud you, for one thing, is that you stated that you're not jumping into legislation right now.

Right now, as you said, because of a tragic accident and the loss of life of three children, everybody's coming up with legislation. They're going to actually muddy the waters and make it worse.

I applaud your approach, to take our time. I think other legislatures should sit back a little,

because, as far as boating education, that is the responsibility of the State, and they should let the State do it.

They certainly could support it with a home rule message, that that's what, let's say, Suffolk County wants to say, but it's really for you guys to do it.

And I just want to bring up what your own agency can't tell you -- but, you know, you're not the administrator, you're the legislators -- is that, the boating safety program for New York State is run by two people, the administration part of it.

So you can see, is if you do something immediate, you only have two people to administer right now. So I think they're pretty taxed doing what they do now.

So, that has to be looked at on the State level before any education.

SENATOR MARCELLINO: By title, who are they?

HARBOR MASTER HARRY ACKER, SR.: Huh?

SENATOR MARCELLINO: By title, who are they?

HARBOR MASTER HARRY ACKER, SR.: One is Ro Woodard. And I don't know who the other woman is.

There's two women up there that actually do

the, physically, administration.

When you need the books, they're the ones you contact. They get all of the paperwork back.

They're a very small office. We work with them. And, actually, we -- Mark and the Supervisor sponsor the State Marine Patrol Vessel Operator courses annually, so they can be brought down to Long Island, because they're given up at Lake George.

So we offer that to the State, annually. We work very close with them. They're a very small and efficient agency, but, again, very small.

If you're going to put a lot, you're going to tax a lot of boating education to them. You know, you have to make a plan.

And I'll get to that point.

The most critical themes I'll be presenting for you today, are boating education reform, legislation, and enforcement.

First, and foremost, I believe the main focal point today is the need for boating-education reform.

Second, legislation that would be a necessary step to decreasing the hazards on the waterway, the goal would be to establish legislation to decrease

penalties, and broaden the scope of violations. More specifically, increasing legislation with regard to operating a boat while impaired or intoxicated, and reckless operation, and damage caused by excessive wakes, which you've all heard from other people today.

The third focus today would be discussing the authority of the State, county, and local enforcement, including expanded authority of the New York State Coast Guard, to enforce State boating laws.

I will expand on each of these issues.

Boating education: New York State lags behind its neighboring states requiring operators of power boats to have successfully completed an approved boater-education course.

The current legislation requires completion of a safety course for those operating a personal watercraft. Current legislation only requires those between the ages of 10 and 18 years old to have a safety certificate to operate without supervision.

The current legislation has absolutely no requirements for any person over 18 to operate a boat.

The present law is so vague, that even a 10-year-old can operate a power boat by the themselves with a boating safety certificate, that goes 100 miles an hour.

Ridiculous, but legal.

A two-year-old can operate a boat pulling a skier, with an adult on board. Again, ridiculous, but legal.

There is no quick fix, but, to allow me to offer a comprehensive plan to effectively and efficiently address the hazards on the waterways.

Please be advised, it is important to understand the majority of boating-education courses are volunteer-based, and offered by boating organizations, such as U.S. Coast Guard Auxiliary and the Power Squadron.

The first proposed step would be, develop two courses.

The two courses would comprise of a young-boater safety course for those age 10 to 16 years of age; and a second, more comprehensive course, for those 16 years and older.

Any boater that currently holds an approved boater safety-course certificate, State public vessel operators's license, or U.S. Coast Guard

merchant license, will be exempt from being required to take one of the newly implemented courses.

Additionally, a young boater that obtains a certificate through the young-boater's course will be exempt from being required to take the adult boating-safety course later.

The second proposed course of action will be to phase in the requirements, that all operators of power boats and/or sailboats over 22 feet obtain a boating-safety certificate over a four-year period.

My example would be, to start in 2014, because you're going to need time to ramp up, and so will the people that offer the courses.

So, in 2014, people between the ages of 18 and 28 years old would be required to have a boating certificate;

2015, 28 to 38 years old;

By 2016, 38 to 48 years old;

And, by 2017, all would be required to have a boating-safety certificate.

As many adults will generally have a driver's license, an option for boating identification would be to include an endorsement, say, Code B, for example, on a State license.

Any individual without, or not of driving age, will be provided a boating-safety ID, ID that's given now.

These options are already available by the State. You know, you're not introducing anything new. You can use the current resources available.

Fees collected from boating licenses should have a portion allocated to fund boating safety education and boating-safety announcements, in addition to the current funding.

Laws alone will not resolve the increased safety hazards boaters are faced with. No matter how many laws you put on the books, it's not going to stop a boater from violating them.

Two examples: One on the south shore, and one which we didn't talk about, which is in Connecticut, only 8 miles from us, another fatality.

