Bill as Introduced

HB 449-FN – AS AMENDED BY THE HOUSE

14april99.....0579h
20may99.....1193h

1999 SESSION

99-0153
03/09

HOUSE BILL ***449-FN***

AN ACT requiring boating safety education.

SPONSORS: Rep. Whalley, Merr 5; Rep. E. Smith, Ches 6; Rep. Mercer, Hills 27; Rep. Letourneau, Rock 13; Sen. Fraser, Dist 4; Sen. Wheeler, Dist 21; Sen. Johnson, Dist 3; Sen. Hollingworth, Dist 23

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill requires that persons born after a specified date possess a certificate of boating safety education.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 449-FN – AS AMENDED BY THE HOUSE

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

AN ACT requiring boating safety education.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Subdivision; Boating Safety Education. Amend RSA 270-D by inserting after section 9 the following new subdivision:

Boating Safety Education

270-D:10 Certificate Required. No person born on or after the dates provided in this section shall operate a motorized vessel with any type of power motor in excess of 15 horsepower on the public waters of this state without first obtaining a certificate of boating safety education in accordance with this subdivision:

Date of Birth	Certificate Required
January 1, 1984	January 1, 2000
January 1, 1983	January 1, 2001
January 1, 1982	January 1, 2002
January 1, 1981	January 1, 2003
January 1, 1980	January 1, 2004
January 1, 1979	January 1, 2005
January 1, 1978	January 1, 2006
January 1, 1977	January 1, 2007
January 1, 1976	January 1, 2008
January 1, 1975	January 1, 2009
All	January 1, 2010

270-D:11 Possession Required; Penalty.

I. Any person required to have a certificate of boating safety education shall:

(a) Possess the certificate when operating a motorized vessel with any type of power motor in excess of 15 horsepower on the public waters of the state.

(b) Present the certificate upon the demand of a marine patrol officer.

II. No person charged with a violation of this section shall be convicted if, within a period of 48 hours, the person presents to the officer evidence that he or she held a valid certificate of boating safety education which was in effect at the time of the violation.

III. Enforcement of this section shall be accomplished only as a secondary action when an operator of a motorized or registered vessel has been cited or charged with a violation or some other offense.

IV. Any person who violates this section shall be guilty of a violation punishable by a fine $50 for a first offense and $250 for any subsequent offense.

270-D:12 Exemption. A person who is licensed by the state of New Hampshire or the United States Coast Guard to operate a commercial vessel shall be exempt from the requirements of this subdivision.

270-D:13 Issuance of Certificate.

I. The director shall issue a certificate of boating safety education to a person who:

(a) Passes a boating safety education course approved by the department of safety and by the National Association of State Boating Law Administrators. The course shall provide a minimum of 8 hours of instruction. The minimum passing grade for the course shall be 70 percent; or

(b) Passes a boating safety equivalency examination administered by persons approved to offer boating safety education courses. The minimum passing grade for the examination shall be 80 percent. A certificate issued to a person passing the equivalency examination shall specify that the certificate is issued as evidence of satisfactory completion of a safe boating examination and entitles the holder only to operate a vessel on the public waters of New Hampshire.

II. Once issued, the certificate of boating safety education shall be valid for the lifetime of the person and may not be revoked by the department of safety or a court without cause.

III. The director shall replace, without charge, a lost or destroyed certificate.

IV. The director shall issue a temporary certificate of boating safety education to a person who passes a temporary boating safety examination, consisting of 20 questions, administered by a person approved to offer the temporary boating safety examination. The minimum passing grade for the examination shall be 80 percent. The temporary certificate of boating safety education shall be valid for up to 14 days and shall entitle the holder only to operate a vessel on the public waters of New Hampshire. Any dealer or renter of boats or employee thereof, who has passed the boating safety education course as provided in RSA 270-D:13, I(a), shall be approved by the director to administer the temporary boating safety examination and to issue a temporary certificate.

270-D:14 Education Materials. Upon request, the director shall provide, without charge, boating safety education materials to persons who plan to take the boating safety equivalency examination.

270-D:15 Certificate Not Required. A person shall not be required to obtain a certificate of boating safety education if the person holds a certificate from another state indicating successful completion of boating safety education that meets or exceeds the requirements of this subdivision, a certificate from the United States Coast Guard Auxiliary, or a certificate from the United States Power Squadron.

270-D:16 Course Fee. Any department of the state offering a boating safety education course may charge a fee for attendance at the course. The fee shall not exceed the costs incurred by the department in offering the course divided by the number of students attending the course and shall not exceed $50.

270-D:17 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

I. Approval of boating safety education courses.

II. Criteria for boating safety equivalency examinations.

2 Effective Date. This act shall take effect 60 days after its passage.

LBAO
99-0153
1/6/99

HB 449-FN - FISCAL NOTE

AN ACT requiring boating safety education.

FISCAL IMPACT:

The Department of Safety indicates state general fund expenditures may increase by an indeterminable amount in FY 1999 and each year thereafter. There is no fiscal impact on county and local expenditures or state, county and local revenue.

METHODOLOGY:

The Department states that it currently offers, at no charge, a boat safety course twice each year. Additional cost to the Department may result from the printing of additional boat safety education materials and certificates as a result of increased demand. Although indeterminable, the Department estimates this cost could exceed $10,000 annually. The Department stated it intends to continue offering the boat safety course at no charge.

Committee Minutes

Date: June 22, 1999
Time: 3:35
Room: LOB 104

The Senate Committee on Transportation held a hearing on the following:

HB 449 requiring boating safety education.

Members of Committee present: Senator Gordon
Senator Pignatelli
Senator Russman
Senator Trombly

The Chair, Senator Edward M. Gordon, opened the hearing.

The primary sponsor is not available right now but he should be here shortly. I will call upon anyone else who would like to testify on HB 449.

John Stephen: Mr. Chairman members of the committee, my name is John Stephen, assistant Commissioner for the Department of Safety. Senator, I faxed to you yesterday, an amendment that the department is proposing to that bill. I just wanted to make sure you got a copy of that and I can leave that here.

