

# Legislative History for Connecticut Act

## PA 16-187

SB136

Senate 1410-1425 16

Environment 586-587, 608-610, 658-664, 704-705 14

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**Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings**

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**CONNECTICUT  
GENERAL ASSEMBLY  
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Will you remark further on the bill? Will you remark further? Senator Bartolomeo.

SENATOR BARTOLOMEO (13TH):

Yes, Madam President. And -- and if my Ranking Member would like, I can make him one of the phonetical sheets that I gave you for that first year.

THE CHAIR:

Yes, you did.

SENATOR BARTOLOMEO (13TH):

So, if there's no objection, I would ask that we place this on the Consent Calendar, please.

THE CHAIR:

Seeing no objection, so ordered. Mr. Clerk.

THE CLERK:

On Page 34, Calendar 137, substitute for S.B. No. 136, AN ACT REGULATING THE USE OF JETTED ARTICULATED VESSELS AND CERTAIN WATER SKIING DEVICES; there are amendments.

THE CHAIR:

Senator Kennedy, good afternoon, sir.

SENATOR KENNEDY (12TH):

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Good afternoon, Madam President. I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE CHAIR:

Motion is on acceptance and passage. Will you remark?

SENATOR KENNEDY (12TH):

Yes. This -- the bill addresses the unrestricted operations of fly boards. There is an amendment. I'd like to ask the Clerk to call LCO No. 3843, and allow to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO No. 3843, Senate "A", offered by Senators Kennedy and Chapin.

THE CHAIR:

Senator Kennedy.

SENATOR KENNEDY (12TH):

Very briefly, this is an amendment --

THE CHAIR:

Senator, would you like to adopt the amendment?

SENATOR KENNEDY (12TH):

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I move adoption of the amendment.

THE CHAIR:

The motion is on adoption. Will you remark, please?

SENATOR KENNEDY (12TH):

This is an amendment sponsored by myself and Senator Chapin, just to remove an original section of the bill concerning water skiing that was really unrelated to this bill. And I ask my colleagues to adopt the amendment.

THE CHAIR:

Will you remark further on the amendment? Will you remark further on the amendment?

If not, I'll try your minds. All those in favor of Senate "A", please say Aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? Senate "A" is adopted. Senator Kennedy.

SENATOR KENNEDY (12TH):

Yes, returning to then the underlying bill, some of my colleagues may remember this bill from last year. It did pass out of the Senate last year.

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It seeks to -- addresses the problem of unrestricted operation of these so-called fly boards. These are the James Bond-style water propulsion devices that look very fun to ride, but have significant safety and environment concerns. So, what this bill does in a nutshell is adds JAV, jetted articulated vessels, to the definition of personal watercraft.

If -- to have a personal watercraft licensed to be able to operate a personal watercraft, those are jet skis and similar devices, you need to go through a boating safety course, get a certificate and the like. And the Environment Committee feels that it's only appropriate that -- that operators of these fly boards also obtain a safe-boating certificate to operate this equipment.

And I urge my colleagues to vote in favor of this bill.

THE CHAIR:

Will you remark? Senator Chapin, good afternoon, sir.

SENATOR CHAPIN (30TH):

Good afternoon, Madam President. Madam President, I rise in support of the bill, as amended, before us today.

As the good Chairman said, it -- it's more or less an -- an effort to bring the statutes up to date to reflect that there's new -- actually new watercraft technology out on Connecticut water bodies. I think it's a -- a good effort to regulate them in an appropriate way to improve public safety in the state -- state of Connecticut, and I encourage my

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colleagues to support it. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark further? Will you remark further? Senator Witkos, good afternoon again, sir.

SENATOR WITKOS (8TH):

Good afternoon, Madam President. If I may, a question to the proponent of the bill?

THE CHAIR:

Please proceed, sir.

SENATOR WITKOS (8TH):

Thank you. Through you, Madam President, I notice there's a provision in the bill that disallows the operation of a JAV within certain proximity to the shoreline, a dock, pier; and I'm just curious as to what is the penalty if one is found to operate within that, including no-wake zone?

