
Task Force Meeting

of

ASSEMBLY TASK FORCE ON WATERWAY SAFETY

“Testimony concerning waterway safety”

LOCATION: Ocean City Council Chambers
Ocean City, New Jersey

DATE: September 20, 2002
2:00 p.m.

MEMBERS OF TASK FORCE PRESENT:

Assemblyman Robert J. Smith II, Chairman
Assemblyman Gordon M. Johnson
Assemblyman Nicholas Asselta
Assemblyman Jeffrey W. Moran



ALSO PRESENT:

Wendy S. Whitbeck
Office of Legislative Services
Task Force Aide

Beth Schroeder
Assembly Majority
Task Force Aide

Jerry Traino
Assembly Republican
Task Force Aide

Meeting Recorded and Transcribed by
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ASSEMBLYMAN ROBERT J. SMITH II (Chairman): I think we're going to get started. We were waiting for one other member, but he's coming from Bergen County. It's Friday afternoon. The traffic may be busy. I'm sure he will be here at some point.

Before I ask that the roll call take place, I just want to let everybody know that Assemblyman Jeff Van Drew is also a member of this Task Force. However, his father passed away Wednesday night. His father lived in Florida, so he's down in Florida with his family.

So, if we could just get started with the roll call.

MS. WHITBECK (Task Force Aide): Assemblyman Moran.

ASSEMBLYMAN MORAN: Present.

MS. WHITBECK: Assemblyman Asselta.

ASSEMBLYMAN ASSELTA: Here.

MS. WHITBECK: And Chairman Smith.

ASSEMBLYMAN SMITH: Here.

I think I'd like to open up and start by having each of the Task Force members introduce themselves. And if they have any brief opening remarks, that would be great.

We'll start with Assemblyman Moran.

ASSEMBLYMAN MORAN: Thank you, Bob.

First of all, it's always a pleasure to be here in Ocean City. Once upon a time, I spent quite a bit a of time here when I served in the Coast Guard, stationed out of Cape May. I am very familiar with, back then, the water conditions and the water safety that was as imperative then as it is today. I live in Ocean County. I live right off the water. I don't live on the water.

I'm an avid sailor. I try to take a great deal of interest in representing many shore communities, especially those on Long Beach Island and Seaside Heights and Seaside Park that go right into the Barnegat Bay, into Toms River, right out down into the Egg Harbor Bay.

So, Bob, I look forward to this committee. I think the Speaker has made a very, very good choice of people on the committee. I think everybody that's on it is going to be extremely responsible and respectable of the State Marine Police, as well as the Coast Guard and the local police that make an effort.

Len Connors, which is my Senator -- Chris Connors, which is my colleague in the Assembly -- we've been very, very active with the personal watercraft legislation. We are the sponsors of the existing law. And we have pending legislation, which has passed the Senate already. It's waiting to be moved in the Assembly, which I expect to be moving very shortly. That's going to be changing that regulation to make it stricter for the use of personal watercraft on the shorelines near boats and crafts and beach lines and other recreational facilities throughout the state.

There's a lot, I think, that each and every one of us personally have to offer this committee. And, again, I think it's going to be a task that's going to be easy to fulfil because of the kinds of people that I know -- that I've recognized in the audience, whether it be State Police or the Coast Guard or from the communities.

So, again, if you would relay to the Speaker, if you see him before I do on Monday, thank you very much for the appointment on this committee. And I think we'll do a great job.

Thank you.

ASSEMBLYMAN SMITH: Thank you.

Assemblyman Asselta.

ASSEMBLYMAN ASSELTA: Thank you, Mr. Chairman. Congratulations for being named to, I think, this very important committee.

Let me just first briefly welcome you to Ocean City. I've represented this community for the last eight years in the General Assembly. And I represent the first legislative district, which begins here along the coast in Somers Point, over the causeway here in Ocean City, and goes all the way to Cape May Point and stretches all the way out in Cumberland County along the bay.

So, you can clearly understand why myself and Assemblyman Van Drew, who also represents this district, are on this committee. We have boating interests throughout our legislative district, whether it's Cumberland County on the Cohansey River, Cape May County on the coast here, and also Atlantic County with Somers Point right across the causeway.

I would hope, as this committee develops, we will expand our kind of interest into issues that affect the boating industry -- recreation boating industry, like dredging, most importantly. I don't know if today there's going to be any testimony to that effect, but dredging our waterways and our causeways, allowing recreational boats to get in and out freely, contribute to the safety issue. So, that's an issue I think I'm going to focus on along with all the other safety issues this particular committee is going to address.

So, once again, I welcome everybody.

And congratulations, Assemblyman, for this fine chairmanship.

ASSEMBLYMAN SMITH: Thank you.

Just by way of introduction, my name is Bob Smith. I'm an Assemblyman from the fourth district, which is Camden and Gloucester counties. I'm chairing this Task Force. I had made a request to the Speaker some time ago, and he thought it was a good idea based on some of the preliminary statistics that we've seen this summer regarding fatalities along our coast and accidents in the State of New Jersey.

I have a very personal interest in this subject, because I've been a boat owner, probably, for the last 15 years. And I currently keep my boat in Lower Township, which is the first district. And I spend a lot of time with my children, my wife, nieces, nephews on my boat fishing, crabbing, skiing. So it's very important to me, personally, that we do everything we can in the State of New Jersey to ensure that we have the safest possible waterways, inland and off the coast, in terms of New Jersey's jurisdiction.

I think we have a very good array of witnesses here today. It is the intention of this Task Force-- And the Speaker told me that he wanted me to put together a plan. And essentially, the plan is go and have testimony today -- a hearing today, probably a second, and then a third one. And it's my hope that with these three -- minimum of three hearings, we'll be able to formulate a package of bills, which will be, hopefully, introduced by late winter, early spring of next year. And the full intention, as I said previously, is to make our waterways safer.

Along with my personal interest, I've had a couple of constituents that have been horribly impacted by accidents in the State of New Jersey. I met Rosemary Decker, who now lives in my district in Williamstown -- I'm not

sure how long ago it was -- maybe a year or so ago. And she came to my office along with one of her husband's friends and explained a horrible situation that happened to them a couple of years ago. In addition to that, I also had another acquaintance whose son was killed in Ocean City a year or two ago with a boating accident.

So I think what we're trying to do is to put a personal perspective, put a personal face on what I perceive to be the problem, as well as having some of our experts from the Coast Guard and State Police, recreational boating industry, and the commercial boating industry in the industry itself give us some impact so that we can have intelligent, rational bills when we introduce them next spring.

So, what I'd like to do is, we have half a dozen, seven witnesses here. I think I'd like to begin with Rosemary Decker, the wife of Tom Decker, who was killed August (*sic*) 12 of the year 2000. And she can put, as I said, a personal perspective on the problem. I know she has some very strong opinions about what she perceives to be the problem. And I think it would be very great to start with Rosemary.

Just keep in mind, the testimony here today is being taped. It is going to be transcribed. It's probably going to go to the Attorney General's Office, Criminal Justice, and the appropriate authorities within the State. So, it's important that you state your full name, spell it, address so that we can just keep track of the testimony of the witnesses.

Thank you, Rosemary.

R O S E M A R Y D E C K E R: Thank you very much for allowing this committee to happen -- or to start it. I appreciate that very much.

My name is Rosemary Decker, D-E-C-K-E-R. I live at 1706 Hessian Drive, in Williamstown. I've since moved there after my husband passed away.

And the reason I have a passion for changing the boating safety laws now is because my husband and three of his friends were in a horrific accident on October 12, 2000. That was the same exact day as the U.S.S. Cole was terrorized, as a matter of fact.

So, my husband and his buddies-- He was the youngest man on there. He was the captain of the boat. My husband had been boating for 40 years. He actually had been fishing since he was four, so he's been on the water. He loved the water. He had a boat before this. He had a lot of experience. I never worried about him. He had such-- He was so safety conscious in the way he maintained his boat. He made sure everything was on there, always made sure that he got the right size fish the right year depending on how it was legislated. He had markers on his boat and everything, because he was always conscious about that.

He was always safety conscious where he worked, too. He had a 20-year safety record with no accidents -- for 20 years at United Parcel Service. So, that's how conscious he was.

And I never worried about him. He had a really good sixth sense about the weather, too, when he was out there. I've been out with him, and he said -- he looked around and said, "I think we've got to go in. There's a storm coming." I couldn't see the storm, but he did. So, he had a sixth sense about that, too, as I guess most people who spend time on the water do, too. I don't know for sure, but I know he did.

But on October 12, him and his buddies-- And his buddies were older. They were in their 70s, but they were very robust men. They were very healthy, robust men. They went fishing every weekend with my husband. And after the fishing trip, they'd be in my backyard cleaning their fish. And that day, when I came home, they weren't there. And I knew something was wrong. I turned on the TV, and the accident was on the television.

So, I finally got a hold of a Marine Police station. I had to call the Coast Guard. I didn't know if it was my husband at that point. I called the Coast Guard, and they didn't know. And I called all the Marine Police, and finally they said, "Yes, ma'am, it was your husband's boat." But he didn't tell me he had died, because they're not allowed to tell you on the phone. They came that night and told me he had died.