Basically, I want to state first that the Commissioner wanted to be here on this bill. These are very important bills to him. The Department of Safety is 100% in support of boating education. From what we have seen on the waterways, we know we need to do something. We have a lot of violations and as more people come up to use our lakes, we need greater enforcement.

The senate this year was very friendly to us, as well as the House, with HB 245. We appreciate all the support and I think we are going to be at a level of adequate funding in the next few years. Again barring any trailer bill situations that may occur in the next few hours, we always have been in support of education. The question always lingered as to how we are going to do it. Is it going to be mandatory or voluntary. We have always worked with voluntary. One of the things I did after the testimony in House Resource

Committee, was to work out a memorandum of understanding and agreement with the Power Squadron, they will be conducting courses for us this coming year. They are going to start those courses very soon, we've already put close to 500 people through the course this year and at the end of the year the director believes that will be about 1000. That is an eight hour National Association of Safe Boating Law Administrators approved course.

That 1000 figure is up from 350 or so last year and its close to where it has been for the past few years. Its what the House Resource Committee really wanted, they urged us to do that. We are also looking at Coast Guard Auxiliary collaboration. The only question then is do we want to do mandatory education. With the passage of the bill 245, the additional funds we will receive it makes it much easier for us, financially, to begin this process of mandatory education. The Commissioner is in support of that bill, so he is in support of 449 right now. Not so much as it reads, there are some minor changes we would like to be made to the bill.

The most important change is that, where it begins,"the director shall issue." The Commissioner wants the statute to reflect what it does throughout the RSA's on an education issue like this, that the Commissioner of Safety who adopts the rules, Commissioner of Safety shall issue the certificates and the Commissioner of Safety shall approve the rules and shall be in charge of the course. We will put the course together how we feel, based upon what the department has seen, how we feel should be done and in the process we feel New Hampshire people should expect.

What we have to be careful of is having this education course be a little more onerous than some of the other courses outside the states. We are starting the process here for the first time, we have not done this before and now we are saying we have over 16,000 drivers at 16, you've got hundreds of boaters at age 16 out there and now we have to come to safety or the substation, go to the area where we collaborate and you must go for your course.

We accept that, we'll make it work but we want to have some time and some contingencies built into this. I think that is what this amendment does. It basically says we'll put together this course and make it work. I think that's what this legislature wants and its going to be incrementally done so that its 16 for the first year, then it goes up so by the year 2010 it would cover all boaters. The issue of grandfathering people who are out there now that know the safe boater laws was brought up but I think Representative Whalley put in an amendment that an individual that passes a boat safety test that we authorize with an 80% grade and we'll put the test together like we do for DMV issues. We'll put it together and have it available at areas where boaters can get access to it. In fact in the amendment, we recommended, it

would be anyone that passes the course and the Commissioner approves, can issue a test, so that some boater can get a certificate because they may come in here not knowing the law.

We don't want to be able to write tickets for people that just unintentionally do not go through this course. That is not the intent. So we have also put in here how it's a secondary action. There isn't much that's been changed from the House bill and I've outlined the changes.

One other change I just want to add is the ED & A committee came out with an amendment on the temporary certificate and I thought and the Commissioner believes it's a conflict of interest. To say that someone who rents a boat or is going to be renting vessels is going to issue certificates to someone who comes in to rent the vessel. We took that out in the Department of Safety's provision so that really, leave it up to the Commissioner to determine who should be able to give the test. That is the other issue that I wanted to flag for you. You've got to think about it. You want to have these people who are renting boats giving the course? I don't think that's what should be done. But all in all we are in agreement for the first time in history to go to a mandatory boating education. Its going to be good for the state and something all of us will benefit from in the long run.

Senator Rick A. Trombly, D. 7: My concern is that with the lateness of the session, most bills that are going to be amended are going to end up not heard in committee of conference. Does that bother you?

John Stephen: I've talked to Representative Whalley, Representative Royce is the policy committee chairman, I've shared the amendments with them. Representative Whalley's only concern is that he wanted to have the National Association Safe Boating language in there. The Commissioner wants to be able to approve the course according to what we feel is best. And I think we were somewhat in agreement there. It's the first time we are trying this. Representative Royce was supportive of this amendment. So I think if you amend the bill as requested by the department, I think we are all going to agree to it and it won't need a committee of conference. I believe that strongly senator. We are so close that its not going to be a major issue.

Senator Edward M. Gordon, D. 2: I guess I'm concerned about the timing too and I just noticed that the House basically killed all the Senate bills that we sent them recently over there. It appears that we're coming down to the last hours of the session and I'm wondering whether or not we are going to have time to do the types of amendments that we are talking about on this particular bill. Maybe the thing to do is take a little time to look at this and

re-refer it and deal with it next year when we have a little bit more time and put a little thought in it. What would be the down side of re-referring it?

John Stephen: Well, I guess to address that question first, I must say that I think Senator when you look at both versions, the amendments that we are requesting are minor changes. These are not major significant changes, I don't think. When you look at it, you might have your own twist on that.

But to answer your question, on the re-refer issue, just so you know, I told this to the Resource Committee. We are going to have 1000 people, going through the course at the end of this year. That is up from 350. No matter what, we are heading in the right direction. Even if we did wait, we are going to come back next year and show you that this many more people went through the education but I wanted to thank Senator Pignatelli.

The funding we received, if that all goes through, that makes all this possible. So I know the Resource Committee worked hard on this and I would ask that you speak to them. Our position would stay the same, if you re-refer we would like these amendments to go through. Either way we don't have a problem.

Senator Debora B. Pignatelli, D. 13: I apologize for not being here to hear the sponsor and perhaps the sponsor can give me the answer.

Senator Edward M. Gordon, D. 2: The sponsor hasn't spoken yet so you still have the opportunity.

Senator Debora B. Pignatelli, D. 13: All right, I'll wait to ask my question of the sponsor.

Representative Mike Whalley: Thank you Mr. Chairman, for the record my name is Mike Whalley representing Merrimack District 5. I am the prime sponsor on HB 449-fn. I'm not going to waste a lot of time telling you why we introduced the bill.