Through you, Madam President.

THE CHAIR:

Senator Kennedy.

SENATOR KENNEDY (12TH):

Boy, this is -- if I could -- I do not have the penalty, through you, Madam Chair -- Madam President. I don't have -- I can look it up and

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provide this information to my colleague as soon as possible, but I don't have that information on the tip of my tongue, through you, Madam President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS (8TH):

Thank you, Madam President. That -- that's fine.

And during the public hearing, what -- did the Commissioner of DEEP provide any insight as to what they would allow for a waiver for a person under the age of 16 under the bill?

Through you, Madam President.

THE CHAIR:

Senator Kennedy.

SENATOR KENNEDY (12TH):

So, to respond to -- to -- to your question, Senator, through you, Madam President, there will be no waiver for operators under the age of 16.

To address one of the questions that -- that the good Senator mentioned about using these devices within 200 feet of a dock, shore or structure or no-wake zones, these are devices where the operator flies in many directions; they're sometimes difficult to control. That is why we set into place this provision to not be able to operate so close to these types of structures, through you, Madam President.



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THE CHAIR:

Senator Witkos.

SENATOR WITKOS (8TH):

Thank you, Madam President. Through you, I'm -- I'm looking at the -- the bill analysis, and the bill analysis states that although the owner cannot knowingly allow someone under the age of 16 to operate without a license, it does allow the Department of Energy and Environmental Protection Commissioner to modify or suspend the age requirement, in writing, for certain authorized marine events.

And I guess that's where I was kind of questioning as to what does the Commissioner perceive to be authorized events? If there's a junior ski club -- I know it's -- it's exempting of the water skis, but say somebody along the shoreline has a -- a jet ski club, would that be permissible -- do they intend that to potentially be a waiver? Or during Sail Fest, if there's escorts being provided and some kind of a show going on, do we anticipate that being a waiver?

Through you, Madam President.

THE CHAIR:

Senator Kennedy.

SENATOR KENNEDY (12TH):

So, through the amendment that Senator Chapin and I adopted, we removed a lot of the, I would say items

and passages of the original bill that caused a lot of questioning and concerns, to really focus really on the issue of operating these fly boards.

So, essentially it's a very simple concept. We are trying to make these fly boards follow the same rules as if you were to be operating a jet ski in the state of Connecticut. So, no person less than 16 years of age shall operate a -- a -- a -- a JAB, what's called a jettied articulated device. So, in other words, any rule that would apply to somebody operating a jet ski, would also apply to somebody operating one of these so-called fly boards.

And I will say this just -- in addition, most of the testimony that we received at the Environment Committee, obviously talked about the safety, and as my good friend Senator Chapin described, the new technology that just has come into play in the last few years.

But there's some serious environmental impacts from these devices. We heard testimony, for example, from the Town Manager of the Town of Coventry, whose -- there's been a vendor that's been renting these -- this type of equipment out to unlicensed operators. They've done extensive water studies in that lake. They feel that this has a negative environmental impact on that lake. They feel that these devices transport invasive species from one lake to the -- to the next.

We don't really get into that, but I just will say that they're -- there are some significant environmental consequences to operating this -- these types of vehicles, through you, Madam President.

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THE CHAIR:

Senator Witkos.

SENATOR WITKOS (8TH):

Thank you, Madam President. And I know that the jet skis or JAVs or whatever they're called, they require, the jet skis anyway, a registration to operate in the state of Connecticut. Do we require these particular devices to be registered?

Through you, Madam President.

THE CHAIR:

Senator Kennedy.

SENATOR KENNEDY (12TH):

I should know the answer to that question, Madam President, through -- to you -- through you, Madam President. I don't. I -- this is -- really, this -- this legislation really focuses on the -- the license, the -- of a license to operate one of these pieces of equipment.

We really didn't get into whether or not you actually needed to register one of these pieces of equipment through the Division of Motor Vehicles, through you, Madam President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS (8TH):

Thank you, Madam President. I thank Senator Kennedy for those answers, and I stand in opposition to the bill for several reasons.

