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APPROVED
OCT 17 1976

810/11/76

THE WHITE HOUSE
WASHINGTON
October 15, 1976

ACTION

Last Day: October 18

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *[Signature]*
SUBJECT: H.R. 13585 - Federal Boat Safety Act
Amendments

*Posted
10/18/76*

*archived
10/18/76*

Attached for your consideration is H.R. 13585, sponsored by Representatives Biaggi, Sullivan and Du Pont.

The enrolled bill would make a number of changes to the Federal Boat Safety Act of 1971, most of which were requested or supported by the Department of Transportation. The enrolled bill would:

- increase to 50% the maximum Federal share of State boating safety programs;
- limit to five years a manufacturer's duty to notify boat owners of safety defects;
- suspend enforcement of the Federal boating laws on certain waters in New Hampshire until a court decision is reached. The waterways involved are Lake Winnisquam, Lake Winnepesaukee, portions of the Merrimack River, and their tributary and connecting waters.
- make several other changes to the Federal Boat Safety Act.

A detailed discussion of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Kilberg) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 13585 at Tab B.



OCT 17 1976



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 9 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 13585 - Federal Boat Safety Act
Amendments
Sponsors - Rep. Biaggi (D) New York, Rep. Sullivan (D)
Missouri, and Rep. Du Pont (R) Delaware

Last Day for Action

October 18, 1976 - Monday

Purpose

Increases to 50% the maximum Federal share of State boating safety programs; limits to 5 years a manufacturer's duty to notify boat owners of safety defects; suspends enforcement of the Federal boating laws on certain waters in New Hampshire until a court decision is reached; and makes several other changes to the Federal Boat Safety Act.

Agency Recommendations

Office of Management and Budget	Approval
Department of Transportation	Approval
National Transportation Safety Board	No objection
Department of the Treasury	No recommendation

Discussion

H.R. 13585 would make a number of changes to the Federal Boat Safety Act of 1971, most of which were requested or supported by the Department of Transportation (DOT). Authorizations to carry out the programs supported by the Act for 1977 and 1978 were recently enacted by the Congress (P.L. 94-340).

The 1971 Act established a five year program to improve boating safety and to encourage and assist participation by the States, boating industry and the public in the development of boating safety programs. It authorized Federal matching grants to States

starting out at a maximum of 75% and phasing down to 33 1/3% at the end of the program. As DOT requested, P.L. 94-340 continued the maximum Federal share at 33 1/3% through 1978.

H.R. 13585, however, would increase the maximum Federal share to 50%. While this is undesirable, the amount of the Federal share for each state is at the discretion of the Secretary of Transportation and thus can be adjusted by him based on available funding and relative priorities.

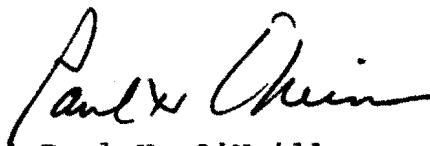
H.R. 13585 would limit to 5 years from the date of manufacture or certification of a boat, the duty of a manufacturer to notify owners of a defect discovered in their boat. Currently there is no time limitation on notifying owners of defects. The bill would leave intact the current requirement to notify dealers or distributors of defects, regardless of when the defect is discovered. This amendment was suggested by DOT in order to relieve manufacturers of the burden of maintaining up-to-date lists of the names and addresses of boat owners beyond the time when defects would normally be expected to be discovered.

H.R. 13585 would provide that until a final judicial decision is made to the contrary, certain waterways in the State of New Hampshire are declared not to be subject to the jurisdiction of the United States. The waterways involved are Lake Winnisquam, Lake Winnepesaukee, portions of the Merrimack River, and their tributary and connecting waters. This provision is a result of a dispute between the Coast Guard and New Hampshire over whether these waterways are "navigable waters" of the United States. New Hampshire wishes to construct a bridge over these waters that would not meet the standards required for "navigable waters" established by the Coast Guard. This provision would prohibit the Coast Guard from enforcing its bridge standards on these waters unless a final court decision is reached stating that the waterways are "navigable waters" of the United States. The Coast Guard authorization act for 1977 (P.L. 94-406) prohibited the expenditure of funds to enforce the Boat Safety Act in fiscal year 1977 on these waterways. In its attached views letter, DOT states that the Coast Guard is conducting a further study of the navigability of these waterways, and therefore does not object to the provision.

The enrolled bill would also make a number of other changes to the 1971 Act, many of which were requested by DOT. The more important of these amendments would:

- . authorize DOT to sell or trade boats or related equipment used in research and testing. Any monies received from such sales would be deposited in the general fund of the Treasury.
- . authorize DOT to set an effective date of up to 24 months from its issuance for any safety regulation or standard which might require boat manufacturers to undertake major product redesign, retooling, or change. Currently, the maximum period is 18 months. This was requested by DOT.
- . provide that for purposes of unobligated or unallocated funds, the transition quarter would be treated as a fiscal year. This would mean that amounts allocated during the transition period would be available for obligation by the State for a period of three years following its allocation. In addition, unallocated funds would carry over to fiscal year 1977.
- . prohibit State boat numbering fees which discriminate between State residents and non-residents. DOT supported this provision.

None of these provisions presents a serious problem.



Paul H. O'Neill
Acting Director

Enclosures



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

OCT 7 1976

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

Reference is made to your request for the views of the Department of Transportation concerning H.R. 13585, an enrolled bill

"To amend the Federal Boat Safety Act
of 1971."

The enrolled bill makes 12 amendments to the Federal Boat Safety Act of 1971 (FBSA). Of these amendments 4 are identical, in substance, to amendments proposed by the Administration (see amendments 2,3,6, and 12).

Section 15 of the FBSA (46 U.S.C. 1464) requires recreational boat manufacturers to notify customers of defects including those defects which are discovered after sale. Presently there is no time limit on this duty. Thus, manufacturers are forced to retain consumer records indefinitely. The enrolled bill (amendments 4 and 5) amends section 15 of the FBSA by limiting the duty to notify customers to a 5 year period measured from the date the vessel was made or certified. Since experience has shown that defects will normally be discovered well within 5 years, and since a high percentage of customer records older than 5 years are no longer accurate, a requirement for manufacturers to maintain the capability to notify customers for more than 5 years is not justified. This amendment, as originally proposed by industry, was vaguely worded and had a three year limitation. The provision in the enrolled bill was suggested by this Department as an acceptable alternative.

Section 18 of the FBSA (46 U.S.C. 146) requires the Secretary of Transportation to prescribe a standardized vessel numbering system to which the participating States must conform their own numbering systems. The enrolled bill (amendment 7)

requires the States to adopt the same definitions of "relevant terms" as are used by the Secretary. We question the value of this amendment but since it will not detract from the safety aspects of the FBSA, it does not warrant our opposition to the enrolled bill.

Section 20 of the FBSA (46 U.S.C. 1469) requires the "certificate of number" to be retained on board the vessel it was issued to except in the case of certain small vessels which are rented for less than 24 hours. The enrolled bill (amendment 8) extends this exception to vessels rented for any period of time less than 7 days. Present regulations which require a rental agreement to be retained on board in absence of the certificate of number can be readily adapted to this new provision and will be adequate for purposes of identifying the vessel.

The enrolled bill (amendment 9) prevents the States from discriminating in favor of their own residents by charging non-residents higher fees for vessel numbering. This has not yet occurred but there is evidence that it is under consideration in some areas. Therefore, we support the amendment as a preventive measure.