I'm sorry we were late, we were in the voting mode. This is a bill that has been before the legislature countless times. It has been before the Resource Committee countless times and as we've moved through the years, we've refined it more and more. I overheard that an amendment was introduced by assistant Commissioner Stephens and as I understand it makes two significant changes to the bill. He mentioned that Representative Royce as the Chairman of the Resource Committee would support these changes. It is

not my understanding that Representative Royce or the Resource Committee would support these recommended changes by the assistant Commissioner.

The change on line 10, I don't believe we have any problem with. The idea that we would eliminate the NASBLA, which is the National Association of State Boating Law Administrators, their certified course is not something that we would agree with because 16 other states have already adopted the NASBLA course and others are considering it. It is more or less the Bible for certification across the country and it provides two opportunities here in New Hampshire.

One is that when someone visits from another state, as time moves forward, they would have already completed a NASBLA training in their home state and if they are a summer resident of New Hampshire it would provide them with an opportunity to receive that training back in their home state and in affect carry that training back to New Hampshire and it would be recognized here. In addition to that, it would allow a resident of New Hampshire who received our training here, to carry that certificate outside of the state so that if they were to go boat in Vermont or boat in Connecticut or boat in any of the other 16 states and I believe that number will increase as time moves forward, they would not be required to have something that was unique to that whole state.

They would have something that would be available for them here in New Hampshire. So I think its critical that we have NASBLA. We do have NASBLA now, it is what the department is using. Until a few years ago we were using a four hour course that had been designed by the Department of Safety and it was a great course and it is something that was a positive thing for boaters in New Hampshire who choose that training. I'd be happy to answer any questions on that.

On line 28 as I understand it, there is a recommended amendment which deals with the dealer or the renter of boats and an agent or employee thereof to provide a test to the person who is either purchasing or renting, a temporary certificate. I don't particularly mind if you amend that section to the extent that you, the temporary certificate as defined in that section is a 14 day temporary certificate.

I'm comfortable with the idea of amending that and shorten that to 7 or 8 days if you felt compelled or that you might put language in there that only one temporary certificate could be issued per summer or something of that nature. That would not allow a citizen with the opportunity for continuously going forward and having these temporary certificates. That was not the intent and I believe until we get into this and it will take about 10 years of

the phase-in to have all the people in the boating population become certified, then we are going to have to deal with temporary certificates. Other states have dealt with this by having no certificate at all. If your in the state for a minimal amount of time you just simply cannot bring a boat without the certificate under any circumstances. I don't think that's the appropriate thing to do because I think people, once we decide certification is a positive thing and in the Resource Committee we had no testimony against this bill. I believe that we ought to implement a system and a plan that would provide us with a way of getting to that end.

There is another part of this bill that was of real concern to some members of the Resource Committee, we understand that there will be people 10 years out who will be in their 40's or 50's or 60's or 70's or 80's or however it was described in our committee who have been boating for a significant part of their life. They feel they do a good job and they wish not to have to go and take an 8 hour training course. There is an option in the bill that allows them to take a written exam pass with a grade of 80% and they would be allowed to boat in New Hampshire. It would not in all probability give them reciprocity outside the state of New Hampshire but if the person is boating most of the time or all of the time in New Hampshire, they would have that option.

I guess I would close by saying that this bill has been given a tremendous amount of thought over a long period of time going back 7 or 8 years or longer and we've looked at the ingredients and part of other bills and tried to take the best of those bills and some of the objections that have been made in the past and then come in with this piece of legislation. With that I'd be happy to answer any questions.

Senator Rick A. Trombly, D. 7: I think I'll just make an observation Mr. Chairman, given the dispute between the department and the sponsors, I don't think there is any way we can reconcile and keep the bill alive, other than to send it to study. I know you have a long list of people that want to talk but I'm pretty much fairly convinced now given what I've heard that I would vote to re-refer it, to give them an opportunity to work on something over the summer. I think its important enough not to kill but clearly I'm not going to choose either the department's option or the sponsor's option without more study. We just don't have that time now.

Senator Edward M. Gordon, D. 2: Representative Whalley you would be happy passing the bill the way it came out of the House?

Representative Whalley: Absolutely. I think its unfair for the department to come in at this late date. They have not had any conversation with me about any amendments. They have not had significant conversation

with the chairman of the Resource Committee and for them to indicate at this time that they are uncomfortable with NASBLA which is what they are using, I heard a comment just a moment ago that now that they have the money that was jeopardized, they no longer have to worry about that issue. This bill specifies that up to $50 can be charged for the cost of this course once they can establish that there is an actual cost for materials or for any other needs and we have already entered into a letter of understanding as I have been told and I'm sure the assistant Commissioner could give us more information on that.

I believe the Coast Guard Auxiliary, we are not intending for the state of New Hampshire to give all the training. We are intending for groups as has been done in other states, we are not trying to invent the wheel here. We are copying what has been used successfully in other states. I believe this would allow us to do that. We have a lot of broad support and I think that as long as we believe that we are going to continue to put more and more boaters on our lakes and increased enforcement, we have to recognize that training and certification is going to be a necessary requirement. The ingredients are here and you can pass it as it is.

Senator Debora B. Pignatelli, D. 13: Representative Whalley I'd like to find out about the process of this bill through the House and what happened. Can you tell me about how this bill was introduced and what happened in the Resource Committee, the vote on the floor of the House and then what happened.

Representative Whalley: I can do that but there is a roll call.

Senator Edward M. Gordon, D. 2: Is there a roll call right now?

Representative Whalley: Yes there is.

Senator Edward M. Gordon, D. 2: Would you like to do that?

Representative Whalley: I would like to do that. Give you an opportunity to discuss this bill and I will return as soon as I can.

Senator Debora B. Pignatelli, D. 13: What I'd like to ask you is whether you had conversations with members of the House, the Resource Committee about your concerns.

John Stephen: Yes I did. I hate to take issue with what was just said without Representative Whalley being here. I spoke to him 2 weeks ago in the hall and gave him a chance to discuss this whole issue

that the Commissioner of Safety was now in agreement without this mandatory education issue, knowing that we were going to be getting some additional funding and when he says it costs $50, we have to hire people to teach this class. It is eight hours, we are talking a number of boaters going through this and we have to bring people in to give tests. We have to put people in the field to make it available. Its not just as easy as you say, charge people $50.