One, and first and foremost, those that have testified, although we -- we've only focused on the licensure, there was testimony as there's environmental concerns, there's an invasive plant species concerns. And we've dealt with those items in previous legislation about any device that comes out of a pond or anything or water, of course you're supposed to make sure the plant material is removed and washed down before you transport it to another place. I'm sure that's still applicable. That was why I was asking if it's registered, because you wouldn't know that. I think when you register your vehicle, you get those informational guidelines.

I was going to go further on in my questioning to ask, have we heard or seen anybody result in a serious or physical injury as a result of utilizing one of these devices? Because it seems that this General Assembly seems to race to enact legislation because something happened to somebody somewhere, and we want to make sure we pass legislation that either attempts to prevent it, but things like that are called accidents, and sometimes you can't prevent something like that from happening.

And furthermore, I think we have pieces of legislation in place with the Department of Consumer Protection if somebody is illegally or improperly operating a business, renting things out to folks that are not licensed to do so. There's a course of action that they can do that. So, I stand in opposition to the bill. Thank you, Madam President.

THE CHAIR:

Will you remark further? Will you remark further?  
Senator Frantz, good afternoon, sir.

SENATOR FRANTZ (36TH):

Good afternoon, thank you, Madam President. Just one brief question in the interest of making sure we don't have to come back and revisit the language.

When you say that you need to be, I think it was 200 feet away from the shore in order to operate this vessel -- and if you haven't, members of the circle, if you haven't seen what this machine is all about, if you look up jetted articulated vehicle, you won't find anything on Google. But if you look up water jet pack, you'll see some amazing YouTube videos, and I highly recommend it. It's a pretty wild ride.

But my question for you is if the bill calls, and the amendment calls for an operator being at least 200 feet away from the shore, how does the operator get there?

THE CHAIR:

Senator Kennedy.

SENATOR KENNEDY (12TH):

The bill anticipates that somebody will need to enter the water so to speak, and it provides for that -- that -- you know, that activity; in other words, being able to get onto the -- onto the piece of equipment, et cetera.

I -- I think a lot of the testimony that we heard in the Environmental is -- on the Environment

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Committee, is these are a lot of fun. And they are -- it's fun to show off when you are riding on one. And that's part of the purpose of having one of these pieces of equipment and people like to go as close to the shore as they possibly can, and -- or the marinas, or the shores and the lakes, et cetera. So, I think that was -- has really been the concern; the proliferation of these types of devices and the fact that the propulsion system is in effect very similar to the propulsion system of jet skis.

So, it seemed to the Environment Committee, anyway, that the simplest thing to do, instead of coming up with a whole new kind of regulatory regime for this type of equipment, is just to simply ask that the people who want to operate this, go through the same type of training, boater safety course, as somebody that we ask currently today when they are operating a jet ski in Connecticut waters, through you, Madam President.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ (36TH):

Thank you. Through you, Madam President, did you or Senator Chapin, in your due diligence, take a ride on one of these things?

THE CHAIR:

Senator Kennedy.

SENATOR KENNEDY (12TH):

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No, I -- I haven't, but I -- they -- again, they do look like a lot of fun. I have seen people operate these.

But again, I think that, you know, somebody should have a -- undergo a boating safety course to be able to operate one of these, especially when there are other people -- people around, through you.

THE CHAIR:

Senator Frantz, have you?

SENATOR FRANTZ (36TH):

Thank -- thank you, Madam President. Thank you for those answers. Thank you.

THE CHAIR:

Thank you. Will you remark further on the bill? Will you remark further on the bill? Senator Formica.

SENATOR FORMICA (20TH):

Thank you very much, Madam President; good afternoon to you.

THE CHAIR:

Good afternoon, sir.

SENATOR FORMICA (20TH):

I rise for the purpose of one question for the proponent of the bill, please?

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THE CHAIR:

Please proceed, sir.

SENATOR FORMICA (20TH):

Thank you. The Line 125 and 126 indicate a certificate of personal watercraft operation issued by the Commissioner of DEEP. Do we -- we -- we have that available for people to do, or is that something that needs to be developed as a result of this bill?