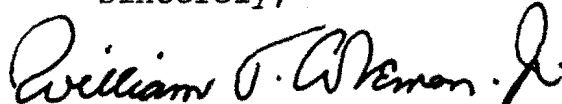
Section 27 of the FBSA (46 U.S.C. 1476) provides for the allocation of Federal funds to the States for the implementation of the FBSA. The enrolled bill amends this section by conforming it to the new October 1 fiscal year (amendment 10). We support this amendment. Amendment 11 of the enrolled bill amends section 28 of the FBSA by increasing the maximum permissible share of the Federal contribution to State boating safety programs from 33 1/3% to 50%. The original version of Section 28 of the FBSA (P.L. 92-75) provided for a gradually decreasing Federal share from 75% in FY-1972 to 33 1/3% in FY-1976. P.L. 94-344 extended the 33 1/3% share through FY-1978. Since the amendment still provides for a relatively high State share and the impact of the amendment through FY-1978 will not be substantial, we do not believe the amendment warrants the vetoing of the bill.

The enrolled bill (amendment 1) amends section 4 of the FBSA (46 U.S.C. 1453) to exclude specifically vessels used on certain New Hampshire waters from the FBSA pending judicial determination of whether the waters in question are navigable waters of the United States. Although we generally oppose

this kind of provision on policy grounds, in this case section 6 of Public Law 94-406, the Coast Guard authorization act, precludes our enforcement of the FBSA on these waters. Moreover, the Commandant has directed that the issue of navigability of these waters be studied further. Thus an objection to this provision is superfluous.

In spite of several minor objections, the enrolled bill is worthwhile. While it will not have a substantial impact on Federal expenditures, it will result in some savings to private industry. Therefore we recommend that the enrolled bill be signed by the President.

Sincerely,



William T. Coleman, Jr.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 12

Time: 1100am

FOR ACTION: Judy Hope *sign*
Bobbie Kilberg *ok*
Max Friederick *ok*

cc (for information): Jack Marsh
Ed Schmults
Steve McCahey

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 200pm

SUBJECT:

H.R.13585-Federal Boat Safety Act Amendments

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



Office of
Chairman

National Transportation Safety Board

Washington, D.C. 20594

OCT 6 1976

Mr. James M. Frey
Assistant Director for Legislation
Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Dear Mr. Frey:

This is in reply to your request for the National Transportation Safety Board's comments on H. R. 13585, an enrolled bill "To amend the Federal Boat Safety Act of 1971".

The Safety Board has no objections to enactment of H. R. 13585.

Your thoughtfulness in soliciting our views is greatly appreciated.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Webster B. Todd, Jr.", written over a horizontal line.

Webster B. Todd, Jr.
Chairman

cc: Honorable Warren G. Magnuson Honorable John J. McFall
Honorable Birch Bayh Honorable Harley O. Stagers
Honorable Robert E. Jones Honorable Jack Brooks



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

OCT 6 1976

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistance Director for Legislative
Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of H.R. 13585, "To amend the Federal Boat Safety Act of 1971."

The enrolled enactment contains twelve generally minor amendments to the Federal Boat Safety Act. Clause 11 of the enrolled enactment would amend section 28 of the Act to provide for Federal funds to cover up to 50 percent of the total cost of a State's boating program in any fiscal year. This is a change from the original intent of the Act which provided for a gradual reduction in the Federal share.

The subject matter of this enrolled enactment is not of primary concern to this Department. Therefore, we have no recommendation to make as to whether or not the enrolled enactment should be approved by the President.

Sincerely yours,


Richard R. Albrecht
General Counsel

Date: October 12

Time: 1100am

FOR ACTION: Judy Hope
Bobbie Kilberg ✓
Max Friedersdorf

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 200pm

SUBJECT:

H.R.13585-Federal Boat Safety Act Amendments

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*No objection
R Lazarus 10/13*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon,
For the President

Date: October 12

Time: 1100am

FOR ACTION: Judy Hope
Bobbie Kilberg
Max Friedersdorf

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 200pm

SUBJECT:

H.R.13585-Federal Boat Safety Act Amendments

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

X___ For Your Comments

___ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

I strongly recommend:

- 1. Signing*
- 2. Governor Thomson's (New Hampshire) presence at the signing of this bill.*

Judy Hope
10/13/76 at 11:05 am.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon,
For the President

Date: October 12

Time: 1100am

FOR ACTION: Judy Hope
Bobbie Kilberg
Max Friedersdorf

cc (for information):

Jack Marsh
Ed Schmults
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 200pm

SUBJECT:

H.R.13585-Federal Boat Safety Act Amendments

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommend Approval.
Truf

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon,
For the President

THE WHITE HOUSE
WASHINGTON

statement not used.

Judy Johnston
10/19

STATEMENT BY THE PRESIDENT

off pm

*to DJS
10/18 10:15
G. An*

Back up

I am today signing into law the Federal Boat Safety Act Amendments which make a number of changes in the Federal Boat Safety Act of 1971. This Bill simplifies Federal regulations, reduces paperwork which the Federal government requires the boating industry to prepare, and increases the Federal share in State boating safety programs.

One important aspect of this bill provides that, until a final judicial decision is made, certain waterways in the State of New Hampshire are not to be subject to the jurisdiction of the United States. The waterways are Lake Winnisquam, Lake Winnepesaukee, and portions of the Merrimack River and their tributary and connecting waters. This Act prohibits any Federal jurisdiction over these waters until a final Court determination is made:

Boating is one of America's favorite recreational passtimes, and one of our nation's most important industries. I am pleased to sign this bill today which will make boating safer and more enjoyable for the nation's citizens.

OK AD

OCT 9 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 13585 - Federal Boat Safety Act
Amendments
Sponsors - Rep. Biaggi (D) New York, Rep. Sullivan (D)
Missouri, and Rep. Du Pont (R) Delaware

Last Day for Action

October 18, 1976 - Monday

Purpose

Increases to 50% the maximum Federal share of State boating safety programs; limits to 5 years a manufacturer's duty to notify boat owners of safety defects; suspends enforcement of the Federal boating laws on certain waters in New Hampshire until a court decision is reached; and makes several other changes to the Federal Boat Safety Act.

Agency Recommendations

Office of Management and Budget	Approval
Department of Transportation	Approval
National Transportation Safety Board	No objection
Department of the Treasury	No recommendation

Discussion

H.R. 13585 would make a number of changes to the Federal Boat Safety Act of 1971, most of which were requested or supported by the Department of Transportation (DOT). Authorizations to carry out the programs supported by the Act for 1977 and 1978 were recently enacted by the Congress (P.L. 94-340).

The 1971 Act established a five year program to improve boating safety and to encourage and assist participation by the States, boating industry and the public in the development of boating safety programs. It authorized Federal matching grants to States

Signatures

starting out at a maximum of 75% and phasing down to 33 1/3% at the end of the program. As DOT requested, P.L. 94-340 continued the maximum Federal share at 33 1/3% through 1978.

H.R. 13585, however, would increase the maximum Federal share to 50%. While this is undesirable, the amount of the Federal share for each state is at the discretion of the Secretary of Transportation and thus can be adjusted by him based on available funding and relative priorities.