So we looked at the bill and we said, now that it looks like HB 245 is going through, the Commissioner of Safety made a great positive movement forward in coming forward. I spoke to Jack Shurburne of the Lakes Association and Carl Johnson, the senator who was pushing this bill. And I said, would you have a problem with some of these ideas because now that we are getting it, we'd like to do it this way, if it is going to pass. Senator Johnson was very much in favor of what I told them, never voiced an objection.

Then I met with Representative Royce and in fact, I personally made sure that I got over to him a copy of this amendment two weeks ago. I've never heard any objection. Representative Whalley's big concern was the issue of the NASBLA, having this National Association of Safe Boating Law Administration, in this language. That is what we are teaching now but we may want to change it. We may want to make it adaptable to New Hampshire standards. We may want to add things to it. To put in has to be NASBLA course when we don't do that anywhere else in our statutes, we just had a problem with that. I told Representative Whalley that and in fact he told me, no way he wants that in there and said, what if we just leave it the way we are doing it now, with NASBLA?

I said fine, we can do that but I am telling you if we want this to go through, the department that is going to have to teach this course, lets give deference to what we are asking, that is all I've asked. So I don't think there was that much of a disagreement there myself. And I think Representative Royce when I spoke to him personally, deferred to some of the stuff Representative Whalley said but pretty much didn't issue any type of dissention or objection to what we were proposing. If they would agree, the intent behind what they want is in our version of the bill. Its there, so when you say what happened, what is the history, we were opposed to the mandatory portion because—for financial reasons.

It's a lot easier now, but even to take people off the lakes to do this course, when everyone is telling us, we've got to have more marine patrol officers out there, I saw that and so what we tried to do is get collaboration going here and that is what we are doing.

Senator Edward M. Gordon, D. 2: We just gave you what in my opinion amounted to a huge amount of additional funding, in the legislation that we just passed. Which apparently snuck through the House, but it did. It would seem that you would be able to fund this program if in fact your assertions are true. Your assertions are, if in fact we are providing this type of training, requiring people to participate, then the need for enforcement should be less. So it seems that you ought to be able with the money that we've just given you, provide this type of service to the public, knowing that it has a consequence and that is your need for enforcement will be diminished.

John Stephen: What about the 60 boats that are over 10 years of age? What about the 80% of the lakes that need navigation aids, we spelled out what we have to use that money for. That is not all going to go to education, we are trying to do the best we can but what I think is we can make this work. Mandatory education can pass, we can make it work. We are recommending some very reasonable changes that is all. I think it can work. But I appreciate your consideration.

Representative Letourneau: Thank you Mr. Chairman and members of the committee. I am Representative Letourneau, representing Derry, Rockingham 13. I am co-sponsor of this bill and I am here in support of it. Last summer I chaired a meeting on studying the marine patrol, one of the items that came out of that was this particular bill, the need for some education. Some of these boats.

New Hampshire has some 900 ponds and lakes and it's—they are all used for tourism. And that is a big plus in our state. We don not have many marine patrol officers and they can't be on all of the lakes. Boater education would go a long way towards making those small lakes and ponds safer.

I just happened to get this in the committee room this morning and I'm sure that you will probably get it, it's a little late, its dated May 1999 and it talks about the number of boating certificates and students certified in boating safety. I want to let you know what some of our neighbors are doing. In Connecticut in 1998 they issued 25,490 certificates. They had 128,164 certificates that they have issue in total.

In Maine they've done 674. Maine is something similar to us. Massachusetts did 1900, they don't have a real program down there. New Hampshire has only done 329. Rhode Island, the smallest state in the Union, 1350. Vermont is 766 certificates. This gives you some idea of what our neighbors are doing in the way of education and we need to get there as well. I'd be happy to

answer any questions. Just saw the amendment earlier so please don't ask me about them, I don't know anything about them.

Jack Sherburne: Thank you Mr. Chairman, senators. Jack Sherburne representing the New Hampshire Lakes Association. Frankly we think this bill, the way it is written is probably the best effort over the seven year period to come up with something like this.

It is well thought out and while I sympathize with Commissioner Stephen, I think what I see of the amendment, they are apparently minor and I would suggest that we need to pass this bill the way it is this year then DOS can come back with an amendment next year if they really think that is what has to happen.

I certainly think it would be bad to take NASBLA out of it. I think there needs to be a sense of reciprocity between other states that already do this. I'd like to keep this real short but we need a course that teaches what is in this book. These books cost us $40,000 in this state and I don't know how many people actually go through them but if they take that 8 hour course, it will cover what is in this book.

I have one more thing, back in December of 1994 there was a bill similar to this and the Union Leader came out with an editorial by Joe McQuade supporting that bill and this bill is better than that one. I'll just pass this around so you can see it.

Senator Rick A. Trombly, D. 7: I've changed my mind.

Senator Edward M. Gordon, D. 2: I'm not sure this bill looks quite as good as it did before.

Jack Sherburne: We have the states largest newspaper helping us out this time. I'd say let's get this thing done if there is anything in here you'd like to ask about, I'd be glad to answer. The history, quickly, it passed RR&D in the House and it was sent to ED&A to take a look at. And correct me if I'm wrong but ED&A put in an amendment which was the part that allows the people that rent these boats out and the marinas so long as they have the certificate, they could apply the test to those people who want to rent there boats and I think that's a pretty good thing to do.

If I were in that business, I would want to cover myself by giving the test, even if it was a short test 20 questions. And it would be a temporary certificate in any case. That was put in by ED&A.

Senator Debora B. Pignatelli, D. 13: So we are going to have people coming in from out of state, renting a boat, don't have to take the course but have to listen to the dealer/renter about safety, take a quick course, get the certificate run a boat up to a high speed on our lakes, when we require people that live in the state and have been boating their entire lives to take an 8 hour course and pass the test and we are going to let weekenders who come up and rent a boat, drive on our lakes without taking the course or passing a test?

Jack Sherburne: I think to fill in the wholes in that problem, that is why the short test, the temporary certificate came about in this law. I think that would cover the objections of the people who are involved in tourism. That was one of the biggest arguments over the years, we don't want to interfere with the tourism business and this is an attempt to respond to that. If they can take a short test and get a temporary certificate, I don't think that would bother them too much. But you are right, we have to do something so we have them on the same basis as the people in the state.