One man survived, Mr. Hartley, who came to your office. But he has suffered greatly from it because he-- Physically he's okay, but mentally, he's not. He can't ever go fishing again because of this, because they saw that 60-foot yacht coming right at them. And for some reason, my husband couldn't start the boat at that time. I don't know if it was panic or what. He was dead in the water. He was adrift, looking for a fishing spot.

He made an effort to start the boat, because he did see the boat coming towards him. But the man on the other boat, which was a 60-foot yacht -- and I don't know how many tons that is, but that's a big piece of machinery coming at a small boat. And he ran right over him. And Mr. Hartley had jumped off the boat, and he saved his life. One man they never found. They never found him. They found my husband, and they found Mr. Shiko.

As a result of that-- My husband also believed that a license should be required for boating, even though he didn't pursue it. Even though he had been boating for 40 years, he was willing to take the test. And I hope that most boaters will because I think--

Most of the public are totally unaware. People that aren't in the boating community are totally unaware that you don't need a license to drive a boat. You need one for a car. And some of these boats are much bigger and heavier than a car. And there's no brakes on these things. Most people do know how to maneuver them, but still, you can't stop on a dime out there.

Well, anyway, the man was-- There were criminal charges against the man that ran over my husband, but it came to a hung jury. He pleaded guilty, but he's getting -- I think he's going to get, like, six months in jail for killing three people. That's the reason I have, now, a passion for trying to change some of the boating safety laws -- and because there are a lot of people now that have money that can buy boats. There's so many boats out there now. And years ago there wasn't. And now there are so many out there. Something has to change.

What I would like to see happen is a license required and a testing and boating safety courses, which is not even required -- only if you're born at a certain age -- in the '70s or something. I don't know. You guys probably had that passed. What is the age?

ASSEMBLYMAN MORAN: It's up to 12 -- up to 13 and then 13 to 17, there's a different regulation.

MS. DECKER: But now my kids are 30. They can go buy a boat. And if you have any brain cells working at all, you would take the boating

safety course. But there are a lot of people that wouldn't. So, to me, that's important -- taking boating safety courses. My husband had taken it on six different occasions because he loved boating so much. And no matter how he was involved in boating, he was there. He even-- The boy next door-- He went with him the last time, because he was getting into boats, thanks to my husband. And he went with him to take the course again, just to support him. So, that's the kind of man he was.

ASSEMBLYMAN SMITH: Rosemary, I know we talked about this before. The defendant in your husband's case, do you think it would have made a difference -- having gone through the trial and understanding the type of individual he was -- do you think it would have made a difference if he was licensed, or do you think he was just exercising zero common sense by leaving the bridge?

MS. DECKER: Well, the reason I think a licensing is important is because it can be taken away. If there's none required, you can't take that away from somebody. But if he does something stupid like that or reckless, he's-- He was totally reckless that day. At least you could take his driver's license away.

This was the first case where there was no alcohol involved, I think. And that's why it was probably hard for people to convict him. But with all the evidence we had, it was incredible. We had a lot of evidence because he was not at the helm earlier that whole day. There were three people that saw him -- that knew he was not at the helm.

As a matter of fact, a professional party boat captain had to move his boat out of the way of this man earlier in the day. And there was another

private boating party that also had to get out of his way that day. So, there was plenty of evidence that he was reckless. And the jury just-- They were hung on it.

I don't know. You did give me a lot of-- You said a lot of things about the fact that it is difficult to get these laws passed because-- I'm sure you have all been boating for years and years and years. But even though my husband was, he was willing to do it, whatever it would take. Would it be difficult for people to do that?

ASSEMBLYMAN SMITH: He took the Coast Guard Safety Course.

MS. DECKER: He took it six times over the 40 years he was boating because he loved it. I even took it with him. Of course, I forgot everything because I didn't use it. I have since forgotten everything I've learned. So, to me, even if you took it a couple of years ago, you kind of forget, unless you are on the water all the time. And most people are on the water in the summer. So, during the winter, you just hope you remember all the rules.

There's no speed limit, either, out in the water. Did you know that? And there's also antiquated laws, as far as civil cases, because Mr. Flowers tried to cite a civil case that was from the 1800s to limit the liability for death on the water.

ASSEMBLYMAN SMITH: And that was rejected by the judge.

MS. DECKER: That was rejected, but that law will still exist.

ASSEMBLYMAN SMITH: It's a Federal statute though.

MS. DECKER: It probably is outside the three-mile limit. He was trying to say he was outside the three-mile limit at first, but he wasn't.

ASSEMBLYMAN SMITH: Are there any questions?

Certainly, we can bring you back up if you have anything further to say.

Do any of the members have any questions?

ASSEMBLYMAN MORAN: I just want to--

Ms. Decker, I'm very familiar with the case, being from Ocean County. And I followed it very closely. I think the *Asbury Park Press*, *Atlantic City Press*, and the *Ocean County Observer*, because it was held in Ocean County, did an excellent job in following from the beginning to the end. I think it's deplorable of the settlement case. I think those of us at the Jersey Shore that represent the shore and recognize that think it's deplorable. I don't know how it could have been a hung jury.

I've read everything during the time of the case, and you can't understand how sympathetic we are and how understanding we are and how difficult it is for you to stand there and talk to us.

But I've been in the Legislature 17 years now, and no one cares more about boat safety than I do. I imagine these gentlemen do, as well. We've tried, over the years, to change. And we've had support from the State Marine Police. We've had the support of the Coast Guard and from the local police. And it's just that the industry seems to have more influence than the rest of us and those people.

I think this committee is going to be able to focus on the problem. And I think I would strongly support, and I would urge our colleagues to

support, legislation to make sure that anybody that powers a boat has some training.

MS. DECKER: A written test, anything.

ASSEMBLYMAN MORAN: When I was in the Coast Guard, I can remember we used to go around to all the yacht clubs, in the communities, in the boating sailing programs throughout the state, and give talks. And our primary talk was on boat safety and the proper means in which to operate a boat. And later on, when the State Marine Police became more actively involved, they took over that role, and they still do it.

But what happens is -- and I think you explained it extremely well -- is that someone who has a boat that's-- They're 26 years old. They buy themselves a little speed boat or whatever. And before you know it, they're out every Saturday and Sunday on our bays and our waters running up and down. And they have no knowledge about what the impact of what that boat can do.

And I think the Coast Guard programs, the Auxiliary that puts on the programs, the State Marine Police put on-- And I've been to those courses. I think they've emphasized, in my experience -- emphasized the importance of knowing what your boat can and can't do. And rule number one is, never leave the helm. That's rule number one. And that's safety rule number one. I think it's extremely important.

I can't thank you enough for coming here and being here today.

MS. DECKER: Well, I can't thank you for making this committee, because maybe something will happen. Something good will come of this tragedy, because it was horrible.

I'm sure the man didn't mean to kill three people that day, but he did. And he should be punished for it, especially since he was reckless. It was an accident -- a total accident because I know there has been some out there. But I think one was the fact that one guy knew the law, and the other-- When you're heading towards each other, you're both supposed to go right. One knew you had to go right, and the other didn't. And that's why the accident happened.

And then those three men in the speed boat, they didn't know the power of their boat and what it could have done. So, they didn't investigate either.

Well, thanks. I hope-- I'll be coming to all the meetings. And if there's anything I can do -- some kind of public awareness. I mean, I'm trying to-- I'm calling and making calls. I called Mr. Egerter. He's the Captain of the *Dauntless*, which is a fishing party boat. And he was going to try to make it, but I don't think he was able to make it today.

A lot of the reasons they can't make these meetings is because it's on a weekday. People are working. And he said that right now, they're still busy with fishing. If they had it more in the winter, they might have time.

ASSEMBLYMAN SMITH: Well, we're going to have a couple more.

MS. DECKER: So, that's some of the issues that I found just talking to a few people.

ASSEMBLYMAN SMITH: Okay.

MS. DECKER: Okay. Thank you very much.

ASSEMBLYMAN SMITH: Sure.

Assemblyman Asselta, any questions?

ASSEMBLYMAN ASSELTA: Not at this time.

ASSEMBLYMAN SMITH: We have Assemblyman Johnson, who is here now. He came from Bergen County, an extremely long ride, I'm sure. Would you like to introduce yourself?

ASSEMBLYMAN JOHNSON: Thank you.

I'd just like to briefly say thank you for having me here today. I am a career law enforcement officer from Bergen County. I've served on the local police department -- also currently with the Bergen County Sheriff's Department. And we've always put safety, when it comes to traffic safety -- of course I'm talking about streets and roads and highways -- as a high priority. It's part of our mission. And I think we need to give just as much attention to those who travel our waterways.

I'm glad to be here today. I'm honored to be here today. And hopefully, from these hearings, we in the Assembly will be able to make our waterways just a little bit safer, or maybe even a lot safer, if we're lucky, for those who enjoy the recreation or even, for some, the business.

So, thank you for having me here today.

ASSEMBLYMAN SMITH: Do we have Jeff Andres here?

TROOPER JEFF ANDRES: Here, sir.