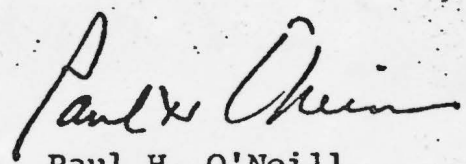
H.R. 13585 would limit to 5 years from the date of manufacture or certification of a boat, the duty of a manufacturer to notify owners of a defect discovered in their boat. Currently there is no time limitation on notifying owners of defects. The bill would leave intact the current requirement to notify dealers or distributors of defects, regardless of when the defect is discovered. This amendment was suggested by DOT in order to relieve manufacturers of the burden of maintaining up-to-date lists of the names and addresses of boat owners beyond the time when defects would normally be expected to be discovered.

H.R. 13585 would provide that until a final judicial decision is made to the contrary, certain waterways in the State of New Hampshire are declared not to be subject to the jurisdiction of the United States. The waterways involved are Lake Winnisquam, Lake Winnepesaukee, portions of the Merrimack River, and their tributary and connecting waters. This provision is a result of a dispute between the Coast Guard and New Hampshire over whether these waterways are "navigable waters" of the United States. New Hampshire wishes to construct a bridge over these waters that would not meet the standards required for "navigable waters" established by the Coast Guard. This provision would prohibit the Coast Guard from enforcing its bridge standards on these waters unless a final court decision is reached stating that the waterways are "navigable waters" of the United States. The Coast Guard authorization act for 1977 (P.L. 94-406) prohibited the expenditure of funds to enforce the Boat Safety Act in fiscal year 1977 on these waterways. In its attached views letter, DOT states that the Coast Guard is conducting a further study of the navigability of these waterways, and therefore does not object to the provision.

The enrolled bill would also make a number of other changes to the 1971 Act, many of which were requested by DOT. The more important of these amendments would:

- authorize DOT to sell or trade boats or related equipment used in research and testing. Any monies received from such sales would be deposited in the general fund of the Treasury.
- authorize DOT to set an effective date of up to 24 months from its issuance for any safety regulation or standard which might require boat manufacturers to undertake major product redesign, retooling, or change. Currently, the maximum period is 18 months. This was requested by DOT.
- provide that for purposes of unobligated or unallocated funds, the transition quarter would be treated as a fiscal year. This would mean that amounts allocated during the transition period would be available for obligation by the State for a period of three years following its allocation. In addition, unallocated funds would carry over to fiscal year 1977.
- prohibit State boat numbering fees which discriminate between State residents and non-residents. DOT supported this provision.

None of these provisions presents a serious problem.



Paul H. O'Neill
Acting Director

Enclosures

STATEMENT BY THE PRESIDENT

H.R. 13585,

I am ~~today~~ ^{have} signing ^{ed} into law the Federal Boat Safety Act Amendments which make a number of changes in the Federal Boat Safety Act of 1971. This ~~bill~~ simplifies Federal regulations, reduces paperwork which the Federal government requires the boating industry to prepare, and increases the Federal share in State boating safety programs.

One important aspect of this bill provides that, until a final judicial decision is made, certain waterways in the State of New Hampshire are not to be subject to the jurisdiction of the United States. The waterways are Lake Winnisquam, Lake Winnepesaukee, and portions of the Merrimack River and their tributary and connecting waters. This Act prohibits any Federal jurisdiction over these waters until a final Court determination is made:

Boating is one of America's favorite recreational ~~pastimes~~ ^{pastimes}, and one of our nation's most important industries. I am pleased to sign this bill today which will make boating safer and more enjoyable for the nation's citizens.



A handwritten signature in black ink, appearing to be "G. R. Ford".

FEDERAL BOAT SAFETY ACT AMENDMENTS

SEPTEMBER 16, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

MRS. SULLIVAN, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[Including cost estimate of the Congressional Budget Office]
[To accompany H.R. 13585]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 13585) to amend the Federal Boat Safety Act of 1971, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451 et seq.) is amended as follows:

(1) Section 4 is amended by adding a new subsection to read as follows:

“(d) Until such time as there is a final judicial determination that they are navigable waters of the United States, the following waters lying entirely within the State of New Hampshire, to wit: Lake Winnisquam, Lake Winnepesaukee, portions of the Merrimack River, and their tributary and connecting waters, are declared not to be waters subject to the jurisdiction of the United States, within the meaning of this section.”

(2) Section 5 is amended by striking the word “eighteen” in paragraph (1) of subsection (b) thereof, and by inserting in lieu thereof “twenty-four”.

(3) Section 8 is amended by inserting, immediately after “8.”, the subsection designation “(a)”, and adding a new subsection to read as follows:

“(b) The Secretary may conduct research, testing, and development as necessary to carry out the purposes of this Act, including the procurement (by negotiation or otherwise) of experimental and other boats or associated equipment for research and testing purposes, and the subsequent sale thereof.”

(4) Section 15 is amended, in subsection (a), by striking, at the end thereof, “defect.”, and by inserting in lieu thereof “defect: *Provided*, That the manufacturer's duty of notification under subsection (b) (1) and subsection (b) (2) of this section applies only to defects or failures of compliance discovered by the manufacturer within one of the following periods, as appropriate:

“(1) in the case of a boat or associated equipment required by regulation to have a date of certification affixed, five years from date of certification, or

“(2) in the case of a boat or associated equipment not required by regulation to have a date of certification affixed, five years from date of manufacture.”

(5) Section 15 is amended, in subsection (e), by striking, at the beginning of the third sentence thereof the word "Upon", and by inserting in lieu thereof "If the manufacturer receives notice from the Secretary within the time in which he would be required to make notification under subsection (a), upon".

(6) Section 15 is amended, in subsection (g), by striking "this section.", and by inserting in lieu thereof "this section, including, but not limited to, procedures to be followed by dealers and distributors to assist manufacturers in obtaining the information required by this section: *Provided*, That a regulation promulgated hereunder may not relive a manufacturer of any obligation imposed on him by this section."

(7) Section 18 is amended, in subsection (a), by inserting, following the second sentence thereof, a new sentence to read as follows: "In implementing and administering its numbering system, a State shall adopt any definitions of relevant terms, including, but not limited to, 'model year' and 'date of manufacture' established by the Secretary by regulation."

(8) Section 20 is amended, in subsection (a), by striking, in the second sentence the words "twenty-four hours", and by inserting in lieu thereof the words "seven days".

(9) Section 23 is amended by inserting at the end of the first sentence a new sentence to read as follows: "The fees established pursuant to authority granted by this section shall apply equally to residents and nonresidents of the State."

(10) Section 27 is amended, in subsection (a), by striking "July 1", and by inserting in lieu thereof "October 1".

(11) Section 27 is amended by adding a new subsection (f) to read as follows: "(f) In addition to the allocation provided for in subsection (d), the Secretary may allocate not more than one per centum of funds appropriated in any fiscal year for the support of activities of a national association of State boating law administrators: *Provided*, That, regardless of the percentage calculation under this subsection, the allocation shall not be less than \$70,000 in any fiscal year."

(12) Section 28 is amended, in subsection (a), by striking the first sentence thereof and by inserting, in lieu thereof, the following: "Notwithstanding the allocation ratios prescribed in section 27, the Federal funds allocated to any State in any fiscal year may not exceed fifty per centum of the total cost of that State's boating safety program in that year."

(13) Section 28 is further amended by adding a new subsection to read as follows:

"(d) For the purposes of this section, the transition period of July 1, 1976, to September 30, 1976, shall be treated as a fiscal year."