Through you, Madam President.

THE CHAIR:

Senator Kennedy.

SENATOR KENNEDY (12TH):

Yes, I'm -- I'm -- I'm going from your words. I don't have a numbered copy of the bill in front of me, but your question is questioning whether or not there's specific licensing requirements for the jetted articulated devices?

Through you, Madam President.

THE CHAIR:

Senator Formica.

SENATOR FORMICA (20TH):

If the good Chairman would like, I will be happy to read the line that I'm questioning. It might make it easier.



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Such person has been issued a certificate of personal watercraft operation by the Commissioner of Energy and Environmental Protection, so.

THE CHAIR:

Senator Kennedy.

SENATOR KENNEDY (12TH):

Yes, through -- through you, Madam President, yes, that currently exists right today; to that type of licensing requirement, safe boating -- safe boating operation, that's offered today through many boating organizations and is obtainable.

So no additional training, in other words, I think that's the question you're asking, is anticipated at this time.

SENATOR FORMICA (20TH):

Thank you.

THE CHAIR:

Senator Formica.

SENATOR FORMICA (20TH):

Thank you very much, Madam President. Thank you for the answer.

Based on yesterday, I'm glad that we have this already in place, and I thank you for the clarification. Thank you.

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THE CHAIR:

Thank you. Will you remark further on the bill?  
Will you remark further?

If not, Mr. Clerk, do you want to call for a roll  
call vote of the first bill of the day? The machine  
is open.

THE CLERK:

Immediate roll call has been ordered in the Senate.  
Immediate roll call has been ordered in the Senate..

THE CHAIR:

If all members have voted? All members have voted?  
The machine will be closed.

Mr. Clerk, will you please call the tally?

THE CLERK:

S.B. No. 136

Total Number of Voting	35
Those Voting Yea	32
Those Voting Nay	3
Absent and Not Voting	1

THE CHAIR:

The bill passes. (Gavel)

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**ENVIRONMENT  
PART 2  
576 – 1208**

**2016**

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avg/teb/mlc

ENVIRONMENT COMMITTEE

February 24, 2016  
12:00 P.M.

CHAIRPERSONS: Representative Albis  
Senator Kennedy

SENATORS: Chapin, Moore

REPRESENTATIVES: Shaban, Byron, Carney,  
Case, Demicco, Dillon,  
Dubitsky, Gresko,  
Hennessy, McGorty,  
Megna, Miller, Miner,  
Mulligan, Mushinsky,  
Piscopo, Ryan, Scanlon,  
Stafstrom, Tong,  
Tweedie, Urban, Willis,  
Ziobron

COMMISSIONER KLEE: Thank you Representative Albis, good to see you. To Chairman Kennedy, and Albis, and our ranking members, and members of the Committee thank you very much for providing our agency with this opportunity to testify on several important bills that are before you today. DEEP appreciates that the Committee has raised these bills for a public hearing at our request.

I will address two of the bills and then ask my Deputy Commissioner Susan Whalen and Mike Sullivan to address other bills. First, I'd like to address raised SB number 136: an Act Regulating the Use of Jetted Articulated Vehicles -- Vessels, I'm sorry -- and Certain Water Skiing Devices, which proposes changes in law to protect the public while they are out on the water. This bill would require people engaged in any water sport conducted behind a moving vessel, such as wake surfing, to meet the same safety measures that are now specified for water skiers.

SB137

This bill also establishes safety requirements through the use of a new type of recreational vehicle called, "the Jetted Articulated Vessel or the JAV." These are the James Bond style jetpacks or hoverboards. In short, this bill would ensure that our laws and

requirements for water sports actually keep up with the types of activities that people are now engaged on on our waters. I will note that we introduced a similar measure last year, which was designated SB number 868 from 2015. This bill passed the senate, was reported favorably in the house, and was placed on the house calendar but unfortunately it was not called for a vote before the end of session last year. So we hope that this measure will be approved by both houses this year and signed into law in order to better protect the safety of the people of our State.