But we have a lot of state people who won't have certificates because their date of birth doesn't come up for ten years. This is not going to bring everyone in at the same time. It is going to take ten years to do it.

Senator Edward M. Gordon, D. 2: What senator Pignatelli is saying, is its not a question of bringing everyone in at the same time its treating two categories of people differently and that is, you have a tourist that has to meet one standard and you have a resident that has to meet another. And you actually require the residents of the state to be in a higher standard than a tourist.

Jack Sherburne: It's a compromise, what can I say.

Senator Edward M. Gordon, D. 2: The question that I would have, why shouldn't we just expect the resident of the state to take a 20 question test and if they pass it, give the certificate without having to take the 8 hour course.

Jack Sherburne: I think its worth thinking about it but if you tried to get everyone in at once, DOS couldn't do it, they just couldn't handle it. Probably just the 16 year olds for the first year, I think its going to strain.

Senator Edward M. Gordon, D. 2: I'm not talking about taking the course. There are motor vehicle locations right now all over this state where you can go and take a 20 question test.

Jack Sherburne: You lost me there senator are you talking about boats or cars.

Senator Edward M. Gordon, D. 2: Boater Safety, same department last I knew, the Department of Safety.

Jack Sherburne: Well if we are going to do that, we won't get a bill this year but its certainly worth consideration and amending the bill next year. I think we need to get a start now and the bill is basically a good bill.

Senator Richard L. Russman, D. 19: Why couldn't we get a bill this year?

Jack Sherburne: Senator Gordon indicated time is getting real short and not sure we can go through amendment procedure and get it back to the House. I'm only saying that let's get this one through, its basically a good bill then if there are some concerns about part of it, we can amend the law next year.

Senator Richard L. Russman, D. 19: So you don't think the senate should do what we think is right because of that, is that the idea.

Jack Sherburne: No sir, I wouldn't say that about the senate. I'd be glad to work with you if you want to do an amendment, I'll do the footwork for you.

Senator Edward M. Gordon, D. 2: They have just announced that the senate is back in session and what I'd like to do, I'm going to stay here and continue to take the remaining testimony on this bill and will close the hearing. What is the committee's preference, do you want me to go on with the other hearings and take testimony. We have two more hearings, these are the last two bills assigned to the transportation committee. I can stay and take the evidence and have the hearings at least complete and ready for the executive session.

Senator Richard L. Russman, D. 19: Why don't you do that.

Senator Edward M. Gordon, D. 2: It's getting late to exec today but I will make an announcement when I get back to the floor.

Jody Grimbles: My name for the record is Jody Grimbles, I represent the New Hampshire Marine Trades and the New Hampshire Personal Watercraft Association both organizations strongly support the legislation as written. I just saw the amendment today so

obviously I haven't had a chance to review it but I do have portions that I could answer and address some of the concerns that assistant Commissioner brought up.

First of all, the different levels for tourists versus instate. An instate person, in accordance with line 15 of this bill doesn't have to take an 8 hour course, they could pass just a test. The course is a 70% threshold to pass, the test is an 80% threshold. So if my turn comes and I have to get certified that year, if I choose not to take the course, I can take the test.

So either way, a tourist or a resident can take the test and still obtain the certificate. The tourist is only going to get the temporary certificate.

Senator Edward M. Gordon, D. 2: Same test Jody?

Jody Grimbles: It's a test approved by the Department of Safety so I'd assume that would be up to the Department of Safety to decide. Regarding the NASBLA issue, I think, along with Jack Sherburne that its important that it is in there. The other states that do have some form of mandatory education do use NASBLA it is kind of like the ingredients that is in a course and then you put what is necessary for your particular state on top of that. You have a basic course that is reciprocal between states so its very important to have that in there. To use as a guideline.

Senator Pignatelli had a question about tourists coming in and just taking a 20 question test and going out. That is more than they do now, so I think it's a start. It is getting more people out on the lakes that have some knowledge of what New Hampshire boating laws are which is really what the thrust of this bill is. Assistant Commissioner of Safety talked about how there is going to be a cost to this bill for hiring people to teach. The research that I've done in other states they use volunteers. They use teachers that are on summer vacation, they use Lake Association Presidents, people who are just interested in boating volunteer, they do a course and then the teachers give courses out and they are free. Or, they have a nominal cost for the materials and building rental. So I don't think this has to be a very expensive program because there are ways to address this through volunteerism. I think we would have a lot of volunteers that would like to do this sort of thing. The New Hampshire Association of Personal Watercraft users would be one of those organizations.

The last thing, I thought it was very interesting in the state of Vermont, one of they ways they do it, they have their mandatory education program on the internet. There is an internet server in Florida that does this for various states that require mandatory education. Your specific state test is on the

internet. You can log-on from home, take the course, take the test and if you pass, the internet server contacts the Vermont Department of Safety and they issue the certificate. They have done that for 2 or 3 years. It costs them $5,000 per year for that service. That is something that the Commissioner can at least look at as a potential for saving money and getting people to take the course. The basic premise is to make sure people know the law, so we are not trying to make it onerous but the bill as written, addresses how to get people educated in the least onerous way. So we support it as written, for the first time the New Hampshire Personal Watercraft Association and the New Hampshire Lakes Association agree on something. I'd be happy to answer any questions.

Jack Sherburne: Senator we are up to about 90,000 registered boaters in this state and we have well over 30,000 out of stators coming in. We are getting crowded and the accident rate is bound to go up. We are trying to do something to keep that down and this is why the bill should pass.

Senator Edward M. Gordon, D. 2: Just one question for either Jack or Jody. Did anyone give any consideration to the fact that basically we just grandfather those people out there, lets say anyone over 18 years of age and start this in as a program that starts at that age level rather than try to impose this on people who have been out there boating for 10, 20, 30 or 40 years.

Jody Grimbles: I think there was that thought but there was also recognition that some of the people who have been boating may not know the law they think they do. So the issue of not taking the course but having that test to take, if someone has been boating for 10, 20 or 30 years they can pass the test no problem. You don't have to take the 8 hour course but you can take the test, it is on line 14. They didn't think it was that onerous that someone who has been boating for 50 years they have 10 years basically to go take the test.