ASSEMBLYMAN SMITH: Is that pronounced correctly?

TROOPER ANDRES: Yes, it is, sir.

ASSEMBLYMAN SMITH: Okay.

Why don't we bring up Sergeant Roy Bubigkeit first? Is he here?

SERGEANT FIRST CLASS ROY BUBIGKEIT: Very good. (laughter)

ASSEMBLYMAN SMITH: I had a cheat sheet.

SERGEANT BUBBAKEIT: Surprisingly well-pronounced.

Good afternoon, everyone. I'm Sergeant First Class Roy Bubigkeit, with the New Jersey State Police currently assigned to the Marine Services Unit in Division Headquarters in West Trenton. The spelling on the last name is just as it's pronounced, B-U-B-I-G-K-E-I-T.

I was on vacation yesterday and got the phone call that this committee was meeting today, this Task Force. And we didn't know exactly what it is you wanted from us. Trooper Andres was kind enough to grab some statistics regarding the fatal accidents, the injuries, the things that have occurred this year in comparison with other years. I hope that's what you folks are looking for. I'd be more than happy to go over anything I have.

I think perhaps a quick overview of the fatal accidents that have occurred this year might be of interest. The only pattern that I can see is that there is no pattern, which makes it difficult to address, from an enforcement point of view, and from a prevention point of view.

Unfortunately, it's cruelly ironic, there was a fatal boating accident last night up north at Lake Hopatcong. So, it just seems strange that you folks would be meeting here today to discuss just these things.

The year started off with two capsized vessels, a canoe in a lagoon in Lacey Township, and a kayak on Round Valley Reservoir. Both operators expired due to hypothermia, cold water.

We then had a capsized powerboat in the Raritan River. The individual that passed away was not wearing a life jacket.

Offshore, we had the capsized speedboat with the three Malia brothers. The primary cause of that accident was the high speed and some chop to the water. The three people, unfortunately, perished in that incident.

We then had, in Brigantine, a capsized sailboat due to a storm. The operator of that vessel was never recovered.

Again, a capsized vessel, two people passed away in Hereford Inlet. They were caught in breakwater, again, not wearing life preservers.

We then had a fire and explosion at a dock in Sayerville. This was apparently due to an electrical malfunction at the dock. The person onboard the boat passed away in the resulting explosion.

We had a jet ski collision then in the Bordentown area on the Delaware River. A son, unfortunately, on one jet ski ran over his father, who was operating the second jet ski.

There was also a jet ski collision-- A young operator ran his jet ski at high speed into a moored sailboat.

On the Delaware River, up in Knowlton Township, we had a capsized raft due to swift water. Two people perished in that incident.

Again on the Delaware River, we had an individual ejected overboard when the operator of the vessel hit a buoy. He then backed over the person who was in the water, killing that person.

In Engelside, we had a fire and explosion on a vessel that had just been fueled. I don't know that they've come to an exact determination as to

what caused that explosion, but we're assuming it had something to do with the fueling.

And last night, a gentleman, apparently operating at high speed without running lights, in the dark, hit a bridge abutment on Lake Hopatcong and perished.

The total number of fatal accidents for the year is 13, with 17 people deceased. That is a high number. It is not the highest we have record of, but, unfortunately, we may beat the high number of 18 that occurred in 1996.

The actual number of accidents, relative to the last few years, is fairly low. In 1999, 2000, and 2001, we had over 200 reported accidents each year. This year, as of September 9, we had 151. So, the number may actually not hit, and I kind of doubt that it will hit, 200 for the year.

Is there anything I could perhaps answer that would give me a direction as to where to go with this?

ASSEMBLYMAN SMITH: Is there any alcohol involvement with any of the 17 fatalities?

SERGEANT BUBIGKEIT: There would appear to be alcohol involvement in at least two of them, but it's not an overriding factor in all the cases.

ASSEMBLYMAN SMITH: That would be pretty low compared to automobile or traffic fatalities, wouldn't it?

SERGEANT BUBIGKEIT: Yes, it would. But in some cases, you can't always determine the alcohol and the possible drug involvement on fatalities. We don't always recover the bodies. Bodies that remain in water for an

extended period of time -- toxicology reports are tough. The tests are tough to conduct. And the results are questionable in some cases as to how accurate any levels might be.

The number of registered vessels continues to pretty much rise. There are some dips and changes from year to year. And it is seasonal within any given calendar year. But for 2002, we are well in excess of 200,000 registered vessels in this state. I believe we hit a high point of some 220-something-thousand this summer. Back in 1991, we were at 160,000 registered vessels. So, it's rising dramatically.

ASSEMBLYMAN SMITH: Do you see a continual trend up, or is it peak and valley?

SERGEANT BUBIGKEIT: It pretty much is on the rise. There are occasional dips. In 1991, we had 160,000, and then very rapidly 157,000, 158,000, 160,000, 168,000, 173,000, 198,000, in 1997; 200,000, in 1998; followed by 223,000. The year 2000 was a good year -- 240,000 down to 206,000 for last year. And we will beat that this year.

ASSEMBLYMAN SMITH: Okay. Is there any way of generalizing, putting into categories, the cause of accidents? I know you prefaced your statements by saying that there was no pattern. But could you classify it by lack of safety gear or high speed, alcohol?

SERGEANT BUBIGKEIT: Certain things come to mind. Speed, very often, is a factor in accidents, whether they're fatal or not. Operator inattention, failure to maintain a proper lookout, what would be equivalent to careless driving on land, not keeping your eyes on the road -- the equivalent on the water. Alcohol and drugs, yes, they are present. They're not an overriding

factor, apparently, this year. Lack of safety equipment being worn or accessible, certainly. Even if the gentleman in the lagoon in Lacey Township and the canoe that capsized on Round Valley Reservoir -- even if they were wearing their life preservers, chances are, early in the season, the cold water, that probably wouldn't have helped them a whole lot. It would have kept them going for a little bit, perhaps, but hypothermia sets in relatively quickly, and the water was cold.

ASSEMBLYMAN SMITH: Were you able to discern any patterns in previous years?

SERGEANT BUBIGKEIT: Again, there is no specific-- I can give you some more statistics that would, perhaps, help muddy the issue even further.

Of the accidents this year, the 151 that we have reported as of September 9-- We have four main stations in the state: Atlantic City, Bivalve, Newark Bay, and Point Pleasant. Each one has one substation, with the exception of Point Pleasant. They have two. So they have a bigger area and more manpower. Of the 151 total accidents, 32 were in Atlantic City's area, 36 in Bivalve, 25 in Newark Bay, and 58 in Point Pleasant, remembering that Point Pleasant is actually three stations opposed to two.

So, there's a fairly even breakup throughout the state as far as the numbers of accidents. When you get into the numbers that have been killed as a result of boating accidents, we have two in Atlantic City's area, five in Bivalve, it will be now six in Newark Bay, and four in Point Pleasant. So, again, spread out throughout the state. So, geographically, there's no set

determining location. And there is not one or two factors that are always present. It will vary.

ASSEMBLYMAN MORAN: Bob, if I may ask a question.

ASSEMBLYMAN SMITH: Sure.

ASSEMBLYMAN MORAN: Sergeant, how many summonses are issued? And what is the primary reason for the summonses? And do you believe the summonses have an impact on cutting down on the numbers of accidents?

SERGEANT BUBIGKEIT: I have some information regarding what you're asking. Let me step back one second and say a primary function of a marine patrolman or patrolwoman is not necessarily to write summonses. They write what's called a boarding warning.

ASSEMBLYMAN MORAN: Can I interrupt you for one second?

SERGEANT BUBIGKEIT: Certainly.

ASSEMBLYMAN MORAN: Let me correct that question then.

SERGEANT BUBIGKEIT: Okay.

ASSEMBLYMAN MORAN: I understand where you're going.

What is the single most prevalent violation where the State Marine Police pull someone over to correct whatever they're doing wrong without giving them a violation, giving them a notice, giving them a warning telling them that, obviously, there's no lookout or you're driving erratically?

SERGEANT BUBIGKEIT: That I can't answer definitively. I'd have to research that. You will find-- I spent some time on Lake Hopatcong and Newark Bay. The geographical area will vary -- will have an influence on the type of summons that's issued. It will vary greatly from trooper to trooper.

One will write more equipment violations. Another will write more moving violations. So that will really vary. I could research that, and, certainly, I would be more than happy to get back to you and find out the one summons or statute that is being the most prevalent.

We're kind of in a unique situation. The marine enforcement arm of the State Police was all under one roof at one time. At one time, it was what was called the Bureau. At one time it was a troop. These days the actual marine stations are split geographically through the state under the corresponding road troops; Troops A, B, and C.

I am in Marine Services. I'm part of the support unit in Division Headquarters. The simplest way of explaining it is, I own the boats, but I don't control the people who operate them. And I really-- What any one particular station is doing in the way of enforcement, I would have to call them up and find out, because I don't have direct control over that.

ASSEMBLYMAN MORAN: Thank you.

SERGEANT BUBIGKEIT: Anything else?

ASSEMBLYMAN SMITH: How many troopers are assigned to the marine division?

SERGEANT BUBIGKEIT: Well, there is no marine division.