I would next like to address raised S.B. No. 137; an ACT CONCERNING THE SUSPENSION OF HUNTING OR FISHING LICENSES FOR FAILURE TO APPEAR, PAY, OR PLEA IN A HUNTING OR FISHING VIOLATION CASE. Passage of this bill is needed to strengthen our enforcement of important rules governing hunting and fishing in our state by resolving a conflict that exists between how we treat people who are cited for wildlife violations in Connecticut versus how they are treated if they're cited for a similar offense in another state.

Connecticut is a member of what is called "the Interstate Wildlife Violators Compact," an organization of 45 States that does important work in enforcing hunting and fishing rules and protecting natural resources across the country. Under the terms of that compact, which are codified now in our statutes, if you are cited for breaking the rules while hunting or fishing in a member state and fail to comply with that citation by paying a fine or appearing in court; your license is suspended in that state and your home state until you comply.

So for instance, if a hunter from Connecticut who is issued a citation for hunting or fishing say in Vermont who fails to take the required action in Vermont, they would lose his or her hunting license and hunting and fishing privileges there and simultaneously will lose them here in Connecticut

REP. CASE (63RD): Thank you Mr. Chair. Good afternoon Commissioner, how are you today?

COMMISSIONER KLEE: {Inaudible 41:28:12}

REP. CASE (63RD): Quick -- not quick but a few questions. Obviously I think you know one of the one's I'm going to ask about is the JAVS. In the bill coming forward there have been some concerns on "no person shall -- on line 78 of the bill -- no person shall operate a vessel and engage in water skiing such that the wake associated with such that vessel creates an injury to any person or damage of the vessel or structure." How does that work? I mean, on the lake that I'm on it gives 100 feet and then 200 feet, you know, we have foot markers that we have to abide by. To me this is just an open book for a lawsuit if you -- because a wake can travel more than a half mile. And if you damage a dock or you damage something or a kayaker tips over because of the wake; this is very broad.

SB136

COMMISSIONER KLEE: I think I'll -- yeah we have Eleanor Mariani from our Boating Division who can help on this specific language here, which I think was trying to clarify, sort of, who is responsible when a wake potentially causes damage.

REP. CASE (63RD): And then -- and secondly, who enforces this? {Inaudible 42:51:23} we have five hours of enforcement a week and that's only on Sunday's. So -- and that's by town, not by State.

COMMISSIONER KLEE: And again I'll pass over to Eleanor Mariani of our Boating Division.

MS. MARIANI: Hi Representative. Okay, yeah what this seeks to do is make it where if there is a problem and there's a serious injury that there's the ability to go after the person that has caused the problem. Right now we have a person who is responsible for their wake already under law and this would just make sure that people are aware that if they are waterskiing that they also have to -- that the operator is responsible. It just is -- we'll use it especially as an education tool.

REP. CASE (63RD): So on a busy Saturday afternoon when you have anywhere from 100 boats out on my lake, how do you show which boat the wake came from?

MS. MARIANI: That may be difficult. It's not to say that this is going to solve all the problems, but hopefully if there's a major injury or fatality or something like that we'll be able to utilize that.

COMMISSIONER KLEE: And I'll just add, this is in essence trying to clarify who is responsible and be very clear to the operators particularly of folks who are engaged in waterskiing that -- and this is the education component, but you need to be aware of what your boat and your activity is doing and the wakes that they are producing. This clarifies that if those do in the, you know, the very rare event cause damage or injury or harm to others, the responsibility is back to you as the operator of the vessel.

REP. CASE (63RD): I think we might want to talk about it and tighten up some language to see if we can put some type of a, you know, a parameter on that because I think in the Boating Regulations Book what is it? It's 200 feet from shore, 100 feet from any vessel when you're out there. So we already have those regulations in the Boater's Safety Book.

MS. MARIANI: And that's for -- so for personal watercraft it would be 200 feet and then a vessel other than personal watercraft is 100 foot.

COMMISSIONER KLEE: And we're happy to work with the Committee on that language to find what makes sense. We'd be happy to do that.