PURPOSE OF THE LEGISLATION

The purpose of the bill is to amend the Federal Boat Safety Act of 1971 in several particulars, in order to clarify certain provisions of the basic Act and to correct deficiencies, generally minor in nature, which have created some problems in the implementation of the Act.

BACKGROUND

The Federal Boat Safety Act of 1971, which has now been in effect for approximately five years, was originally enacted to improve boating safety, and to create a generally uniform safety program to foster expanded participation and enjoyment in recreational boating activities, and at the same time, to protect the increasing number of people attracted to such activities. The Act was also designed to encourage and assist participation in boating safety by the several States, the boating industry, and the boating public. While a coordinated program was determined to be necessary, in order best to utilize available resources and to avoid a bewildering array of conflicting local requirements, the Act also recognized that maximum boating safety can be insured by the active involvement and close cooperation of the various States in boating safety matters.

During the period in which the Act has been in effect, it has amply demonstrated its value. From a level of about 20 States that had some form of boating safety supervision in 1971, 51 of the 55 jurisdictions covered by the Act (Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia, in addition to the 50 States) now have numbering and casualty reporting systems approved under the provisions of section 18 of the Act. Two of the other four jurisdictions have not yet developed approved numbering systems, and the other two jurisdictions have not actively participated because of lack of necessary State funding.

In connection with boating casualty statistics, the results have not been completely satisfactory; however, fatalities in boating accidents while rising in numbers, have risen proportionately less than the increase in numbers of boats in use. It is probable that the failure to decrease the number of accidents and fatalities has been due in some degree, at least, to the fact that the advancement of safety programs in some States has not moved as rapidly as desired because of constraints flowing from the fact that appropriations under the Act have never reached the level which the Act envisioned. Of a total authorization of \$37,500,000 for the past five fiscal years, only some \$22,500,000 has actually been appropriated. This level of appropriations has not indicated any lack of support of the program by the Congress, as much as it reflects Administration priorities in the annual submission of budget requests. Hopefully, that condition will improve in future years and will reflect the views of this Committee as expressed in its recent action increasing the annual authorization to \$10,000,000 for fiscal year 1978, as contained in Public Law 94-340, approved July 6, 1976.

COMMITTEE ACTION

H.R. 13585 was introduced by the Honorable Mario Biaggi, as a result of hearings on H.R. 5630 and H.R. 9375, both of which proposed certain amendments to the basic Act. The Subcommittee on Coast Guard and Navigation held initial hearings on those two bills on September 12, 1975, and decided to report H.R. 5630 to the extent that it provided for an authorization for funding for assistance to States for the transition period, and fiscal years 1977 and 1978. That bill was ultimately enacted as Public Law 94-340. At the same time, the Subcommittee postponed action on H.R. 9375 until more testimony could be received on an overall review of the operations of the Federal Boat Safety Act. That additional information was developed during hearings held on April 1, 1976 and May 13, 1976. During the May hearings, proposed amendments in addition to those contained in H.R. 9375 were suggested by various witnesses, and the various amendments with general support from the Federal Government, State representatives, the boating industry, and the boating public were incorporated into H.R. 13585, which was introduced on May 6, 1976, and which was considered in the hearings on May 13, 1976.

The Subcommittee considered H.R. 13585 in mark-up session on September 1, 1976, and, based upon the testimony received, made several changes in the language of the bill, incorporating those changes in one single amendment. As amended, the bill was approved by unanimous voice vote and ordered reported to the Full Committee with a favorable recommendation.

The Committee on Merchant Marine and Fisheries considered the bill in mark-up session on September 14, 1976, and endorsed the action of the Subcommittee, with one amendment to the Subcommittee amendment, restoring to the language of the bill a provision which the Subcommittee had originally deleted because it did not have uniform support. The action taken by the Full Committee relates to clause 7 of the bill, as reported by the Committee. The language was restored after an explanation was received as to its demonstrated desirability and a withdrawal of some of the original reservations which had been expressed by State representatives at the Subcommittee hearings. As amended, the Committee, by unanimous voice vote, ordered the bill reported to the House.

SECTION-BY-SECTION ANALYSIS

1. This clause amends section 4 of the Act, by providing that, until there is a final judicial determination that certain waters in the State of New Hampshire are "navigable waters of the United States", they are declared not to be waters subject to the jurisdiction of the United States with respect to section 4 of the basic Act. Section 4 of the Federal Boat Safety Act makes the Act applicable to vessels and associated equipment used or to be used or carried in vessels to be used on the "waters subject to the jurisdiction of the United States" and on the high seas for vessels owned in the United States. The basic Act is also applicable to boats moving or intended to be moved in interstate commerce. This amendment preserves, for the time being, the status quo on the waters in question. It does not have any effect on the "high seas" or "interstate commerce" aspects of the Federal Boat Safety Act.

This amendment resulted from a disagreement between the State of New Hampshire and the Coast Guard, a disagreement which has not yet been resolved. As a result of a consideration by the Coast Guard of a collateral matter, the Coast Guard made an administrative determination that the waters in question are navigable waters of the United States, based upon all facts available to the Coast Guard of the historical status of those waters. Upon receipt of a protest by the State of New Hampshire that all the facts had not been considered, the administrative determination of the Coast Guard was withdrawn and no new determination has yet been issued. The Committee believes that, in view of this continuing difference of opinion between the Federal Government and the State, the Coast Guard should not, by administrative determination, now begin the enforcement of the Federal Boat Safety Act as if the waters in question are in actuality "waters subject to the jurisdiction of the United States", as that phrase is used in section 4 of the basic Act. It rather believes, and so provides in this amendment, that those waters should be considered as "non-navigable", as they have been as long as the Act has been in force, until a final judicial determination is made to the contrary.

2. This clause amends section 5 of the Act, to increase the time authorized in the Act for delay in establishing the effective date of standards requiring major redesign on the part of manufacturers.

The Act directs the Secretary, in issuing a regulation with respect to safety standards for boats or associated equipment, to specify an

effective date for such standard no earlier than 180 days from the date of issuance, with a provision that the delay could be increased to 18 months in a case involving major product design, retooling, or major change in manufacturing process, in the absence of a finding that a critical hazard exists requiring an earlier effective date. The Coast Guard and the industry agreed that the 18 months maximum time is not always sufficient, and this amendment extends that possible maximum from 18 months to 24 months, because of a conclusion that better safety standards can be developed and implemented if the effective date of major changes coincides with industry retooling cycles. The amendment should also result in a reduction of product costs flowing from modifications coincidental with existing cycles.

3. This clause amends section 8 of the Act, by adding a new subsection to specifically authorize research, testing, and development necessary to carry out the purposes of the Act. It also authorizes the Secretary to sell the research boats and equipment, once the research purposes have been served. This amendment places in specific statutory language a research and testing program which is, at present, implicit in the Act, but not explicitly stated.

4. This clause amends section 15 of the Act, by limiting the manufacturers' notification obligations under the Act. It makes the notification duty to purchasers applicable only to defects or failures of compliance discovered within five years from the date of certification or, in the absence of a certification date, within five years of the date of manufacture. This amendment will remove an onerous requirement under the present language of the Act, with respect to a requirement that manufacturers maintain a list of purchasers of their boats and equipment, without time limitation. The new five year time limit is consistent with testimony received that most defects become manifest within the first three years from date of manufacture and that practically all should become manifest within a five year period. Maintenance of purchaser identification information in manufacturers' records beyond five years is considered to be an unnecessary burden without a demonstrable benefit.