ASSEMBLYMAN SMITH: Okay.

SERGEANT BUBIGKEIT: It once was. The manpower situation is, first of all, determined by the Superintendent overall. And then each Troop, A, B, and C, then has a certain complement assigned to their respective marine stations. And that can really vary. It will vary, most likely, the time of the year-- Very often in wintertime, additional marine troopers are pulled from

the stations for road duty. A specific number and a specific time of the year-- That's going to vary from station to station, troop to troop.

ASSEMBLYMAN SMITH: Do you know what the total number is in July?

SERGEANT BUBIGKEIT: No, I could not-- I'd have to research that, again, because that I would have to pull from each respective troop. Again, I do not have control over how they allocate their resources. I can only-- I only have something to say about what boats are where and how they're maintained, and so on.

ASSEMBLYMAN SMITH: Do you have any anecdotal evidence regarding your manpower in terms of enforcement?

SERGEANT BUBIGKEIT: In terms of enforcement-- Well, usually the more people you have assigned to a certain function, the more activities will be produced. And I know when I was stationed on the Turnpike for five years, there was a direct correlation in the number of summonses that were issued and the number of accidents that occurred. The minute the summonses went down, the accidents went up. And that proved true year in and year out. So, I can certainly say that, from the road point of view.

The water-- The more-- Traditionally, if you see a trooper or a local police officer, county sheriff, whatever he may be, alongside the road, people's first reaction is to slow down, put their seatbelt on, perhaps, and try to obey the letter of the law. Certainly, from a commonsense point of view, I would say the same holds true for the water.

ASSEMBLYMAN ASSELTA: Yes, Sergeant. You've kind of laid out some, I think, important statistics that maybe will guide us in regarding

better safety out there. And you're telling me that boat registrations are up every year.

SERGEANT BUBIGKEIT: Correct.

ASSEMBLYMAN ASSELTA: Selling more boats in this state, even though our registration fees went up pretty dramatically this last year. Accidents, in the corresponding years, are going down.

SERGEANT BUBIGKEIT: Reportable accidents.

ASSEMBLYMAN ASSELTA: Reportable accidents, okay. They're going down. So, you've got to be doing something right out there. I mean, the wheels aren't off this thing completely, correct, number one? And let me finish because I want to tie in -- this last question, I think, is a key question -- is manpower enforcement. And we all know, whether you're on the water or in your car, the deterrent factor is the presence of law enforcement, just as it is on the road. And I know when I'm out on a boat, and we see Marine Police, all of a sudden, everybody gets a little more cautious on how to operate a boat.

So, if that information is available, as far as peak time during the five peak months of boating -- I think five months or whatever that is -- if those numbers are corresponding-- If your manpower is flat, and these numbers are going in these directions where registration is up, accidents are down, it sounds like maybe even--

We all form these committees, and we're called law makers and legislators, but sometimes, the fix doesn't need to always be a law. Sometimes it needs to be a reallocation of resources in the right particular -- at the right particular problems.

So, if those statistics from the Marine Police and the State Police provided to show us and show this committee-- If they correspond with these registration and accident numbers -- are maybe flat or maybe not as strong as they should be, that could be one of our solutions right off the bat -- at least one we can begin with.

So, there's really no question there. I'm looking for a nod of the head here, through the Chairman.

SERGEANT BUBIGKEIT: Fatalities are a tough matter to pinpoint, as well. In 1996, we had a high of 18. The statistics I have in front of me run from 1990 to the present day. They were then followed, again, very quickly: seven, in 1997; three, in '98; five, in '99; fourteen, in 2000; nine, in 2001; followed by seventeen this year to date. Although the number of accidents seem to be down somewhat, the fatalities have increased significantly for this year.

As you can see by the way the numbers bounce around, there's no, again, clear cut pattern. Although the number of registered vessels continues to rise, virtually every year, the number of fatal accidents have really bounced around.

ASSEMBLYMAN ASSELTA: So, what we need to know, through the Chair, is your enforcement numbers, how they correspond with those fatality numbers. And if maybe we're seeing that your enforcement numbers are flat or are -- the resources -- people resource is decreasing, maybe that could be tied to some of these fatality numbers.

SERGEANT BUBIGKEIT: All right, then. What I would like to provide the committee, once it's researched then, is-- You're looking for the number of people specifically assigned to marine enforcement.

ASSEMBLYMAN ASSELTA: North Wildwood, up and down this coast. Exactly.

SERGEANT BUBIGKEIT: And the number of particular summonses or boarding warnings and what those were for.

ASSEMBLYMAN ASSELTA: Through the Chair, if that's okay, Mr. Chairman.

ASSEMBLYMAN SMITH: Absolutely.

SERGEANT BUBIGKEIT: It may take me a few days to research that.

ASSEMBLYMAN ASSELTA: Sure.

ASSEMBLYMAN MORAN: Mr. Chairman, if I may just add to that. Why don't we, so that the Sergeant and Ms. Decker can plan, and anybody else here-- Could we agree that we would meet again in late November so that they would have time?

ASSEMBLYMAN SMITH: That's our plan.

ASSEMBLYMAN MORAN: Okay. Maybe we can go up the Highlands or up to Monmouth County or northern Ocean and then go up to Bergen or Secaucus.

ASSEMBLYMAN JOHNSON: No, I'll drive. (laughter)

ASSEMBLYMAN MORAN: Okay. I mean, I don't-- Those of us who live at the Jersey Shore don't want to monopolize the locations.

No, I think you said something interesting. And from my years of experience being a boater all my life -- something that you're saying-- It's responsibility. Statistically, the incidence of accidents aren't necessarily increasing, but the negligence is. And we can pass a law or a regulation to require everybody to take a course to operate a boat, which I believe in. Yet, it's the responsibility of the person behind the helm of that boat. And it's no different than the responsibility that -- when we issue a driver's license to some 17-year-old and he drives reckless.

When they go through their driver training programs in schools-- And I'm a retired assistant superintendent of Toms River schools-- And we did have drivers' ed. We no longer have it. I can remember one of the programs of emphasis during our phys ed classes for drivers' ed was responsibility of where you are, where you're going, and can you live with this 10 years from now? I mean, Ms. Decker said it very well, about the one gentleman that survived the accident, he'll never be the same.

We can't emphasize enough about the impact that this has -- that incident and others has not only on the person that is being prosecuted, but the families of those people and those people that are affected dramatically by it.

I think that's something that your troopers would know. Your troopers would know, when they stop and give somebody a citation, whether it's a warning or whether it's a ticket, because it's the first or second offense or whatever-- Are these people acting responsible, but they just don't know? And if they're acting responsible and they just don't know, then we have to teach them. We have to give them a license to take away so that they will know.

And if they can't learn that, and they don't know that, then they shouldn't be on the waters. If you can't pass a driver's test, we don't put them on the highways. And I think that's something that only you and your organization, the Coast Guard, that deals with it professionally every day will know.

As Nick Asselta said, we've got to take the solid documented evidence from you to draw conclusions. And I think those things have to come from you and your men and women.

They must sit and talk about, "We ought to be doing this. We ought to be doing that." I know in education we always used to do it. And I would go to the Education Committee, and they would say, "Gees, why didn't we ever do that?" And it's partly because sometimes we don't listen to the people that are -- whether it be law enforcement or whether it be in education or medicine or anything else.

So, I think it's got to be made very, very clear to your organization, as well as the Coast Guard. We want to know what we should do to make it better, because you do it everyday. We don't want to take pot shots at people. We don't want to pass a law that's going to be another one of these things that's going to be the runny egg legislation -- regulation. If it needs to be done, if it needs to be fixed, you people do it every day. You eat, sleep, and drink it. I mean, you go home at the end of the day and you think about it. Let us know exactly what it is.

I think those are the kinds of things that, maybe, come November, you can come with your Troop A, B, and C -- whoever it is -- the captains of those troops that handle, with the Marine Police section, or whether they do all the road and the Marine Police -- come in and sit down and tell us, "These

are the problems that we have, and these are the kinds of things we think we ought to sit and talk about,” and we might be able to resolve some of those problems.

SERGEANT BUBIGKEIT: Well, Trooper Andres, I believe, is going to follow me. He is heavily involved in the educational end of boating, and he is also the resident expert on the laws that are already on the books, the regulations. And there are many, many regulations for the boating world.

Enforcement of them, getting people to know what the regulations are, is important. And the continuing education efforts, I would say, based on the last decade of statistics-- I would say the boating education efforts through the Coast Guard Auxiliaries and the boating safety courses provided by the State Police and others, I think, has been instrumental in reducing the number of accidents overall.

Also, as far as laws and regulations are concerned, it's of interest-- Wednesday I attended the boating recreation committee meeting in Bordentown. And they are proposing a speed limit for inland tidal waters, of 30 miles per hour, from May 15 to September 15 on weekends, specifically. I think it was sunrise Friday mornings to sunset Sunday to try to slow people down a little bit because speed is--

ASSEMBLYMAN MORAN: That's still fast.

SERGEANT BUBIGKEIT: Well, there are other laws already on the books, other regulations that are there to try to keep -- you are obligated to maintain what's considered a safe speed, to control your vessel, and not do any damage to any of the surrounding properties.