Both of those fatalities were caused by people violating the laws.

The State should consider reclassifying a State driver's license to an operator's license.

This would enable violations on land and sea to be admissible, to show the courts the possible pattern of unsafe behavior, and allow for appropriate fines to be assessed.

One of the problems we have, is that a lot judges are not boating-familiar. You know, they look at something done on a boat as recreation, and not as serious as a driver's licenses.

This would also go for snowmobiles, and make your license an operator license.

So, you have your safety certificate. It's identified on it. And any violations that you acquire as a -- they stated one of the problems, a Nassau police officer -- is that there's no tracking device.

If you do this, you'll be able to track everything.

And if a guy is a bad operator on a snowmobile, a bad operator on a car, and a bad operator on a boat, the judges will be able to see these patterns of behavior, and assess the appropriate fines.

Boating while intoxicated and impaired: The only person that can be charged with boating while intoxicated are those operating a power boat.

If you were sailing a 70-foot sailboat, intoxicated or impaired, with 10 children on board, the operator cannot be charged with BWI; however, he could be charged with reckless operation.

I propose that the law amended to allow all vessels.

Currently, if an individual does not submit to a breathalyzer test who have been convicted of BWI, they may lose their privilege to operate.

However, without a licensing, you have little or no tracking. You're not going to know it. When you stop someone in the car or a boat, you're not going know that they have had that violation.

Proposed resolution for this issue, is to tie the boating education, being linked to a licensing system, and enforceable regularly.

For example: License revocation could be checked through boater's operator's license, which could be restricted if there is an act of violation on the boater's record.

Another option would be, to restrict the operator -- operation of a vessel, to outlaw the operation of vessels by individuals with open containers of alcohol.

You have to remember, when you have the BWI laws, which are sufficient, it's not like a car, crossing the yellow line, weaving.

Okay?

You don't have to do that in a boat. As long

as you're going 5 miles an hour, we have no reason to stop you.

If you have everybody sitting there with open container of beer, drinking, and operating the boat, that's not a reason. We cannot stop them.

They should have something, where there's an operation of a vessel, that you cannot have any open containers of alcohol while you're operating the vessel. And, it would give a reason to stop the vessel.

Restrictions on operators, 10 to 16 years old: With the increased operation of speedboats, the recommended restriction on the size and horsepower of boats operated alone by boaters between the ages of 10 and 16 years.

16 years old is the age a violator can be issued a summons.

Capacity plates: This is not a State issue, but the State may be able to petition the federal government, through a home rule message, to require boat manufacturers to apply and install capacity plates on all recreational vessels, regardless of size, similar to the vessels under 20 feet in length.

And, enforcement: One of the things we talk

about is in enforcement.

I don't know if you're aware, again, you're not the administrator; part of is at the -- New York State Police, after building a 19-year-old -- 19-year marine law enforcement, disbanded it last year in a matter of three days.

So, the State Police no longer has their marine unit in force, which was a very active unit. We helped them instruct with that.

The CPL: Amend the criminal procedure law to give harbor masters and bay constables the same authority with regards to arrest on warrants as police officers.

Grant the U.S. Coast Guard boarding officers the status of peace officer while on duty in New York State waters, and supply peace officers' training to those who quality.

This will enable the Coast Guard Office to enforce State law as well as federal law.

The procedures to arrest a BWI is difficult under federal law, and their violation procedures are less effective than State procedures.

There are certificate -- a significant number of police and peace officers that serve in the reserves who reside in New York. These individuals

tend to serve in areas for extended periods of time, and would need no additional training to enforce State laws.

In closing: It would be a tremendous mistake to close this hearing, make a few recommendations, pat ourselves on the back, and walk away until the next tragedy happens.

We would best be served to form advisory councils in Nassau, western Suffolk, and eastern Suffolk Counties, to serve in a capacity to make recommendations to State officials on an annual basis.

Thank you very much, Senator.

SENATOR MARCELLINO: Thank you very much.

Is there any -- before you guys leave --

You don't have to switch.

UNIDENTIFIED SPEAKER: The microphone only reaches so much.

SENATOR MARCELLINO: That's okay. They can speak up.

The talk of coordination before, between different municipalities, and different levels out there on the water, you've got multiplicity of enforcement officials out there doing their thing.

Is there a coordinated effort?

Not every town has enough to cover, not every village has enough to cover, certainly, not every county can cover the entire length of, with what they have. But, certainly, with assistance, working together in some type of coordinated fashion, they might be able to do something.

Is there such an activity between the towns, counties, villages?

COMMISSIONER JUSTIN McCAFFERY: I think that's why it's so important, like those training classes that I mentioned. It gives us the opportunity to network, and -- you know, besides getting the good training.

It's -- I don't know -- so I always say, it's -- you don't want to be exchanging business cards, that -- the day of the emergency.