The amendment makes no change in the manufacturers' notification duty to dealers or distributors to whom the boat or associated equipment was delivered. This duty will continue without any limiting date.

5. This clause amends section 15 of the Act, relating to defects or failures of compliance discovered by the Secretary and relayed to the manufacturer for notification. It conditions the manufacturer's duty of notification upon receipt of the notice from the Secretary within the time in which he would have been required to make notification, had he himself discovered the defect or failure of compliance.

6. This clause amends section 15 of the Act, relating to the manufacturers' duty of notification by authorizing the Secretary to establish procedures to be followed by dealers and distributors in assisting manufacturers in obtaining information as to defects or failures of compliance by boats or associated equipment. The Committee recognizes that manufacturers, in many instances, rely on dealers and distributors for purchaser information and can be materially assisted in carrying out their own obligations if dealers and distributors are required to cooperate with them. It should be clear, however, that any

additional duty imposed upon dealers and distributors will not serve to relieve manufacturers of their duties, as imposed by the basic section.

7. This clause amends section 18 of the Act, by requiring States, in the implementation of their numbering systems, to follow consistent practices relating to relevant terms, as those terms are defined in the regulations of the Secretary. Under the basic section, for instance, the Coast Guard has established a hull identification number and specifies that one method of indicating a date of certification of compliance with applicable standards involves the model year of a boat hull. By definition, the model year for hull identification purposes, commences August 1 and continues through July of the succeeding year. To the extent that a State adopts a different definition for "model year", unnecessary confusion is created for the boat purchaser. The Committee believes that it is desirable, for purposes of uniformity and general understanding that relevant terms should be uniformly defined.

8. This clause amends section 20 of the Act, by changing from one day to seven days the period of time during which vessels of less than 26 feet may be rented to another for noncommercial use and the certificate of number may be retained onshore by the lessor, contrary to the usual requirement that a certificate of number shall at all times be available for inspection on the vessel when the vessel is in use. This amendment does not change the present provision of law that a vessel which does not have a certificate of number on board shall be identified while in use and comply with other proper regulatory requirements. Present regulations accomplish this purpose by requiring such a vessel to have on board a copy of the lease or rental agreement, signed by the owner or his authorized representative, and containing information as to the vessel number and the time period for which the vessel is leased or rented.

9. This clause amends section 23 of the Act, by requiring that fees established in connection with vessel numbering shall apply equally to residents and nonresidents of a State in which the vessel is numbered. This amendment will prohibit State discriminatory measures, which have been proposed, but thus far not enacted, in several States.

10. This clause amends section 27 of the Act, by requiring that allocations to the several States shall be made as soon as possible after October 1, consistent with the change of fiscal year, instead of the July 1 now required in the Act.

11. This clause amends section 27 of the Act, by authorizing the Secretary to allocate one per centum of funds appropriated in any fiscal year for the support of the activities of a national association of State boating law administrators, with such allocation in any fiscal year to be not less than \$70,000. In providing for such an allocation, the Committee does not intend that this support will be an open-ended grant, without regard to the purposes for which the funding is used. The activities to be supported must be activities which serve to carry out the basic purposes of the Federal Boat Safety Act.

It is intended that, within this allocation, the Secretary based upon his evaluation, shall furnish direct support for all the activities conducted on behalf of boating safety and State coordination through

a national association of State boating law administrators. The Committee believes that this solution for the support of such activities is much to be preferred to the existing practice through which the Secretary has allocated a part of the funds authorized for support of "national nonprofit-public service organizations". While the Committee believes that Federal support of a State boating law administrator coordinating mechanism is warranted, it does not consider that its support should compete for funds for support for such public service organizations as the American National Red Cross, the National Safety Council, the National Water Safety Congress, or other similar organizations. In effect, this amendment authorizes the Secretary to support directly a coordinating mechanism of State officials who would otherwise have to look solely to funding or fees from their individual State governments, a mechanism which, in some cases, may bog down in State bureaucratic mazes.

At the same time, the Committee recognizes that this is a somewhat unusual arrangement and intends that the Secretary carefully review the activities which are being supported and assure himself that they are contributing to the overall purpose of the Act. The Committee expects to be informed on a regular basis of the allocations made under this new authority, as well as under the existing authority for the support of public service organizations. This is particularly important in view of the "floor" which is provided for in the allocation. In establishing the minimum support to be extended, the Secretary must assure himself that the funds are being expended for legitimate purposes, and if he determines that the requested funding does not meet the purposes of the basic Act, he is expected to notify the Committee of that determination promptly.

12. This clause amends section 28 of the Act, to provide that henceforth Federal funds allocated to a State in any fiscal year may not exceed 50 percent of the total cost of that State's boating safety program for that year. This is a change in the original concept of the Act, under which the maximum share began at 75 percent in fiscal year 1972, and was gradually reduced to 33 $\frac{1}{3}$ percent in fiscal year 1976. By amendment of the Senate to H.R. 5630, this 33 $\frac{1}{3}$ percent maximum was continued for fiscal year 1977 and 1978. The amendment in this clause would change that provision to a maximum of 50 percent, without any limitation as to fiscal year, effective upon enactment of this bill.

This amendment, permanent in nature, would avoid the necessity of continuing to amend the allocation ratios by relating them to a particular fiscal year each time a new fiscal year authorization is provided.

13. This clause would amend section 28 of the Act, by providing that the transition period of July 1, 1976 to September 30, 1976, shall be treated as a fiscal year in relation to unobligated or unallocated funds. This means that amounts allocated during the transition period will be available for obligation by the State involved for a period of three years following the date of allocation and that funds available which have not been allocated at the end of the transition period may be carried forward as a part of the total allocation funds for fiscal year 1977.

COST OF THE LEGISLATION

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the Committee declares that the legislation involves no additional costs.

COMPLIANCE WITH CLAUSE 2(1) (3) OF RULE XI

With respect to the requirements of clause 2(1) (3) of rule XI of the Rules of the House of Representatives—

(A) No separate oversight hearings on the subject matter of the legislation were held. An overall review of the basic Act was conducted in connection with the hearings on H.R. 9375 and H.R. 13585;

(B) The requirements of section 308(a) of the Congressional Budget Act of 1974 are not applicable to this legislation;

(C) The Director of the Congressional Budget Office has furnished the Committee with an estimate and comparison of cost for H.R. 13585, pursuant to section 403 of the Congressional Budget Act of 1974. That submission is as follows:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 1, 1976.

HON. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MADAME CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 13585, a bill to amend the Federal Boat Safety Act of 1971.

Based on this review, it appears that no additional cost to the government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN, *Director.*

and

(D) The Committee has received no report from the Committee on Government Operations of oversight findings and recommendations arrived at, pursuant to clause 2(b) (2) of rule X.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1) (4) of rule XI of the Rules of the House of Representatives, the Committee declares that the bill has no inflationary impact.

DEPARTMENTAL REPORT

H.R. 13585 was the subject of a report from the Department of Transportation and follows herewith:

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., August 26, 1976.

HON. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: Reference is made to your request for the views of the Department of Transportation concerning H.R. 13585, a bill "To amend the Federal Boat Safety Act of 1971."