Again, it's enforcement and common sense. People have to, once in a while, look behind them and see what kind of a wave they're causing, whether or not they're knocking somebody's dock over because they're creating a tidal wave.

It's a recreational world. People are hesitant to get involved with having things restricted in a recreational environment. But based on the number of registered vessels going up each year, we have to, I think, consider how we're going to accommodate all these people safely.

ASSEMBLYMAN MORAN: Thank you very much.

ASSEMBLYMAN SMITH: Assemblyman, Gordon, do you have a question?

ASSEMBLYMAN JOHNSON: Yes, I do.

You touched on it before.

I just wanted to know, is the boating educational campaign program-- Is that a line item in the State Police budget, or--

SERGEANT BUBIGKEIT: Can I defer that to Trooper Andres? I'm just recently transferred here, and I'm not the resident expert on that.

ASSEMBLYMAN JOHNSON: Yes, you may.

Another question.

ASSEMBLYMAN SMITH: Sure.

ASSEMBLYMAN JOHNSON: All the statistics that you've given us today, does that include all of the reports given to the Coast Guard?

SERGEANT BUBIGKEIT: Well, we report them to the Coast Guard.

ASSEMBLYMAN JOHNSON: Okay. All right.

SERGEANT BUBIGKEIT: That's one of the provisions of the boating safety grant. We keep statistics and give them to the Coast Guard. They specifically--

ASSEMBLYMAN JOHNSON: Okay. So they have the database for the whole region.

SERGEANT BUBIGKEIT: That's correct.

ASSEMBLYMAN JOHNSON: Okay. Thank you.

ASSEMBLYMAN SMITH: Just one last question. I think Assemblyman Moran made a very good point. It's probably the State Police that are best able to assess the problem because they're on the water every day and they observe operation and they interact with boaters. The question I had is, when I first spoke with Rosemary, I did speak to some high-level State Police lieutenants, sergeants, and they seemed very willing to give raw data, but somewhat reluctant to draw conclusions about policy in the State of New Jersey. Do you think there's some way of getting beyond that to encourage them to maybe be creative and help us draw the conclusions instead of us dealing with the raw data?

SERGEANT BUBIGKEIT: It puts us in somewhat of an awkward position. We enforce the laws. We don't make them. We don't really propose them. This particular unit that I'm part of now -- Trooper Andres-- We will be asked to comment on proposed legislation once it's been drafted. But we really are not in a position to address manpower, allocation of assets. That has to come through the superintendent.

ASSEMBLYMAN SMITH: Okay.

Trooper Andres.

SERGEANT BUBIGKEIT: Thank you.

ASSEMBLYMAN MORAN: Thank you, Sergeant.

TROOPER ANDRES: Good afternoon. My name is Jeff Andres. I'm a Trooper in the New Jersey State Police Marine Services Unit. And my last name is spelled A-N-D-R-E-S.

I learned of this committee yesterday. I am very much happy to see it being formed so that we can improve safety on New Jersey waters.

I see a common thread as to something that has improved safety on the water. And perhaps if we can draw more awareness to this, we could even increase safety more.

It occurred in 1996. It was when the Legislature required mandatory education for personal watercraft operators and all power vessel operators that were born in 1979 or later. I realize that you deal with many, many laws, and also do have a specific interest in boating. So, very briefly, I would just like to clarify what I just said.

If you are on a personal watercraft, the laws that the Legislature passed say that you're going to be at least 16 years old and have gone through a boat safety course. If you are not on a personal watercraft, but yet you are on a power vessel, then you would have to have a boat safety certificate and have gone through a boat safety course if your date of birth ends in 1979 or later.

When that law passed in 1996 and you look at the accidents, they keep coming down in total number, and the number of personal watercraft involved in accidents also reduces. Bear in mind, at the same time, the total

number of personal watercraft increases and so does the total number of all power vessels.

So, from what I see, looking at it statistically, the education works. The minimum age was a large improvement. If we can draw more awareness to the education, I believe that we could then increase boating safety.

And I would also like to let you know that I work mainly with the marine law, so that if I can help you in any way, as far as being a resource as to perhaps whether or not something already is or is not a law-- Maybe I can save you a lot of checking around or something like that and give it to you.

Are there any questions I can answer for you today?

ASSEMBLYMAN SMITH: Questions?

ASSEMBLYMAN MORAN: No, I think you said it well.

ASSEMBLYMAN SMITH: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Thank you, Mr. Chair.

I'll repeat my question. Do you know if the State Police has money, either in a line item or set aside, for education programs or educational campaigns pertaining to watercraft safety?

TROOPER ANDRES: Sir, I'm not aware of any. However, I must also tell you that it could exist, and I would not be aware of it. I don't work a lot with the budget, just with marine law and safety. It might exist. I'm not sure.

ASSEMBLYMAN JOHNSON: Okay. Thank you.

I ask that because it sounds to me, from what I'm hearing here, is it's a matter of enforcement and education. So, I think education is probably just as important as having the troopers out there trying -- or actually enforcing

these laws because, of course, law enforcement can't be everywhere. I think one would assist the other. One would kind of, I guess, amplify the effort that we're putting forth here.

TROOPER ANDRES: Yes, sir.

ASSEMBLYMAN SMITH: Thank you.

TROOPER ANDRES: Thank you, Mr. Chair.

ASSEMBLYMAN SMITH: Assemblyman Moran, maybe you may remember -- I wasn't in the Legislature then -- the law that the Trooper referred to.

ASSEMBLYMAN MORAN: I was co prime sponsor of that law.
(laughter)

ASSEMBLYMAN SMITH: Okay. I know Ms. Decker had some questions. We discussed that law when she came to my office.

What was the rationale for the date of birth ending in 1979?

ASSEMBLYMAN MORAN: It was the-- Basically, it was the Legislature not being too excited about passing legislation requiring certification licensing. So, what we did was, we just kept on backing the date down until everybody said okay -- or a majority of the legislators said okay.

And as the Trooper just explained, it's working. Now, should we consider -- and they would know better than I -- should we consider moving that date again? Keep in mind, that date is constant so that it's growing, so that more people and more people are being required to take it.

I think that Mr. Johnson asked a good question about the educational programs. I know in our schools we have the -- we teach the driver education in the health classes by statute, although we don't teach behind-the-

wheel driver education anymore. But in that driver education program in the health classes-- In most classes, we do have representatives from the State Police or the local police come in to speak to those youngsters. And every junior -- the eleventh grade student that goes through that semester of health gets that course. And in that course includes boater safety. But it's not required.

That rung a bell. That might be something that we might start looking at -- is where the driver education programs and our health programs for 16-year-olds or younger -- or either/or, eleventh grade -- that we put into regulation that boater safety must be incorporated in that program -- that we have the State Police come up with something that we can put into the regs so that the teachers know what they have to teach to be included in that driver education program. I mean, that's something that I had never thought about, and it rung a bell. But we do provide those. And all of our schools in New Jersey do it.

The other thing is that when I took my-- I went through Coast Guard training, and I still took the course. But I took it through the adult education program that was supported by the Coast Guard Auxiliary in Toms River. And I can tell you, for those of you who have ever been to Intermediate East, the cafeteria sits about 400 people. And they ran that class three nights a week. And I don't know whether local marine police or the State Police or the Coast Guard encouraged people, but I know some people were given court notices -- court orders to attend it by the judges. That's another thing that we ought to-- Maybe after your second offense, you get a court order. You must take the course before you go back out in the water again.

I mean, these are the kinds of things that these men and women do for a living. They would know better than we. I can remember sitting in the class and somebody raising -- the professor or the person giving the class saying that we're going to -- we're not going to have a class next week, and the person raising their hand and saying, "Don't tell me that. I've got to be here. I've got a court order to be here." I said, "Gees, that's pretty good." But we do have those programs, whether they be in Bergen County or Ocean County or wherever.

ASSEMBLYMAN SMITH: You answer the question just as I suspected when I met with Rosemary. I told her that there might be some reluctance on the part of legislators until somebody my age, who's been boating for the last 18 or 20 years -- and I would certainly do it -- I have taken the course -- that you now are required to get a certificate and pay for it and to sit in class for 10 hours or whatever the course was.

But the thing that occurred to me, and maybe one of the Troopers can comment on this, is perhaps somebody that has been boating for quite some time, is familiar with the waterways and safety, could waive a certification if they were going to sit down and take a half an hour, one hour, exam to prove that they are currently familiar with the regulations and the rules in the State of New Jersey.

But I can see where there might be some hesitation and reluctance to mandate that with somebody that's been boating for quite some time, not somebody like Ms. Decker's husband or myself or maybe even the majority of people, but some people may be reluctant to do that.

Trooper Andres.

TROOPER ANDRES: Yes, sir.

ASSEMBLYMAN SMITH: Just one question.

TROOPER ANDRES: Should I step up, sir?

ASSEMBLYMAN SMITH: Yes, please, because we're on tape here.

TROOPER ANDRES: Yes.