Senator Edward M. Gordon, D. 2: So I go take the test, I don't pass, I come back and take it again or am I required to take the course?

Jody Grimbles: Yes you take it again. You can take it until you get that 80%.

Senator Edward M. Gordon, D. 2: If there is no one else that is going to testify, I'm going to close the hearing on HB 449-fn.

Hearing closed at 4:20

Gordon. Trombley
Pignatelli

HB 449
6/22/99 3:30

Sen Gordon: Call on anyone else until prime sponsor arrives.

John Stephens: faxed Amendment
Dept is proponent. 100%
Support boating education.
Need enforcement. HB 245
appreciate all support.
Barring trailer bills.
Ed - Mandatory / Voluntary?

Memo Understanding w/ Power Squadron. 500 people now. 8 hour Nat'l Assoc Boating Safety.

Mandatory Also? Easier to begin. Comm supports.
Minor changes.

"Director Shall Issue"

Comm Safety Shall . . . .

More onerous - process 1st time. hundreds of boaters. Time / contingencies built into this? Incrementally done. 2010 all boaters.
Issue of Grandfathering?
Rep Whalley . . . Amendment

unintentionally did not take course.

One other change EDA Comm - temp certificate -- conflict of interest.
Leave it up to Comm to decide who gives test.
Good for State, benefits all.

Trombly: most not heard in Comm't of Conference.

Stephens: Rep Whalley Nat'l Assoc wants language. Rep Royce supports Amendment so close not a major issue.

Gordon: Last Hours of Session time for amendments. Take time re-refer. Deal w/it next yr. what would be downside.

Stephens: Look @ both versions minor changes. 1000 people in course. Headed in right direction Funding makes all possible. Resource cmmt worked hard.

Pignatelli: wait to ask of Sponsor.

Rep Whalley: Mike Whalley Merrimack D.5. Prime Sponsor. Has been before countless X. refined more, more.

Amendment significant. Changes not supported by Rep Royce.

NASBA - Course, cert course adopted in 16 States. Bible for certification. They complete in Home state, provides oppty carry training here. Allows resident to carry outside. We do have now... Great 4 hr course
line 28 - dealer/renter, employee test, temp cert. (14 day temp cert) not provide continuance of temp cert. 10 yrs phasing for all to be certified. No testimony against bill in Resource Cmmt.
People 10 yrs out, 40, 50, 60 option written exam pass w/ 80% no reciprocity.

1-8 yrs, ingredients, implemen

Trombly: Vote to re-refer, oppty to work over Summer. Not choose dept or Sponsors.

Gordon: Happy to pass as it came out of House.

Whalley: Absolutely -- unfair for Dept to come out w/ Amend w/o contacting Resource Comm. Ltr of understanding w/ Coast Guard Auxillary. Not re-invent copy whats done in other States. Ingredients are here.

Pignatelli: Process through the House. What happened?

Whalley: Roll call in the House (Left)

Pignatelli: Had conversations w/ members of the House

Stephens: Idaho to contradict we have to have people 8 hrs. Tests, field. HB 245 going through Comm Safety moved forward... we'd like to do it this way. Met w/ Rep Royce gave copy 2 weeks ago.

Biggest concern NASBA we are teaching now. Dept give deference to what we are acting. Royce deferred, no objection. Intent of what they want in our... opposed mandatory for financial reasons.

Gordon: We just gave... huge add'l funding. Snuck through the House. if Assertions are true. need for enforcement should be less. Provide Service, Consequence

Stephens: What about 60 boats not all for education. We can make it work. Reasonable

Rep Letourneau: Derry, Rockingham 13. Supports. Chaired Comm on Marine Patrol. Items out of this. NH 900 ponds/lakes used for tourism, lot many Marine patrol. Boater Ed makes smaller lakes safer. Cert, boating safety. Connecticutt 128K cert, Me 675, Mass 1900 NH 329 - pretty std. RI 1350, VT 166 Certificates. Just wanted to give U some idea what our neighbors are doing. Dont Know about amendment dont ask

Jack Sherburne: Best effort 1 yr period. Well thought out. Amendments minor. Pass this yr. Come back next yr. Bad to take NASBA out. Need reciprocity. We need a course. Cost 40K for books.

Dec 1994 - Bill similar
Union Leader Editorial
by Joe McQuade. States
largest newspaper helping
us out.

Passed RRB, House, sent to
EDNA, Amendended - allowing

Pignatelli: So we have people
out of state no course,
run boat, we require
residents 8 hr test...

Sherburne: Short test / temp
Certificate. Objections by
people in tourism. Attempt
to respond. We have to
do something. Will not
bring everyone in at same
time.

Gordon: 2 Categories, Tourist
residents, Higher Std.

Why not expect residents to take 20 question test.

Sherburne: Everyone @ once DOS

Gordon: MV locations all over the State

Russman: Why wouldnt we

Sherburne: Time real short. Amendment procedure get back To The House.

Russman: U don't think Senate should do what is right.

Sherburn: No, i'll do the work, work

Jody Grimbliss: Both Support. Just Saw Amendment.
Different levels -- in state line IS does not have to take ~~test~~ 8 Hour.

NASBA - important ingredients then what else u need for NH. 20 questions more than they do now.
Cost to hire -- research -- other states use volunteers. Nominal cost, bld, NHAPW users. Vt deals w/ mandatory by using internet. Log on, take test. $5000/yr for service. Not onerous.

Sherburne: We are up to 96000 boaters, 30,000 out of staters Accident rate going up. We need to do something.

Gordon: Consider Grandfathering start at this age level rather than lamposing.

Jody: Not taking course, but taking test (line 14) not that onerous.

Gordon: Take test, don't pass dont take

Closed 4:20

Transportation Committee

HB 449 – FN Hearing Report

TO: Members of the Senate

FROM: Susan Duncan
Legislative Assistant

RE: Hearing report on HB 449 -- AN ACT requiring boating safety education

HEARING DATE: June 22, 1999

Sponsor: Representative Michael Whalley, PRIME
Representatives Smith, Mercer and Letourneau
Senators Fraser, Wheeler, Johnson and Hollingworth, CO-SPONSORS

What the bill does: This bill requires that persons born after a specified date possess a certificate of boating safety education.