H.R. 13585 contains twelve proposed amendments to the Federal Boat Safety Act of 1971 (FBSA). Of the twelve amendments, six are identical to amendments proposed by the Department in H.R. 9375. Therefore the Department favors amendments numbered (1), (2), (5), (9), (10) and (12) for reasons outlined in the Secretary's letter of transmittal to the Speaker dated August 12, 1975, a copy of which is enclosed. It should be noted, however, that amendments to the FBSA which correspond to amendments (10), (11), and (12) of H.R. 13585 have already been enacted in Public Law 94-340.

Amendments (3) and (4) of H.R. 13585 propose that the manufacturer's duty to notify purchasers of defects be limited to a period of "three calendar years after the year in which the boat or associated equipment involved is first offered for sale by the manufacturer or within the life of the warranty on the boat or associated equipment involved, whichever period is longer."

The Department proposes that, if the manufacturer's duty to notify purchasers is to be limited, that it should be limited to a period of (a) 5 years from the date of certification for boats or associated equipment required by regulation to have a certification date affixed or (b) 5 years from date of manufacture for boats or associated equipment not required to have a certification date affixed.

This proposal has the advantage of establishing the expiration of the duty to notify by using a date that is permanently affixed to the boat or associated equipment. All boat hulls must have permanently affixed hull identification number (HIN) containing the certification date, and certain associated equipment may be required to have an affixed certification label with the date of certification. For that equipment not required by regulation to have an affixed date of certification, the date of manufacture, as determined by serial number or other means, would initiate the five year notification period. If the Committee feels it necessary to include definitions of the date of certification and date of manufacture in the FBSA, the current working definitions of these terms are found in 33 CFR 181.3(d) and 181.15(b) (date of certification) and 33 CFR 181.(e) (date of manufacture) and could be incorporated verbatim into section 3 of the FBSA.

A five year duty to notify purchasers is proposed because experience has shown that after this period purchaser address lists are of limited utility due to resales and changes in address. Furthermore, our data demonstrate that of the total number of defect campaigns conducted by the Coast Guard, virtually all have been completed within five years. This limitation of the manufacturer's duty to notify purchasers would not appreciably hinder the boat safety program and would provide reasonable relief to the manufacturers.

However, even accepting the manufacturers' argument that maintaining purchaser lists for defect notification purposes for many years after the date of manufacture is ineffectual and burdensome, there is not a similar burden in maintaining current a list of dealers and distributors to be notified of a defect under section 15(b)(3) of the Act. The dealers and distributors could serve a valuable function by posting and publicizing defect notification bulletins or by informing owners of models with a known defect. Many dealers may also have an economic incentive to notify regular customers and to repair the defect. The Department opposes relieving the manufacturer of his duty to notify dealers and distributors of safety related defects.

In order to eliminate the expense and ineffectuality of requiring the maintenance of outdated purchaser lists, while at the same time maintaining the manufacturer's duty to publicize and correct, at his sole expense, a defect or a failure of compliance, the following substitute for proposed amendment (3) is suggested:

"Section 15 is amended in subsection (a) by striking at the end thereof, "defect," and by inserting in lieu thereof "defect: Provided that the manufacturer's duty of notification under subsection (b)(1) and (b)(2) of this section, applies only to defects or failures of compliance discovered by the manufacturer within one of following periods, as appropriate: (1) In the case of a boat or associated equipment required by regulation to have a date of certification affixed, 5 years from date of certification, or (2) in the case of a boat or associated equipment not required by regulation to have a date of certification affixed, 5 years from date of manufacture."

This amendment to section 15 of the Act would limit the manufacturer's duty to notify to that period which is administratively effective and would maintain the duty to notify all dealers or distributors to which the boat or equipment was delivered. If the proposed substitute for amendment (3) is adopted, the Department recommends passage of proposed amendment (4) of H.R. 13585.

Because the FBSA establishes the manufacturer's duty to correct defects in section 15(c) through the medium of the manufacturer's notification to purchasers, any limitation in the manufacturer's duty to notify purchasers may, by implication, limit the manufacturer's duty to correct defects. Should the Committee agree to limit the manufacturer's duty to notify consumers, we suggest an additional amendment to section 12 or 15 or both, to clarify that the termination of the manufacturer's duty to notify does not terminate or limit the manufacturer's duty to take measures to correct a defect or a failure of compliance, whenever discovered, at his sole expense.

The Department strongly supports amendment (5) of H.R. 13585 which would give the Secretary the authority to issue regulations to require boat dealers and distributors to assist the manufacturer in obtaining information concerning boat defects and purchaser lists. This important Administration proposal, contained in H.R. 9375, will greatly increase the effectiveness of the defect notification program.

The Department opposes proposed amendment (6) of H.R. 13585. The Coast Guard uses the "model year" and the "date of manufacture" on the Hull Identification Number of a boat only to establish the safety regulations which apply to the boat. The definitions are not

designed for, and have no relation to, the needs of the states in the administration of their approved boat numbering systems. The Department opposes imposing on the states a requirement that has no safety implications, and for which there has been no demonstrated need.

The Department concurs in the first clause of amendment (7) which would amend section 23 of the Act to require that boat numbering fees apply equally to residents and non-residents. This amendment is in accordance with the Coast Guard's position that a state may not discriminate between resident and non-resident applicants for boat numbers.

However, the second clause of proposed amendment (7) of H.R. 13585 (page 3, lines 15-17 of the bill) will cause more confusion than clarification. Many states operate their boating safety programs out of a general fund; numbering fees in these states are payable to the general fund. If the proposed language is added, states with a general fund would not be able to require proof of payment of state or local taxes as a condition of numbering, though a direct fee-funded state program could continue as under the present statute. It was the intent of Congress in the FBSA, that states be able to require proof of payment of applicable state and local taxes as a condition to renumbering. The Department recommends that the second numbered clause of the second sentence of section 23 of the Act not be changed.

The Department supports amendment (8) of H.R. 13585 which conforms the timing of the allocation of Federal boating safety funds to the new fiscal year. The FBSA provided for allocation of the Federal share as soon as possible after the first day of the fiscal year then in effect. The proposed amendment would maintain that timing.

With the exceptions noted above, the Department endorses H.R. 13585. It contains all of the substantive proposals of the Administrative bill, H.R. 9375, that have not been enacted previously in Public Law 94-340.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

DONALD T. BLISS,
Acting General Counsel.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., August 12, 1975.

HON. NELSON A. ROCKEFELLER,
President of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill, "To amend the Federal Boat Safety Act of 1971 to extend the authorization of appropriations for financial assistance for State boating safety programs beyond fiscal year 1976, and for other purposes."

Under the Federal Boat Safety Act of 1971, Federal financial assistance to the States for the purpose of encouraging and assisting State boating safety programs will expire at the end of fiscal year 1976.

Statistics from the first three years of this program show that it has encouraged the States to increase boating safety budgets. The level and quality of boating safety programs has consequently improved.

The Federal Boat Safety Act of 1971 authorized the U.S. Coast Guard to establish safety standards for the construction of recreational boats. In addition, it authorized a program of Federal financial assistance to help States improve existing boat safety programs and to encourage others to develop new programs in this area.

Utilizing the authority granted by this Act, the Coast Guard has made substantial progress in the regulation of boat construction to assure high levels of safety. Moreover, the financial assistance program has had the intended effect of encouraging many states to expand the level and improve the quality of their boat safety programs.