You know, you should have pre-existing relationships and training, and know what organizations can do what capabilities, and --

SENATOR MARCELLINO: I'm looking to go one step beyond the training.

Excuse me for interrupting, but I'm looking to go one step beyond.

Is there, actually, I'll take care of Fort Palm Bay. You take care of X, Y, Z. You take

care of this location. Between here and here, a Village of such and such has responsibility. We'll work with you here and here. And the County of Suffolk will take this range, because there are no vessels, or there are no villages with the -- you know, townships with the appropriate vessels there.

Can -- do we cut it up, so that there's coverage?

So, we spread the coverage out, so we actually have a real blanket effect on it?

Or are we just out for -- you know, is everybody doing their own thing?

COMMISSIONER JUSTIN McCAFFERY: I think it's a pretty informal system, but it works pretty well.

We know who does what, who covers what, and who has what equipment and capabilities.

HARBOR MASTER HARRY ACKER, SR.: We have -- we meet on a regular basis at Eatons Coast Guard with all the law enforcement, and we discuss our issues. They have law-enforcement organization meetings.

To answer your question: No, we -- I can't tell Suffolk County Police where to go, I can't tell

the Villages where to go, because they're operating under their own jurisdictions.

We do, however, work well together.

In the winter, we're pretty much the only show in town. The County only mans their police boat on a -- sporadically, and the Villages pull their boats, so, we do the work for them.

But we do keep in touch. We do do train -- we do train together.

The Suffolk County Police Marine Bureau is in our parking lot. Our office is right next to each other, and we do stay in touch. But, again, I don't have the authority, they don't have the authority, to tell another jurisdiction what they should and shouldn't be doing.

SENATOR MARCELLINO: Well, I like your comment on the linking the boating violations with the driving violations, to pick out repeat offenders.

The only problem with it is, if you don't have a licensing --

And we talked about this earlier, I don't know if you heard it, but we were talking about earlier.

-- is there some link we can do with the

registration number on the boat, on the hull of the boat?

If you require every boat to have some type of registration. As Chris Squeri talked about, everybody should have some number that identifies the boat. So, if you find a dingy overturned, washed up on a beach, you don't have to send the cops out looking for somebody who may be drowning out there, or may have drowned.

You have a number which you can track back to a resident, to an ownership, and say: Look, we found this. Is somebody missing in your family? Have you -- can you account for everybody?

That saves a lot of time, and anxiety in that respect.

Is there some way to do that, so that we can tie these things in, so that a judge, when Mr. So-and-So, with the 16 kids on the boat, comes before a judge, he can say: Well, look, this guy had, not only this incident, but he had something over here, something over there. My God, we have a repeat offender here?

Otherwise, how do they know?

HARBOR MASTER HARRY ACKER, SR.: No, the registration of the boat only identifies the boat

and who owns it.

If I lend my boat to Mark Cuthbertson and he gets a violation, I don't want --

SENATOR MARCELLINO: Don't do that.

HARBOR MASTER HARRY ACKER, SR.: No, I wouldn't do that. I wouldn't even invite him on a boat. He's a better golfer than boater, but --

[Laughter.]

SENATOR MARCELLINO: I heard that.

HARBOR MASTER HARRY ACKER, SR.: -- but, it only identifies who the owner of the boat is. You know --

SENATOR MARCELLINO: Well, I understand it would only identify who the -- but if you link the ticket to the boat --

HARBOR MASTER HARRY ACKER, SR.: Yeah, but that --

SENATOR MARCELLINO: -- right now, the car links -- if I drive a car, it doesn't matter whose car it is, the ticket goes on my license.

HARBOR MASTER HARRY ACKER, SR.: Right.

SENATOR MARCELLINO: So, whatever car I'm driving, it's my license, I get the points.

In the other case, if the boat's got a number, put the number on the boat; put the ticket

on the boat. I don't care who owns it. It goes back to the owner of the boat, so, you might be more careful as to who you lend your boat to.

HARBOR MASTER HARRY ACKER, SR.: Well, maybe, but it's tricky.

Like you say, some boats, a 21-foot boat, might be used by multiple people in one family, but registered to one.

SENATOR MARCELLINO: I understand.

HARBOR MASTER HARRY ACKER, SR.: You know, I would advocate doing the licensing system, where you actually track the operator of it.

And even if, you know, the person is a -- is found in violation --

SENATOR MARCELLINO: Hold on one second. They've got to change something.

[Pause in the proceeding.]

SENATOR MARCELLINO: You were finishing?

HARBOR MASTER HARRY ACKER, SR.: Yes.

I would advocate more of a licensing system for the operator, because the violation is caused by the operator, not the boat owner. You know, they might not even be on board.