Who supports the bill: Representative Whalley
Assistant Commissioner John Stephen,
Department of Safety
Representative Robert Letourneau
Jodi Grimbilas representing the NH Marine Trades Assoc.
and the Personal Watercraft Assoc.
Jack Sherburne, NH Lakes Association

Who opposes the bill: No one testified in opposition to this legislation.

Summary of testimony received:

- Over the number of times which this bill has been before the Legislature, it has been significantly refined

- Ten other states have already adopted standards such as this
- This legislation would be incremental. In the first year, 16 year olds would be added. By the year 2010, all boaters would be included.
- It is critical that NH adopt and stay with NASBLA
- NASBLA is the National Association of State Boating Law Administrators
    - Under the courses offered by NASBLA a portion of the instruction deals specifically with laws for that state
    - Another portion of the NASBLA course deals with safe boating procedures which are recognized and practiced throughout the nation
    - NASBLA being contained within the legislation is important
- It is important that New Hampshire's boater instruction course not be more onerous than that required/offered by other states
- The twenty questions to be asked is an important step forward for New Hampshire. It's more than we're doing now.
- The State of Vermont offers their boater course via the Internet. The Internet service costs the State $5,000/year.
- The House ED&A committee felt that it is a conflict of interest for the person who is in the business of renting boats to also give the certificates (licenses)
- This legislation puts New Hampshire in a good position to finally begin mandatory boater education c
- Other New England states offer boater certification.
    - Connecticut 29,490 certificates issued in 1998
    - Maine 674
    - Massachusetts 1,900
    - New Hampshire 329
    - Rhode Island 1,350
    - Vermont 766
- The State needs boater education. The provisions of this legislation would go a long way to make the waters of our state safer for everyone.
- This legislation is the best effort which has been put forth during the last 7 years
- Even the *Union-Leader* editorialized in support of this legislation
- Both the New Hampshire Marine Trade Association and the Personal Watercraft Association support this legislation
- If one has been boating for years, they would not be required to take the course. They could take the test in order to get certified.
- Other states use volunteers to teach the boater education courses. Some states use teachers who are not teaching during the summer. The costs of instituting the courses would be nominal
- Currently there are up to about **96,000 registered boaters in New Hampshire** – and **over 30,000 out-of-state boats**. Our waters are becoming more crowded. We need education to keep our waters safe.
- The Department of Safety requested an amendment. Representative Whalley stated that he was not certain that the amendment would be supported by the House Resources Committee. Jack Sherburne testified that the amendment

was not as important as the bill itself – that the provisions of the amendment could come back next year as a stand-alone piece of legislation. There was disagreement between the bill sponsors and the Department of Safety as to whether the content of the amendment had been shared prior to the Senate hearing.

- The Department of Safety is concerned with the large number of older boats currently on New Hampshire's water.
- When questioned regarding grandfathering current boaters, the response was that this does not guarantee that the boater knows the NH laws.
- Concern was articulated as to why NH residents should have a higher standard to achieve than visitors would have. It was explained that residents would be able to obtain a permanent license. Visitors could obtain only a temporary license.
- A copy of the Department of Safety's requested amendment is attached

Funding: The Department of Safety indicates that State general fund expenditures may increase by an indeterminable amount in FY 1999 and each year thereafter. There is no fiscal impact on county and local expenditures or state, county and local revenue.

Future Action: No executive action was taken following the public hearing.

sfd
[file: HB 449 report]
June 23, 1999

Speakers

SENATE TRANSPORTATION COMMITTEE

Date 6/22/99 Time 3:00 Public Hearing on HB 449-FN

Appearing in FAVOR: *(Please print)* **Please check box at left to speak.**

Speaking?	Name	Address	Representing
☐	Rep. William E Mosher	Nashua	Dist 30
☐	Rep MaryAnn Blanchard	Portsmouth	Dist 33 Rock.
☐	Robert Letourneau	Derry	Rock 13
☐	Sen Leo Fraser		Dist #4
☐	Paul Blizzard	65 Gold St	Laconia. N.H.
☑	John A. Stephan	Safety	
☐	Nancy Christie	NH Lakes Assn.	
☑	Jack Shenburne	" "	
☑	Jodi Cumbler c/o Blanco P.A - Concord.		NH Marine Trades + NH Personal Watercraft Assn
☑	Rep Whalley		

Appearing in OPPOSITION: *(Please Print)* **Please check box at left to speak.**

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Testimony

Amend 270-D:13 Sections I and II as follows:

I. The commissioner of safety shall issue a certificate of boating safety education to a person who:

(a) Passes a boating safety education course administered by persons or organizations approved to offer boating safety education courses by the commissioner of safety. The minimum passing grade for the course shall be a 70 percent; or

(b) Passes a boating safety equivalency examination administered by persons approved to offer boating safety education equivalency examinations by the commissioner of safety. The minimum passing grade for the examination shall be 80 percent. A certificate issued to a person passing the equivalency examination shall specify that the certificate is issued as evidence of satisfactory completion of a safe boating examination and entitles the holder only to operate a vessel on the public waters of New Hampshire.

II. Once issued, the certificate of boating safety education shall be valid for the lifetime of the person and may not be revoked by the department of safety or a court without cause.

Amend 270-D:13 Section III as follows:

III. The commissioner of safety shall replace a lost or destroyed certificate, upon the written request of the person entitled thereto and the payment of the prescribed fee, and such copy shall have the same form and effect as the original.

Amend 270-D:13 Section IV as follows:

IV. The commissioner of safety shall issue a temporary certificate of boating safety education to a person who passes a temporary boating safety examination, administered by a person approved to offer boating safety education courses. The temporary certificate of boating safety education shall be valid for up to 14 days and shall entitle the holder only to operate a vessel on the public waters of New Hampshire.

Amend 270-D:14 as follows:

270-D:14 Education Materials. Upon request, the commissioner shall provide, without charge, boating safety education materials to persons who plan to take the boating safety equivalency examination.