Boating accident statistics show that in 1974, the lowest rate of boating fatalities per 100,000 boats occurred since we began keeping these statistics in 1961. In our view, the improved State boating safety programs have materially contributed to this decline.

When the 1971 Act was enacted, the financial assistance provisions were conceived by the Executive Branch and by the cognizant Congressional Committees as a five-year program designed to induce States to start boat safety programs or to increase activity in this field. This was the basis for providing that the Federal matching share for grants received would be phased down over the five-year authorization period from 75 percent to 33 $\frac{1}{3}$ percent.

Because of the phasing of the authorization and budget cycles, the grant program has for practical purposes been in extensive operation for only three years. To provide the full test of this financial assistance concept envisaged by the original Act, the proposed bill authorizes the extension of the Federal financial assistance program for an additional two fiscal years at the currently authorized level of \$7,500,000. The present requirement of one-third Federal, two-third State would also be continued.

During this two year extension, the Coast Guard will assess carefully the results of this program to provide the Executive Branch and the Congress with more complete guidance on appropriate future directions for this effort. In addition, the Department will also continue its efforts to develop a strong and well-defined Federal-State partnership in the execution of a comprehensive boating safety program.

Although the primary purpose of this proposed legislation is to extend the authorization for the Federal financial assistance program, the bill also contains amendments to the Federal Boat Safety Act to clarify ambiguities or resolve problems which have arisen over the last four years. These amendments clarify which States are eligible to receive financial assistance; provide for limited audit expenses, auditing being essential to the proper administration of the financial assistance program; provide the Secretary with increased discretion in establishing the effective date of regulations or standards which require major product redesign, retooling, or change; and authorize the Secretary to require dealers and distributors to assist manufacturers in obtaining first purchaser information to make the defect notification program more effective.

Enactment of the proposed bill would cost \$1,500,000 for the transition period of July 1, 1976 to September 30, 1976, and \$7,500,000 for fiscal years 1977 and 1978. It is recommended that the proposed legislation be enacted by Congress.

The Office of Management and Budget has advised that this proposed legislation is consistent with the Administration's program.

Sincerely,

WILLIAM T. COLEMAN, JR.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic; existing law in which no change is proposed is shown in roman):

FEDERAL BOAT SAFETY ACT OF 1971 (AS AMENDED) 85 STAT. 213; 46 U.S.C. 1451

* * * * *
SEC. 4. (a) This Act applies to vessels and associated equipment used, to be used, or carried in vessels used, on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas by vessels owned in the United States.

(b) Sections 5 through 11 and subsections 12(a) and 12(b) of this Act are applicable also to boats moving or intended to be moved in interstate commerce.

(c) This Act, except those sections where the content expressly indicates otherwise, does not apply to—

- (1) foreign vessels temporarily using waters subject to United States jurisdiction;
- (2) military or public vessels of the United States, except recreational-type public vessels;
- (3) a vessel whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such;
- (4) ships' lifeboats.

(d) *Until such time as there is a final judicial determination that they are navigable waters of the United States, the following waters lying entirely within the State of New Hampshire, to wit: Lake Winnisquam, Lake Winnepesaukee, portions of the Merrimack River, and their tributaries and connecting waters, are declared not to be waters subject to the jurisdiction of the United States, within the meaning of this section.*

SEC. 5. (a) The Secretary may issue regulations—

- (1) establishing minimum safety standards for boats and associated equipment, and establishing procedures and tests required to measure conformance with such standards. Each standard shall be reasonable, shall meet the need for boating safety, and shall be stated, insofar as practicable, in terms of performance;

(2) requiring the installation, carrying, or using of associated equipment on boats and classes of boats subject to this Act; and prohibiting the installation, carrying, or using of associated equipment which does not conform with safety standards established under this section. Equipment contemplated by this clause includes, but is not limited to, fuel systems, ventilation systems, electrical systems, navigational lights, sound producing devices, fire fighting equipment, lifesaving devices, signaling devices, ground tackle, life and grab rails, and navigational equipment.

(b) A regulation or standard issued under this section—

(1) shall specify an effective date which is not earlier than one hundred and eighty days from the date of issuance, except that this period shall be increased in the discretion of the Secretary to not more than [eighteen] *twenty-four* months in any case involving major product design, retooling, or major changes in the manufacturing process, unless the Secretary finds that there exists a boating safety hazard so critical as to require an earlier effective date; what constitutes major product redesign, retooling, or major changes shall be determined by the Secretary;

(2) may not compel substantial alteration of a boat or item of associated equipment which is in existence, or the construction or manufacture of which is commenced before the effective date of the regulation; but subject to that limitation may require compliance or performance to avoid a substantial risk of personal injury to the public that the Secretary considers appropriate in relation to the degree of hazard that the compliance will correct; and

(3) shall be consistent with laws and regulations governing the installation and maintenance of sanitation equipment.

* * * * *

SEC. 8. (a) The Secretary may, subject to such regulations, supervision, and review as he may prescribe, delegate to any person, or private or public agency, or to any employee under the supervision of such person or agency, any work, business, or function respecting the examination, inspection, and testing necessary for compliance enforcement or for the development of data to enable the Secretary to prescribe and to issue regulations and standards, under sections 5 and 6 of this Act.

(b) *The Secretary may conduct research, testing, and development as necessary to carry out the purposes of this Act, including the procurement (by negotiation or otherwise) of experimental and other boats or associated equipment for research and testing purposes, and the subsequent sale thereof.*

* * * * *

SEC. 15. (a) Every manufacturer who discovers or acquires information which he determines, in the exercise of reasonable and prudent judgment, indicates that a boat or associated equipment subject to an applicable standard or regulation prescribed pursuant to section 5 of this Act either fails to comply with such standard or regulation, or contains a defect which creates a substantial risk of personal injury to the public, shall, if such boat or associated equipment has left the place of manufacture, furnish notification of such defect or failure of compliance as provided in subsections (b) and (c) of this section, within

a reasonable time after the manufacturer has discovered the [defect.] *defect: Provided, That the manufacturer's duty of notification under subsection (b) (1) and subsection (b) (2) of this section applies only to defects or failures of compliance discovered by the manufacturer within one of the following periods, as appropriate:*

(1) *in the case of a boat or associated equipment required by regulation to have a date of certification affixed, five years from date of certification, or*

(2) *in the case of a boat or associated equipment not required by regulation to have a date of certification affixed, five years from date of manufacture.*

* * * * *

(e) If through testing, inspection, investigation, research, or examination of reports carried out pursuant to this Act the Secretary determines that any boat or associated equipment subject to this Act—

(1) fails to comply with an applicable standard or regulation prescribed pursuant to section 5; or

(2) contains a defect which relates to safety, and if the Secretary determines that notification provided under this section is appropriate, he shall notify the manufacturer of the boat or associated equipment of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include a synopsis of the information upon which the findings are based. [Upon] *If the manufacturer receives notice from the Secretary within the time in which he would be required to make notification under subsection (a), upon receipt of such notice, the manufacturer shall furnish the notification described in subsection (c) to the persons designated in subsection (b), unless the manufacturer disputes the Secretary's determination, in which case the Secretary shall afford such manufacturer an opportunity to present his views to establish that there is no failure of compliance or defect relating to safety. Where the Secretary determines it is in the public interest, he may publish notice of such proceeding in the Federal Register and afford interested persons, including the Boating Safety Advisory Council, an opportunity to comment thereon. If after such presentation by the manufacturer the Secretary determines that such boat or associated equipment does not comply with an applicable standard or regulation, or that it contains a defect related to safety, the Secretary may direct the manufacturer to furnish the notification specified in subsection (c) of this section to the persons specified in subsection (b) of this section.*