ASSEMBLYMAN SMITH: Just as an aside, I was reading through some of the clips, and I came across a clip that is dated September 13 about a boating instructor that allegedly sold safety certificates to about 500 personal watercraft operators. Are you familiar with that case?

TROOPER ANDRES: Yes, sir. It is currently under investigation.

ASSEMBLYMAN SMITH: That means you can't comment, right?

TROOPER ANDRES: I feel that something could be jeopardized in the investigation if I made a comment about that at this point in time.

ASSEMBLYMAN SMITH: Okay.

ASSEMBLYMAN MORAN: Is Ed Nerges still with your division?

TROOPER ANDRES: No, sir, he is retired.

ASSEMBLYMAN MORAN: Ed served in the Coast Guard with me. And when he came out of the Coast Guard, I think he was one of the first Marine Police in New Jersey. And then he went with the regular State Police. And I didn't know he retired.

TROOPER ANDRES: He was my First Sergeant.

ASSEMBLYMAN MORAN: Oh, really?

TROOPER ANDRES: Yes.

ASSEMBLYMAN ASSELTA: That's when they were using oars.

(laughter)

ASSEMBLYMAN SMITH: The boating instructor-- Can you tell me, can it be done privately, or is it either through the Coast Guard or the State Police?

TROOPER ANDRES: The providers that exist within the State now are the State Police, the United States Coast Guard Auxiliary, the United States Power Squadron, which is a common interest group for boating safety, and also a private person may apply to the State of New Jersey to have their boat safety course approved as a State approved course. And then, as a business, they may go out and teach.

ASSEMBLYMAN SMITH: Any questions? (no response)

TROOPER ANDRES: Thank you, Mr. Chairman.

ASSEMBLYMAN SMITH: Do we have Detective Metroka here?
(no response)

Are there any other State Troopers, Marine Police that have anything else to add?

Trooper, are you--

UNIDENTIFIED SPEAKER FROM AUDIENCE: They did a very good job.

ASSEMBLYMAN SMITH: Okay.

Do we have anybody here from the U.S. Coast Guard? (no response)

How about Erling Berg?

ERLING BERG: Hi.

ASSEMBLYMAN SMITH: Hi. How are you?

MR. BERG: Fine.

My name is Erling Berg. You've probably never heard that name before, so I will spell it for you. It's E-R-L-I-N-G. My last name is Berg, B-E-R-G. I live at 1231 Lafayette Street, in Cape May -- the city of Cape May. I'm a former commercial fisherman. I spent 35 years in the water. I retired from that. I still work -- make a living.

I guess I'm here for the Garden State Seafood Association. They called me and asked me if I would come up here and partake in this.

A few years ago, you probably remember there were some clam boats that went down. There were three here in New Jersey and one in Point Pleasant. There was no fatality on that one.

ASSEMBLYMAN MORAN: All of them. All three.

MR. BERG: And there was one in Massachusetts. So there were four all together. There were 11 men lost.

The Coast Guard-- Admiral North (phonetic spelling) convened a panel to look into -- see what could be done to prevent these types of accidents in the future. I was fortunate enough to be selected to be a member of that. I spent three days in Washington at the Coast Guard headquarters. And we looked at different scenarios.

The commercial fishing industry is not that well regulated either. There's a lot of loose ends there.

The one thing we looked at and the panel recommended was licensing. If you want to be a captain on a vessel -- not for a crew member, but to be a captain of a vessel-- If you are in charge of these people, you may have

five, seven, ten men, or whatever. You are the person responsible for those crew men -- and was to require a license.

Originally, it was you just get a license. Once you get this -- and there was no test or anything, but if you did something real dumb or screwed up, it could be taken away from you. Now your ability to operate a boat and earn a living -- that type of living is taken away from you. So, there's an incentive to do things right and not be stupid.

So I think that a license for a vessel operator, whether you're commercial, recreational, or personal watercraft, would be in order. Right now, there's a lot of vessels out there with a very high horsepower that don't need that type of power to do what they're doing. And the only thing you need to have one of these boats is money. There's nothing else involved. You just need the money.

I think mandatory education -- if you do it voluntarily, I don't think it's going to work, because most of the people involved are not going to take the opportunity to do this. So, I think some type of mandatory program--

Having said all that, how are you going to do it? I have no idea. The State Police, I'm sure, have enough to do without all this. They can't be everywhere.

I would also like to see a speed limit, especially inshore waters, whether you're on the bay, in the channels. I live in Cape May. There's a little creek that runs behind me. We have personal watercraft running up there full speed. And they're only 10 feet from the shore line. I know it's illegal, but it's still being done.

What else was I going to say?

The 1979 date for the-- I forget--

The gentleman from the Marine Police--

What did that involve in '79 -- the educational part of it?

TROOPER ANDRES: The licensing.

MR. BERG: The license -- '79 was the cut-off.

ASSEMBLYMAN SMITH: Erling, you have to--

MR. BERG: I'm sorry.

ASSEMBLYMAN SMITH: Unfortunately, we're on tape.

MR. BERG: Okay. I'm sorry.

I think that that should be backed up to maybe some other number -- '69 because that date there you only look at 23 year olds. And there's a lot of people older than 23 that don't really know how to operate their vessels.

I work on the local docks in Cape May on the intercostal waterway. And we see these going by all the time. There's really too much speed.

That's really about all I have to say. I don't know if you have any questions for me. I'm not used to being a public speaker.

ASSEMBLYMAN MORAN: Bob, I just have two, if I may.

Mr. Berg, correct me if I'm wrong. If I work on one of your commercial fishing boats, I don't need a captain's license? I don't need a mate's license?

MR. BERG: You need-- The only thing required on a vessel--

ASSEMBLYMAN MORAN: For commercial use?

MR. BERG: Right. You have to have -- not necessarily a captain -- someone on the vessel has to have a CPR certificate and a first aid. They don't have to be updated. You just have to have them. That's all that's required.

Now, part of the Coast Guard panel was to make-- We have a volunteer inspection -- I don't know -- if you were in the Coast Guard, you may be familiar with them -- to make them more intrusive. Before, it was more of a rubber stamp. Now it's a little more intrusive. They come aboard the boats and they really check it over and see -- and tell you what's wrong. We have this program on our vessels. It's required every two years. We have it every year. That's a matter of policy. I work for one of the local docks. And this is what we do.

ASSEMBLYMAN MORAN: Thank you.

ASSEMBLYMAN SMITH: Who imposes those regulations or those laws? Is it the State of New Jersey or the Federal government?

MR. BERG: It's the Federal government. These boats are Federally documented, so we're under Coast Guard jurisdiction.

ASSEMBLYMAN SMITH: Thank you very much.

If I could, I'd like to bring back Jeff Andres.

TROOPER ANDRES: Yes, sir.

ASSEMBLYMAN SMITH: Trooper, is there any practical way of enforcing speed limitations on the waterway accurately?

TROOPER ANDRES: I don't know. That's something that we will have to research.

ASSEMBLYMAN SMITH: I mean, troop cars obviously have radar.

TROOPER ANDRES: I can tell you that at this point in time, there is one body of water in the State of New Jersey, Lake Hopatcong, that does have a specific speed limit. I believe it's 30 miles per hour during the day and either 5 or 10 at night. And it is enforced with radar. However, I have never personally done it, so I do not know the workings of it. But I do know the troopers that are assigned there do use radar to clock speed on vessels.

ASSEMBLYMAN SMITH: Assemblyman Asselta, are you familiar with the technology with the gun?

ASSEMBLYMAN ASSELTA: No, I'm familiar with it on the road. I would assume it follows the same theory of the radar guns. Whether they have those resources to use it on the water is another question. I think we're going to find that at the end of the day, it's all going to be about resource.

ASSEMBLYMAN JOHNSON: Which court do we use?

TROOPER ANDRES: In Lake Hopatcong?

ASSEMBLYMAN JOHNSON: Yes. Do you use municipal court?

TROOPER ANDRES: Municipal court in those areas, yes. The vast majority of any type of marine violations are heard in municipal court. Some do elevate to the county level. Most of them are municipal, sir.

ASSEMBLYMAN SMITH: Second, and last question.

The only type of boating violation that I'm aware of that you can lose your boating privileges is DWI. Are you aware of any other violations -- water violations where you can lose your boating privileges?

TROOPER ANDRES: Sir, is the question, if you are convicted of DWI on the water, do you lose them on the road? Do you lose your road privileges?

ASSEMBLYMAN SMITH: Yes, you lose road and boat.

TROOPER ANDRES: Yes.

ASSEMBLYMAN SMITH: The boat for one year and the license for three months.

TROOPER ANDRES: Car for three months, yes, sir. However, that's not reciprocal. If you do lose it on the road, you do not lose it on the water.

ASSEMBLYMAN SMITH: Correct.

TROOPER ANDRES: Okay.

ASSEMBLYMAN SMITH: Are you aware of any other boating violations where you can lose your boating privileges for a period of time?

TROOPER ANDRES: Not that I'm aware of. There are some that require you go through a course again but not actually lose the privilege -- not a boating violation. No.

ASSEMBLYMAN SMITH: Questions? (no response)

Okay. Thank you.

TROOPER ANDRES: Thank you.