REP. CASE (63RD): Okay. And I appreciate you bringing Eleanor forward. She's been very helpful with a lot of the issues that we've had with invasively and stuff like that if the boat launches so thank you.

My other question is for Mike. I think you were talking about this 5318 with the busses and the idling. A couple of concerns I have is where does it fit in on school busses on cold days? Some of these bus terminals run all night long on cold days in order for them to be able to have school the next day.

DEPUTY COMMISSIONER SULLIVAN: With school busses we wouldn't be touching that with these changes. School busses have their own section of the statutes. That's -- I think its 14-277B and so we wouldn't -- none of the changes that we're talking about here would apply to school buses at all.



you have reduced cruelty in the world and protected our environment. Thank you for raising 5315 for public hearing.

REP. ALBIS (99TH): Thank you very much.

MR. ROBBINS-PIANKA: You're welcome.

REP. ALBIS (99TH): Any questions. See none. Thank you for coming in and for testifying. Next on our list is John Elsesser.

MR. ELSESSER: Good afternoon. I appreciate the opportunity to testify before the Committee today. I'm speaking on the issue that's near and dear to the town of Coventry and a lot of the lakes communities. I'm here to support raised bill 136 pertaining to jet articulated vehicles. While I don't claim to be an expert on them, the James Bond type description, I think, aptly applies.

As the Town Manager of the Town of Coventry one of my duties is to serve as Steward of Coventry Lake, which we proudly boast as being one of the cleanest lakes of the State. It has a public boat launch so therefore it's a public lake. We have bounced a lot of the hard decisions on use of the lake so that we have set aside quiet hours for kayaking. We're the home of the UConn Crew Team, but we also have water ski shows.

Last summer we experienced, for the first time, jet articulated vehicles, which I'm going to call fly boards, which is, kind of, the trade names. We discovered fly boards, as we discover everything these days, on Facebook and it flew through our town with

great speed of, "Did you see what was on the lake on Sunday?" And the video amazed people and it looks like a heck of a lot of fun so we started looking into it a little bit. Your proposed -- the raised bill will address some of our concern because they're -- they do an act called porposing where you actually dive down and go under the water and let the jets push you while you're under water. Well, that sounds all fine and good, but if you do that in very shallow water you're going to break your neck. So getting it out of the wake zone will address some of those issues, but we looked at it a little bit further and had some great concerns.

Unlike other boats and jet skis, there's a big downward thrust. If you're not familiar, please, go to Facebook or YouTube and or Google fly boards, but you're flying above the lake with big streams of water going through long tubes, you know, 40 foot tubes that come out of the back of a jet ski so that the jet engine from the jet ski pushes the water and you fly above the water and you can fly around and then you can do this porposing. So we looked at it and realized that the water underneath these propulsion units was stirred up.

So we've been custodian and caretaker of Coventry Lake for a long time, for 30 years or more we've done -- we hired a Limnologist, which is a lake expert, to do testing. SO we're concerned because as with a lot of inland lakes we have a lot of development pressures. We've done zoning regulations, we've done sewers, we've done lots of things to protect our lake, but we commissioned a study, which I have submitted as part of our testimony, which is to the best of our knowledge the only study of the impacts of fly boards on lakes. I urge you to take the time to read it because it says that the preliminary study -- and we hope that DEEP will help us or DEEP, old habits, will

help us fund the follow up study that it suggested in here. These have an environmental impact.

REP. ALBIS (99TH): Please, summarize.

MR. ELSESSER: Sure. These long tubes also can contain invasive species. So two weeks after the study said we warn you about invasive species we found something called hydrilla, which is the Godzilla of aquatic species. DEEP commissioned this so we ask you to look deeply into this because we will use our lake and within two years hydrilla, which we think came through fly boards, can take over the whole lake. Do a two foot mat on top of the whole lake, unusable. DEEP's recommendation is to quarantine Coventry Lake so I urge you to look into this and this would be the bill of vehicle to at least for the DEEP to do the study, but this is a very serious environmental health risk, economic development risk, and with that I'll be glad to answer questions.

REP. ALBIS (99TH): Thank you. Thank you for coming and for your testimony today. Is the theory that the hydrilla was in another lake and became attached to the device and then was brought to Coventry Lake?