* * * * *

(g) The Secretary is authorized to promulgate regulations defining and establishing procedures and otherwise furthering the purposes of [this section.] *this section, including, but not limited to, procedures to be followed by dealers and distributors to assist manufacturers in obtaining the information required by this section: Provided, That a regulation promulgated hereunder may not relieve a manufacturer of any obligation imposed on him by this section.*

* * * * *

SEC. 18. (a) The Secretary shall establish by regulation a standard numbering system for vessels. Upon application by a State the Secretary shall approve a State numbering system which is in accord with

the standard numbering system and the provisions of this Act relating to numbering and casualty reporting. *In implementing and administering its numbering system, a State shall adopt any definitions of relevant terms, including, but not limited to, "model year" and "date of manufacture" established by the Secretary by regulation.* A State with an approved system is the issuing authority under the Act. The Secretary is the issuing authority in States where a State numbering system has not been approved.

* * * * *

SEC. 20. (a) A certificate of number granted under this Act shall be pocket size, shall be at all times available for inspection on the vessel for which issued when the vessel is in use, and may not be valid for more than three years. The certificate of number for vessels less than twenty-six feet in length and leased or rented to another for the latter's noncommercial use of less than [twenty-four hours] *seven days* may be retained on shore by the vessel's owner or his representative at the place from which the vessel departs or returns to the possession of the owner or his representative. A vessel which does not have the certificate of number on board shall be identified while in use, and comply with such other requirements, as the issuing authority prescribes.

* * * * *

SEC. 23. The issuing authority may prescribe regulations and establish fees to carry out the intent of sections 17 through 24 and section 37 of this Act. *The fees established pursuant to authority granted by this section shall apply equally to residents and nonresidents of the State.* A State issuing authority may impose only terms and conditions for vessel numbering (1) which are prescribed by this Act or the regulations of the Secretary concerning the standard numbering system, or (2) which relate to proof of payment of State or local taxes.

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SEC. 27. (a) The Secretary shall allocate the amounts appropriated to the several States as soon as practicable after [July 1] *October 1* of each fiscal year for which the funds are appropriated.

* * * * *

(f) *In addition to the allocation provided for in subsection (d), the Secretary may allocate not more than one per centum of funds appropriated in any fiscal year for the support of activities of a national association of State boating law administrators: Provided, That, regardless of the percentage calculation under this subsection, the allocation shall not be less than \$70,000 in any fiscal year.*

* * * * *

SEC. 28. (a) [Notwithstanding the allocation ratios prescribed in section 27 of this Act, the Federal share of the total annual cost of a State's boating safety program may not exceed 75 per centum in fiscal year 1972, 66 $\frac{2}{3}$ per centum in fiscal year 1973, 50 per centum in fiscal year 1974, 40 per centum in fiscal year 1975, and 33 $\frac{1}{3}$ per centum in fiscal year 1976, the fiscal transition period of July 1, 1976, to September 30, 1976, and each of the two succeeding fiscal years.] *Notwithstanding the allocation ratios prescribed in section 27, the Federal*

funds allocated to any State in any fiscal year may not exceed fifty per centum of the total cost of that State's boating safety program in that year. No State may receive more than 5 per centum of the Federal funds appropriated or available for allocation in any fiscal year.

(b) Amounts allocated to a State shall be available for obligation by that State for a period of three years following the date of allocation. Funds unobligated by the State at the expiration of the three-year period shall be withdrawn by the Secretary and shall be available with other funds to be allocated by the Secretary during that fiscal year.

(c) Funds available to the Secretary which have not been allocated at the end of a fiscal year shall be carried forward as part of the total allocation funds for the next fiscal year for which appropriations are authorized by this Act.

(d) *For the purposes of this section, the transition period of July 1, 1976, to September 30, 1976, shall be treated as a fiscal year.*

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Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To amend the Federal Boat Safety Act of 1971.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451 et seq.) is amended as follows:

(1) Section 4 is amended by adding a new subsection to read as follows:

“(d) Until such time as there is a final judicial determination that they are navigable waters of the United States, the following waters lying entirely within the State of New Hampshire, to wit: Lake Winnisquam, Lake Winnepesaukee, portions of the Merrimack River, and their tributary and connecting waters, are declared not to be waters subject to the jurisdiction of the United States, within the meaning of this section.”

(2) Section 5 is amended by striking the word “eighteen” in paragraph (1) of subsection (b) thereof, and by inserting in lieu thereof “twenty-four”.

(3) Section 8 is amended by inserting, immediately after “8,” the subsection designation “(a)”, and adding a new subsection to read as follows:

“(b) The Secretary may conduct research, testing, and development as necessary to carry out the purposes of this Act, including the procurement (by negotiation or otherwise) of experimental and other boats or associated equipment for research and testing purposes, and the subsequent sale thereof.”

(4) Section 15 is amended, in subsection (a), by striking, at the end thereof, “defect.”, and by inserting in lieu thereof “defect: *Provided*, That the manufacturer’s duty of notification under subsection (b) (1) and subsection (b) (2) of this section applies only to defects or failures of compliance discovered by the manufacturer within one of the following periods, as appropriate:

“(1) in the case of a boat or associated equipment required by regulation to have a date of certification affixed, five years from date of certification, or

“(2) in the case of a boat or associated equipment not required by regulation to have a date of certification affixed, five years from date of manufacture.”

(5) Section 15 is amended, in subsection (e), by striking, at the beginning of the third sentence thereof the word “Upon”, and by inserting in lieu thereof “If the manufacturer receives notice from the Secretary within the time in which he would be required to make notification under subsection (a), upon”.

(6) Section 15 is amended, in subsection (g), by striking “this section.”, and by inserting in lieu thereof “this section, including, but not limited to, procedures to be followed by dealers and distributors to assist manufacturers in obtaining the information required by this section: *Provided*, That a regulation promulgated hereunder may not relieve a manufacturer of any obligation imposed on him by this section.”.

(7) Section 18 is amended, in subsection (a), by inserting, following the second sentence thereof, a new sentence to read as follows: "In implementing and administering its numbering system, a State shall adopt any definitions of relevant terms, including, but not limited to, 'model year' and 'date of manufacture' established by the Secretary by regulation."

(8) Section 20 is amended, in subsection (a), by striking, in the second sentence the words "twenty-four hours", and by inserting in lieu thereof the words "seven days".

(9) Section 23 is amended by inserting at the end of the first sentence a new sentence to read as follows: "The fees established pursuant to authority granted by this section shall apply equally to residents and nonresidents of the State."

(10) Section 27 is amended, in subsection (a), by striking "July 1", and by inserting in lieu thereof "October 1".

(11) Section 28 is amended, in subsection (a), by striking the first sentence thereof and by inserting, in lieu thereof, the following: "Notwithstanding the allocation ratios prescribed in section 27, the Federal funds allocated to any State in any fiscal year may not exceed fifty per centum of the total cost of that State's boating safety program in that year."

(12) Section 28 is further amended by adding a new subsection to read as follows:

"(d) For the purposes of this section, the transition period of July 1, 1976, to September 30, 1976, shall be treated as a fiscal year."

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*