



STATE OF CONNECTICUT

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – March 8, 2010
Environment Committee

Testimony Submitted by Commissioner Amey W. Marrella
Department of Environmental Protection

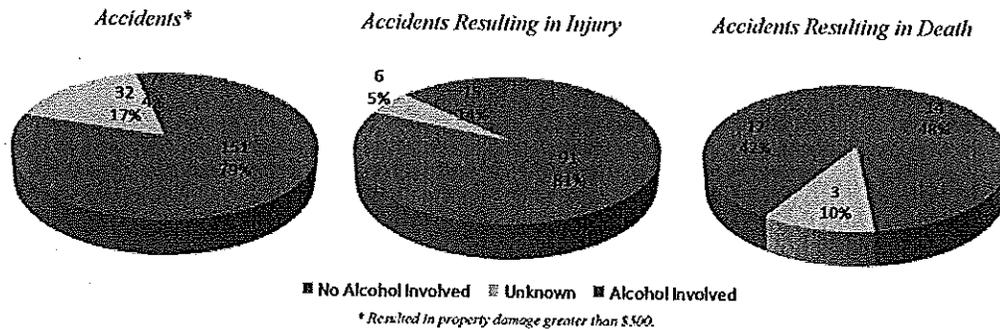
Senate Bill No. 272 (Raised) - AN ACT CONCERNING DRUNK BOATING

Thank you for the opportunity to present testimony regarding Senate Bill No. 272 (Raised), AN ACT CONCERNING DRUNK BOATING. The Department of Environmental Protection (Department) supports this bill that would put boating law in line with proposed changes to the Connecticut Driving Under the Influence (DUI) law. Under current law, chemical tests of a person's blood, breath or urine are administered to determine if the person operating a vessel upon the waters of this state was under the influence of intoxicating liquor, or drugs or both. These tests are only admissible as evidence in Boating Under the Influence (BUI) cases if the blood, breath, or urine samples are taken within two hours of an incident.

The proposed bill introduces needed flexibility into this law by allowing such tests to be used as evidence for an alleged offense when administered outside the current two hour window for: 1) the administrative *per se* hearing process, and 2) with supporting expert testimony to establish the validity of the tests in the criminal proceeding. The Department welcomes the opportunity to work with the Environment Committee and proponents of the bill to improve the language of the bill.

The current two hour time limit to test an alleged drunken boater is too restrictive given the unique demands placed on the officer in processing incidents on the water. Marine police officers must engage the accused, make a preliminary assessment of the condition of the accused, secure the scene on the water, safely move the accused and all vessels to the shore and at times remove the vessel from the water, secure the scene at the shore, allow the accused a rest period, re-assess the accused with field sobriety tests, and failing those tests, collect evidence, collect statements, and transport the accused to the nearest certified breathalyzer instrument to apply a breathalyzer test.

Boating under the influence of alcohol is a major contributor to boating fatalities in Connecticut and is a growing problem. Boating accident data from 2004 – 2008 demonstrate that as the severity of the boating accident increases, the number of boating accidents that involve alcohol increases. While the proportion of boating accidents involving alcohol is small for accidents involving property damage, that number increases with those involving injuries and deaths, with alcohol being involved in forty-two percent (42%) of the deaths.



Additionally, when we look at the number of people who died in those boating accidents, 29% of the people between 2003 and 2007 died in a boating accident where alcohol was involved. However, in 2008 and 2009, sixty-three (63%) of the deaths each year involved alcohol. That is to say that in 2008, 7 of 11 people died in boating accidents that involved alcohol and in 2009, 5 of 8 people died in boating accidents where alcohol was involved. The Department is concerned by this trend.

The goal of the administrative suspension program is to ensure the safety of other boaters by temporarily removing boaters that are arrested for BUI from boating on Connecticut waters by suspending the person's boating certificate or privilege to operate. However, the Department witnesses more and more attempts to use the two hour time limit as a tool to overturn the suspension, even where other ample evidence of intoxication exists. Lowering, but not eliminating the bar on one of the four criteria required to be proven to suspend the boating certificate or privilege to operate a boat of someone arrested for BUI will ensure that the process remains fair for both sides, as intended.

Testing protocols still require the officers to act within a reasonable time limit to ensure that after they have established probable cause, the suspect's blood alcohol content (BAC) does not fall below the legally defined "elevated" level. The proposed law ensures that law enforcement officers can process the scene in a methodical way that insures the safety of all involved, and allows the Department to keep unsafe boaters temporarily off the waters with an efficient administrative process and, in criminal proceedings, requires that tests taken outside the two hour window be substantiated by accompanying expert testimony.

The ultimate goal is to save lives by reducing boating fatalities attributed to alcohol use. It may be of interest to note that prior to 2003 when the law was changed to mirror Department of Motor Vehicle (DMV) law there was no two hour window for BUI.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact the Department's legislative liaison, Robert LaFrance, at 424-3401 or Robert.LaFrance@CT.gov.