25may99.....1211h

1999 SESSION

99-0194
05/01

HOUSE BILL ***676-FN-A***

AN ACT increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor.

SPONSORS: Rep. Packard, Rock 29; Rep. Bradley, Carr 8; Rep. J. Flanders, Rock 18

COMMITTEE: Transportation

ANALYSIS

This bill increases fees for motor vehicle inspections and creates new motor vehicle inspector positions. Under this bill, the motor vehicle inspector positions shall be funded from the highway fund.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 676-FN-A – AS AMENDED BY THE HOUSE

25may99.....1211h

99-0194
05/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Nine

AN ACT increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Section; Motor Vehicle Inspectors. Amend RSA 266 by inserting after section 1 the following new section:

266:1-a Motor Vehicle Inspectors.

I. The commissioner of safety shall establish a force of motor vehicle inspectors to assist the director in enforcing the motor vehicle inspection laws and rules. A motor vehicle inspector appointed by the commissioner pursuant to this section shall be totally dedicated to enforcement duties related to the inspection process, including inspection station auditing, investigation of alleged inspection station malfeasance, rejected vehicle follow-up, and sticker monitoring. A motor vehicle inspector appointed under this section shall have the authority to enter any motor vehicle inspection station authorized under RSA 266:1, during the station's business hours, to fulfill his or her duties.

II. The commissioner shall furnish suitable equipment to a motor vehicle inspector, as the commissioner deems necessary, to distinguish the officer as an individual acting in an official capacity. A motor vehicle inspector appointed by the commissioner pursuant to this section shall be directly responsible to the director and shall be a classified employee.

2 Inspection Sticker Fees. Amend RSA 266:2 to read as follows:

266:2 Fees. The fee for inspection stickers shall be [~~$1.25~~] ***$1.50*** for each sticker furnished an approved inspection station. All unused stickers returned by the approved inspection station to the division shall be refundable at the rate of [~~$1.25~~] ***$1.50*** each, except that unused stickers purchased from the division for a fee of [~~$.65~~] ***$1.50*** shall be refundable at the rate of [~~$.65~~] ***$1.50*** each.

3 Appropriation. The sums of $311,290 for the fiscal year ending June 30, 2000 and $195,266 for the fiscal year ending June 30, 2001, are hereby appropriated to the department of safety for the purpose of hiring 6 motor vehicle inspectors to enforce the motor vehicle inspection laws and rules, as provided in section 1 of this act. Said appropriations shall be a charge against the highway fund.

4 New Subparagraph; Motor Vehicle Inspectors Excluded from Group II Classification. Amend RSA 100-A:1, VII-a by inserting after subparagraph (c) the following new subparagraph:

(d) Any motor vehicle inspector appointed pursuant to RSA 266:1-a.

5 Effective Date. This act shall take effect July 1, 1999.

LBAO
99-0194
Revised 2/26/99

HB 676 FISCAL NOTE

AN ACT increasing fees for motor vehicle inspection stickers and establishing motor vehicle inspector positions and making an appropriation therefor.

FISCAL IMPACT:

The Department of Safety indicates this bill will increase state highway fund revenue by $320,000 in FY 2000 and each year thereafter. State highway fund expenditures will increase by $469,368 in FY 2000 and by $313,978 in FY 2001 and each year thereafter. Local revenue will increase by $38,400 in FY 2001 and each year thereafter. There will be no fiscal impact on county revenue or county and local expenditures.

This bill appropriates $430,968 in FY 2000 and $275,578 in FY 2001 from the highway fund to the Department of Safety for the purposes of this act.

METHODOLOGY:

The Department has estimated based on FY 1998 revenue from the sale of inspection stickers, that a $.25 increase should generate an additional $320,000 per year beginning in FY 2000. The Department further estimates the cost of 6 motor vehicle inspectors authorized in this bill to be $430,968 in FY 2000 and $275,578 in FY 2001 and each year thereafter. Annual costs include salary, benefits, current expense and in-state travel. One time costs in FY 2000 include $124,000 for new equipment. Local revenue will increase pursuant to RSA 235:23, which requires 12% of motor vehicle fees collected, returned to municipalities as part of the local highway aid program.

Voting Sheets

Senate Transportation Committee
EXECUTIVE SESSION

HB 449

Hearing date: 6/24/99 Room: LOB 104
Motion of: re-refer

Made by Senator:			*Seconded by Senator:*		
	Gordon	☐		Gordon	☑
	Roberge	☐		Roberge	☐
	Below	☐		Below	☐
	McCarley	☐		McCarley	☐
	Trombly	☐		Trombly	☐
	Pignatelli	☑		Pignatelli	☐
	Russman	☐		Russman	☐

5-0

Committee Member	*Present*	*Vote*	*Reported out by*
Senator Ned Gordon, Chairman	☑		
Senator Sheila Roberge, Vice-Chair	☐		
Senator Clifton Below	☑		
Senator Caroline McCarley	☐		
Senator Rick Trombly	☑		
Senator Debora B. Pignatelli	☑	✓	
Senator Richard Russman	☑		

*Amendments:

NOTES:

Committee Report

Date: June 22, 1999 Time: 3:35 p.m.

The Senate Committee on Transportation held its hearing in Room LOB 104, Concord, New Hampshire.

BILL NO.: HB 449-FN TITLE: requiring boating safety education.

Members of the Committee present: Senator Gordon
Senator Below
Senator Pignatelli
Senator Russman
Senator Trombly

Those appearing in favor:

Name and Address	Representing
See Attached.	

Those appearing in opposition:

Name and Address	Representing
See Attached.	

REPORT OF THE COMMITTEE:

- ☐ Ought to Pass
- ☐ Ought to Pass w/ Amendment
- ☐ Inexpedient to Legislate
- ☒ Rereferred
- ☐ Interim Study
- ☐ Continued Hearing
- ☐ Postponed Hearing

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Transportation

to which was referred House Bill 449-FN

AN ACT requiring boating safety education.

VOTE: 5-0

Having considered the same, report the same with the following recommendation that the bill be: **REREFERRED TO COMMITTEE.**

Senator Debora B. Pignatelli
For the Committee