ASSEMBLYMAN SMITH: Do we have Joe Stewart here?

JOE STEWART: Good afternoon. My name is Joe Stewart, S-T-E-W-A-R-T. I live at 107 Hospitality Drive, in Egg Harbor Township, New Jersey.

With the Chairman's permission, I would just like to distribute these directories.

As President of the Marine Trades Association of New Jersey, we are a nonprofit organization comprised of over 300 marine-related businesses dedicated to promoting and protecting the marine industry and waterways in the State of New Jersey.

Collectively, we monitor legislation and environmental regulations affecting the marine industry, both locally and nationally. The Association also seeks new legislation and modification of existing legislation in order to serve the best interest of the public and the marine trade throughout the State of New Jersey.

We promote safety on the waterways, clean boating, and clean marinas and maintain a year round, fully staffed office providing current industry news and information to our members and the general public.

The office staff is available to assist members in solving marine related problems while maintaining contact with environmental groups, law enforcement, State and Federal agencies, and concerned officials. We are committed to promoting safety on the water and educating the public on the importance of safe boating. We are members of the National Safe Boating Council and are active on the national scene with executive positions and a representation in various associations, including the National Association of State Boating Law Administrators, the National Marine Manufacturers Association, and the National Marine Trades Council.

We provide education and outreach material to the public at various events including all of the New Jersey boat shows. In addition, a number of our members participate in the development of waterway management policies with commercial user groups and the U.S. Coast Guard.

This activity is especially important at a time when homeland security is critical to the safety of our recreational boating community.

I'm here today to kindly ask that the Assembly Task Force look to the Marine Trades Association of New Jersey as a resource in dealing with future issues. And we are here to assist you in any way that we can.

I thank the Task Force for the time.

ASSEMBLYMAN SMITH: I have a question for you.

Would your Association be opposed to changing the current law regarding the birthday 1979 -- and make it, let's say, '69?

MR. STEWART: I can't speak for the whole Association. I'm one of the directors. We'd certainly take that into consideration. We'd like to see, maybe, some way to increase the enforcement on the waterway to reduce some, maybe, limited speed limit zones in high-populated areas and anything else that would improve the safety on the water.

ASSEMBLYMAN SMITH: Okay. Speaking of speed limits, I may be wrong, and anybody can correct me here, but the three brothers that were killed this past summer-- It is my understanding they were in the open ocean. They had just bought the boat within the last week. And the boat could go up to 120 miles an hour. They lost control. It was my understanding that they bought the boat without any type of training, licensing, certificate. They just went to the dealer, and the dealer said, "Here it is. Enjoy yourself."

What are your thoughts about speed limits, not just in regulated areas, but on the open ocean within three miles of land?

MR. STEWART: It's difficult to say if a speed limit could be, certainly, enforced in an offshore location like that. And, certainly, if they

were doing 80 miles an hour and were in rough seas, I think the same situation would have occurred, even if they were going 80 or 50 miles an hour.

So, I think it's a matter of common sense. The person operating that boat was, obviously, careless. They weren't professionally trained to run a speedboat at that range of speed, obviously.

ASSEMBLYMAN SMITH: I think it was a high-speed catamaran with astronomical horsepower, like, 1200 or something ridiculous. I don't know what it was.

Would you be opposed to placing some type of requirement on the dealer to give certain types of warnings with respect to the operation of a vessel like that? And we're not talking about a 20-foot Grady-White fishing boat with 175 power horsepower in the back. We're talking about a vessel that could go as fast as an airplane.

MR. STEWART: I don't think we'd be opposed to something like that. Certainly, I cannot speak for the whole Marine Trades Association. But I certainly think that would be prudent.

ASSEMBLYMAN SMITH: Any questions?

ASSEMBLYMAN ASSELTA: Yes, Mr. Chairman.

Mr. Stewart, thank you for coming before us. I think this committee needs to know the importance of the Marine Trades Association to the State of New Jersey. Its economic impact value to our State budget and our State Treasury is dramatic. Needless to say, all the employment that this Trades Association creates around the state--

So, my recommendation, as we move forward, has been Mr. Stewart's suggestion as we move forward with proposed legislation to make

absolutely sure they're included in the conversation. Also, if legislation does get designed and drafted, I think, as you just mentioned, Mr. Chairman, you'd like to know what their opinion is, if it would adversely affect them, if it's something that they would support, because I think any legislative action would be very important if they would support it, because we know up and down this coast, and in this state, as you see in this book, there are many of our constituents that have businesses and employ people and will be affected in one way or another in some manner.

So, we take your recommendation -- at least I do, and I think the Chairman does -- very seriously.

ASSEMBLYMAN SMITH: Agreed.

ASSEMBLYMAN ASSELTA: Thank you for coming.

MR. STEWART: I appreciate that. I'm not sure if all the board's familiar that the registration fees were actually doubled in the State of New Jersey. That's going to take effect as soon as you get a registered boat for the following year. I think the DOT -- or the Division of Motor Vehicles is a little lax in actually collecting the fees. But I think they're coming up to putting that in the process.

But those fees that are generated in the next fiscal year -- 50 percent of those increase fees will go to the Office of Maritime Resources. The following year it will be 75 percent, and the following year after that is 100 percent. So, there are some funds that are going to be used to be dedicated back into the boating industry. And we'd hope to see some of those funds maybe utilized for better enforcement on the waterways and some better boating safety dredging.

I appreciate your time. Thank you.

ASSEMBLYMAN SMITH: Is Bill Margaretti here? (no response)

I've gone through the entire witness list for the first hearing. Is there anybody here that cares to testify?

Yes.

R I C H A R D H E R B: Thank you, Mr. Chairman. Thank you, committee. I'm glad you're here.

My name is Richard Herb, 527 20th Street, Avalon, New Jersey. And I'm here today to represent the Cape May County Charter and Party Boat Captain's Association. As you may know, we are the largest -- I think the largest Association of professional licensed captains in the State of New Jersey.

And I think, with the exception of our friends on the State Police and the Coast Guard, we probably see more, day-in and day-out, of what happens on the waterways, especially in this county, than probably anybody else does.

Let me tell you that things are not getting a whole lot better. I know that we've heard the statistics from the Sergeant about the number of deaths. I would suggest that only is the tip of the iceberg. If you saw the number of near misses, number of incidents we see a day, a week, a year, you would probably be appalled. It is not getting any better.

There are more boats. There's a lot of people that are first time boaters. We talked about the age above which we require -- or under which, actually, we require a license. And I think, originally, that was done to start people at an entry age into licensing or, rather, into some sort of a safe boating

course. I think it was a great first step. I think we have to go a little bit further at this point in time.

I'm reminded of a gentleman, years ago -- many years ago who, at the ripe old age of 70, retired from his company, bought a boat that, I think, was somewhere in the \$500,000 price tag area -- very, very powerful boat, large boat. This gentleman, certainly, wasn't as sharp as he was at an earlier age. Certainly, his reflexes weren't as good as they once were.

He brought the boat to the marina, which he owned this boat, at this point, for less than an hour -- come in at a fairly high rate of speed at the marina and suddenly discovered boats don't have breaks. He took out a large piece of the dock, severely damaged his boat, and the only good news here was that he hit the dock and not somebody else's boat.

We've had a number of examples of people like this. And these people are not people that are criminals. They're not people that are irresponsible. These are people who are just ignorant of the rules. They don't understand how boats work. They don't understand the rules of boating. Unfortunately, they find out after they hit someone or after they have a marine incident.

And I would suggest to you that the time has come that we start educating these people and, at least, make sure they understand what the rules are. If they want to violate the rules, that's an issue for the State Police. But I think we need to make a step, as a state, to make sure they, at least, know the rules. We talk to a lot of people, and their answer to us is, "Gee, we didn't know you couldn't do that. We didn't know that was the rule." You give

them a signal for passing or whatever you're doing. They don't understand what that signal is about.

They'll go under bridges wide open, not because they're malicious or they're criminals. They go under bridges wide open because they don't know there's a law against going under bridges wide open in this state.

So, I think we do need to educate these people. Obviously, with the State in the current financial condition, we don't want to spend a whole lot more money on something, but I think if somebody suggested we do away with the automobile licensing system to save the State some money, everybody would object to that. And I think you have the same problem here. I think we need to take the step to make sure these people are educated. There is no other mode of transportation in this state of this size -- of this type of horsepower, that doesn't require some kind of a license or some kind of a test.

And when you think that the majority of the boats are two or three times the horsepower of the same person's car, and these things do not have brakes-- People find out the hard way how these vessels work. And we see an awful lot of close calls.

We talked about the Coast Guard courses, and they're wonderful. They're great. I happen to be a public education officer for one of the local Coast Guard Auxiliary Flotillas. And I will tell you that probably in the last four or five years, we've only run two classes. We require seven people to run a class.

Assemblyman Moran talked about 300 or 400 people in a class. Send them down. We need them. The people down here do not come to the classes. And I think a lot of the reasons they tell us they don't come to the

classes-- Years ago, they had to come to the class to find out how to operate or how to navigate the boat. Now they don't. You have chart plotters, you have GPS, you have all kinds of electronic gauges. They don't need us now to learn how to run that boat or how to find their way out and find their way back.