So, I would link any type of boating education to an actual license.

The registration, as they pointed out, all vessels -- pleasure vessels in New York State must be -- have a New York State registration.

But, I disagree with Chris. The ones that are documented, they get the sticker on the front, there's no tracking method if -- you know, on that boat, from that sticker.

SENATOR MARCELLINO: All right.

Mike?

ASSEMBLYMAN MONTESANO: Thank you, Senator.

For the Commissioner: On the -- out here, now, for Nassau, for the operations here, does the bay constables or Nassau County Police or the Coast Guard, is there any joint communications between them?

I know you coordinate your efforts informally, but, when all the vessels are out there, can they communicate with each other [unintelligible]?

COMMISSIONER JUSTIN McCAFFERY: Yeah, we can communicate on the different radio frequencies. And, as far as communication goes, we actually share an office. The Nassau County Police share an office and dock space, both at Tappan Beach and here at Roosevelt.

So, you know, there is daily interaction between the Coast Guard, the police, and --

ASSEMBLYMAN MONTESANO: Well, I guess what my question is, though, like, we take the incident that happened July 4th, with all those boats in the water and, you know, everybody's on the border line between Nassau and Suffolk, so I'm sure Huntington has their boats out, and all the other agencies have their boats out.

If yous wanted to do a coordinated effort that night, can all those vessels on the water talk to each other?

COMMISSIONER JUSTIN McCAFFERY: Yes, we can.

ASSEMBLYMAN MONTESANO: All right.

And just getting -- if I can just touch on the issue, whoever may know the answer on the capacity plates, realizing that this might be a federal issue, right now, in the boating industry, is there a standard set by the manufacturers as to what the capacity is on a particular size boat?

HARBOR MASTER HARRY ACKER, SR.: Twenty and under, is mandatory; twenty-six is voluntary; and none after that.

And, actually, for the people that have a capacity plate, the weight has been raised from

160 pounds, to 185, is the average person.

So, we run a launch service, we use to carry 26 people. We're down to 19.

So, that capacity plate that they're looking at on an older boat is going to be incorrect. That's going to be judged at 160.

But, no, after that, there is absolutely no requirements to list and --

ASSEMBLYMAN MONTESANO: So in order for the federal government to even establish this law with capacity plates, they're going have to create an industry -- an industry standard, then?

HARBOR MASTER HARRY ACKER, SR.: Yes, they would have to require any new manufacturers to supply capacity plate on all vessels. That's what -- how to do it.

But, again, it's federal, as I say, with the licensing.

I know in Suffolk County, there's a move to put licensing in Suffolk County. That is not good.

We need the State to take the lead on it, and the County to support it, but don't go passing laws in small jurisdictions on licensing. It's not going to work.

ASSEMBLYMAN MONTESANO: And my last question

is, you had touched on it before, about amending the criminal procedure law, to give peace-officer status to the members of the Coast Guard while operating, you know, in New York.

So, should I understand that, currently, if a U.S. Coast Guard vessel, if [unintelligible] with a boat on Long Island waters, and they violated any of the State or local -- the State navigation law or local town law, or even boating while intoxicated, they cannot enforce? They can't take enforcement action?

HARBOR MASTER HARRY ACKER, SR.: No. No.

And, number one, they would have to -- we would have to partner with them.

The same as you said, we have to -- when you do your legislation for boating licensings, we have to talk -- Senator, you're right, we have to talk to Connecticut, we have to talk to New Jersey, because we all should get on the same page. We're sharing the same water.

The same thing, a perfect example: My son's a New York City police officer. He's also a reservist at Jones Beach. He's completely trained to be able to enforce the State law, but he's restricted, because he can only -- when he's working

for the Coast Guard, he can only enforce a federal law.

ASSEMBLYMAN MONTESANO: Thank you very much.

Thank you, Senator.

SENATOR MARCELLINO: Gentlemen, thank you for your time and your attention, and coming in.

I thank all of the witnesses who have spoken.

[Unintelligible], I give you lasting credit, you have fortitude. And -- or else, well-padded bottom.

[Laughter.]

SENATOR MARCELLINO: Either way, we appreciate the fact that you came. We appreciate your testimony.

This Committee will take the testimony, and we -- anyone who wishes to submit it in writing, who was here today, or is watching these things, over -- on your computer, or whatever, wishes to submit, we will keep the record open for a period of time.

I know -- at least until the end of this month, and we will take that testimony in, and we will be reviewing it as far as recommendations.

We will write a report to the Senate, and make recommendations as we see needed, relative to the testimony that came.

So, again, I appreciate you coming, and thank you.

And the meeting is adjourned.

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(Whereupon, at approximately 2:10 p.m., the public hearing held before the New York State Senate Standing Committee on Investigations and Government Operations, concluded, and adjourned.)