We taught safety as part of that program. Now they don't come to the program anymore, because they feel they don't need it. There's no requirement. I think people view boats as recreational vehicles or toys because, again, there is no licensing requirement. And I think it diminishes their respect for that vessel.

And again, these are not people who are out there-- They're not criminal elements. They're not people out there to operate irresponsibly. Many times, they're families. They just don't know. We have to tell them.

Thank you.

ASSEMBLYMAN MORAN: Mr. Herb.

MR. HERB: I'm sorry, sir. Yes.

ASSEMBLYMAN MORAN: What if, and this goes to your organization, too, because it's being recorded -- I can't ask you to answer the question, but you can tell me whether I'm asking the right question. How about if we made it where, when you -- effective January 1, 2003 or '04 that you have three years to have a certificate that you completed a training program -- a safety program when you reregister your boat? That way, you wouldn't have to put a date time line in. When you go in to reregister your boat or you mail it in, you'd have to send in a copy of your certification.

We're not talking about going to some independent company that's going to charge you \$500 for a boat safety course. We're talking about the Auxiliary putting on the programs to schools, putting on programs certified and approved by the State Marine Police. And you get your certificate from the State Marine Police through your organization, through the school organization, whatever it is. That way, you wouldn't be going through the mental anguish that we went through with the '67 date.

The more I hear-- The more we talk about this, I sit back and think people have short memories. I don't. I mean, I sat there, and I got -- whether it be the boating industry or whether it be individuals saying, "You're taking away my constitutional right." My argument was, "How about the constitutional right of the person you're going to run over?"

These are the kinds of things-- There's an easy way to do it, and there's a hard way to do it. If the objective is to get everybody certified -- and if it means we can do it with the certification -- not licensing -- a certification over three years-- I think that--

Do you think that would be a better solution?

MR. HERB: I think a certification would be every bit as valuable as a license. I don't think it has to be a license. But I think we somehow have to make sure that these people have been made aware of what the rules are. And I'm sure the State Police run into this all the time. They'll sit there and tell them they didn't know there was such a rule. Now, they can't say that anymore.

The three-year period, I think it's totally reasonable. We have to start somewhere. We can't demand it overnight.

But I think the age problem really doesn't accomplish too much. We actually have cases, I'm sure, where the young kids in the family know more rules than their parents because they're required to take the course. The parents are not.

But I will tell you that the number of people taking these courses has dropped way off. It's simply not working. And it's easy. It's inexpensive. It's fun. But they don't do it. And again, we teach our's in an adult night school here in Cape May County at the vo tec. It's very, very convenient. They just don't show up. It's just not working.

ASSEMBLYMAN MORAN: Is there someone that the Chairman can get in touch with that coordinates the Coast Guard Auxiliary programs in the state?

MR. HERB: Yes. I will make sure that--

ASSEMBLYMAN MORAN: Could you make sure that Bob gets that?

MR. HERB: Yes, I will find that out and make sure the Chairman has that information.

ASSEMBLYMAN SMITH: What is the cost of the course?

MR. HERB: It depends on the school. I know our's, I believe, is \$50, but that includes all the text books, all the charts, all the materials they use. The vast majority of that cost is the materials because the Coast Guard -- the government does charge us for-- The books aren't free. And that's the problem.

ASSEMBLYMAN SMITH: What do you think of the idea-- I know, let's say, for example, you're a 40-year-old -- 35, 50 -- that has been

operating a vessel for a substantial period of their life, where instead of going through the course, they would take a test, just like if you were a driver in Ohio and you come to New Jersey. All you have to do is take a course. You don't have to take the driver's-- All you have to do is take a test. You don't have to take the driver's education.

MR. HERB: I think that would work fine. I think that would be a great alternative. They take the test. The question is, who's going to administer the test. We could, as a Coast Guard Auxiliary-- I'm sure we could find a way to administer that test. We could possibly set it up that they come the first night of the class, they take the test, they pass the test, they can go home if they want to.

ASSEMBLYMAN MORAN: Excuse me, Bob.

I think it would be more appropriate, not that we're drafting legislation now, but we're talking about it-- I think it would be better if they have to come to the first class, get a safety manual book, and then come back in two weeks to take the test. For those that want to take the class, the class is going to be for the next four weeks. You can come to the class. We're going to go over the book. We're going to go over the rules of the road. We're going to go over the safety mechanisms and how to manage-- And then, if you want to go out and buy your boat, then you can have your certificate.

But then getting back to what the penalties are for driving-- I think if you have a DWI, I think you should lose your certification to operate a boat for a year or two years or three years, whatever the penalty is for a DWI. But if you have it where you can just send a post card in -- "Tell me when the next test is. I'm going to take the test." I go and I sit and take the test. I

might be a good test taker, but I sure as hell don't understand what the real rules of the road mean.

I mean, red right on return is easy to memorize and easy to figure out. But when you get out there and you've got green buoys and blue buoys -- red buoys and you've got flashing buoys and nun buoys. You don't know one from the other.

MR. HERB: Obviously, the test would have to be set up in a way that it would be a meaningful test. That's exactly right.

ASSEMBLYMAN SMITH: This is probably pure speculation, but when I took my course -- I don't know, maybe it was eight years ago, I thought it was seven, eight, nine weeks, an hour, hour and a half. If, as Assemblyman Moran suggested, you go for the first class, you pick up the materials--

The test, when I took my course, was on the very last night, and it was about an hour. So, administratively, the cost would be substantially less, don't you think?

MR. HERB: Yes. There's actually two tests. There's two sets of courses. The entire course is 13 weeks, including the test. But there are sections of that that are not required for safety such as weather, such as navigation, and several other topics.

What we could do-- I'm sure it could be structured that the test could be given after the safety part. And then the part that want to stay around for the radio instruction and the weather and things like that could stay for the balance of the course. And you could have an abbreviated fee. If they only want to go for the first -- let's say, the first half.

Any of those-- Those are just logistical problems that can be worked out. The real question is, are we going to make sure they know the rules?

Okay?

ASSEMBLYMAN SMITH: That's great. Thank you.

MR. HERB: Thank you.

ASSEMBLYMAN SMITH: Are there any other witnesses? (no response)

I just want to throw a thought or a question or an observation out to the committee. I know when I stepped up to my boat that I bought a couple of years ago, the insurance drastically increased based on the horsepower of the boat and based on the speed -- if it went above 40 miles an hour, and, therefore, it had to go to underwriting, according to my insurance company.

Do you think there's any interest on the part of insurance companies when it comes to this issue? Any thoughts?

ASSEMBLYMAN MORAN: Well, I tell you what. If you're driving a 1986 Chevy with -- in comparison to driving a 2002 Chevy, you're insurance is going to be different based on the replacement value of the vehicle. And I think your point -- the point that you're making has some validity. If the insurance company is going to insure you -- and I have insurance on my boats -- is that the better trained you are, the less likely you are to have an accident that could cause bodily injury to someone else or to yourself and damage the boat.

I think maybe that's-- Bob, you ought to make a point to have our committee staff aide to contact insurance companies. Maybe they can come to the next meeting and tell us that by creating some type of a mechanism for certification or licensing, it's going -- it could save people money. If it's going to cost you \$50 for the course, the possibility exists you could save \$50 a year on your insurance on the boat.

ASSEMBLYMAN SMITH: Well, I know part of the questionnaire, when filling out the application for insurance, because I have property and liability on my policy, they asked how many years of boating experience do you have. And depending on that, they give you a credit or a rate reduction. But I think the more appropriate question is, not just years of experience, but do you have the training.

Now, I think they may have also asked if I was certified when I filled out the application. So it may very well pay for itself or exceed the cost of the course or, at least, taking the test.

All right. Our plan--

Yes, Rosemary.

MS. DECKER: The man that ran over my husband's boat-- He had a lot of years of experience. That doesn't always mean that's the solution, years of experience.

ASSEMBLYMAN SMITH: That's true.

MS. DECKER: So, I don't know how-- You can't regulate that, I guess. I don't know what you do about that.

ASSEMBLYMAN SMITH: Yes, and there is a distinct possibility when underwriting evaluates a policy on the boat, that they do give you

substantial credit for having taken the course. And that, in and of itself, may meet or exceed or substantially exceed that \$50 or less administrative fee for taking the test.

MS. DECKER: He had a prior accident in Florida, too. So, I don't know if they can combine any kind of accidents from any waterways or not as part of that or part of losing your license--

ASSEMBLYMAN SMITH: I'm not--

MS. DECKER: --or certification. Whatever way you want to go with it.

ASSEMBLYMAN SMITH: Any other questions or comments?

(no response)

All right. As I said earlier, I think our plan is to have our next hearing in a month or so, maybe the middle of October. And we will notify everyone.

ASSEMBLYMAN MORAN: Bob, just make--

ASSEMBLYMAN SMITH: Yes.

ASSEMBLYMAN MORAN: I will be away the week of the 13th. So if you could please make sure it's not that week.

ASSEMBLYMAN SMITH: All right. Great. Thank you. We're adjourned.

(MEETING CONCLUDED)