MR. ELSESSER: That's the theory. We have no proof for it, but these long tubes. Hy -- unlike a boat where you can check the hull, how do you check the inside of these long tubes which have ridges because they compact? So they're a perfect vehicle to trap that. So Dr. Courtman thought that might be a problem. He wasn't thinking about hydrilla and one month later hydrilla was in our lake. Not at all common in Connecticut. It's a southern -- and one of the -- the

people who do fly boards are renting them out and they travel around the east coast.

REP. ALBIS (99TH): How deep is Coventry Lake either at its deepest point, or on average, or for both?

MR. ELSESSER: Deepest it's about 35 feet. Most of it is more in the 10-15 littoral zone.

REP. ALBIS (99TH): So are these fly boards stirring up sediment underneath the water surface?

MR. ELSESSER: Yes. And interestingly enough the sediment impact goes down to -- in a study -- 27 feet deep is where the impact of these thrusts go, which is significant because actually along the shoreline the other aquatic species, the grasses, minimize the damage. It's actually in the deeper water that the more sediment gets turned up. It changed the water chemistry, dissolved oxygen levels, changed iron content, changed all those lead to thermocline change. The bottom comes to the top. The fish die, all those things.

REP. ALBIS (99TH): So have you witnessed a decline in fish population?

MR. ELSESSER: Not yet. Again, these appeared last August and we thought we were pretty fast to even do a study, which we got done in September.

REP. ALBIS (99th): Thank you for those answers. Any other questions? Representative Case?

REP. CASE (63RD): Thank you Mr. Chair. I apologize I came in a little late, but so the fly boards just started in Coventry Lake you say last year? Is that correct? We've had the fly boards now in our lake for about three years now in our lake and not a single problem. And this particular person has two of them and they travel up the east coast up and down. In the wintertime they're gone south and they up here. I guess we do need to look into it to see if it's part of it. I know we talked to Eleanor from the State who handles the ramp -- boat ramps and there is -- you can put, you know, a couple teaspoons of bleach within the tubes and dissolve anything that's within the -- same thing with the ballast tanks of wakeboard boats so we don't carry stuff from lake to lake.

I can see your concern going lake to lake, but it happens not just with the fly board boats or with the JAVS, but it happens with all boats that go lake to lake and we're finding a lot. I don't know if you're at Coventry Lake and you can tell me, but is it a big fishing lake?

MR. ELSESSER: We have bass and trout.

REP. CASE (63RD): And it's a big water ski lake too?

MR. ELSESSER: Big water skiing more than fishing.

REP. CASE (63RD): Yeah, because -- I know I sold one of my boats to a guy in Coventry Lake a few years ago,

but -- and so -- and that was skiing. But they go from lake to lake so they also carry it to. So it's something that we have to look at in all boats that travel and it's not just fly boards. And if you're just seeing it now, I think there's a bigger --

MR. ELSESSER: Hydrilla is only in two lakes in Connecticut and I think Candlewood is the other one.

REP. CASE (63RD): Right.

MR. ELSESSER: So you ought to look into it.

REP. CASE (63RD): I'm not on Candlewood. I'm on Highland.

MR. ELSESSER: Okay. Candlewood is the other one. So the traveling around is an issue and it is imported by the State boat launch.

REP. CASE (63RD): Yep. No, I appreciate you coming and testifying and it's something new that pops up all the time with the zebra mussels and everything that come from lake to lake.

MR. ELSESSER: So my recommendation is that you proceed ahead with your bill as a first step and that you ask the Committee, ask DEEP to conduct a study of the impacts of JAVS.

REP. CASE (63RD): I thank you very much. Thank you Mr. Chair.

REP. ALBIS (99TH): Thank you Representative. Any other questions?

MR. ELSESSER: Thank you.

REP. ALBIS (99TH): All right, thank you very much for your testimony. Next up is Margaret Miner.

MS. MINOR: Thank you Chairman Kennedy and Albis and the rest of the Commission. I'm here to testify on behalf of Rivers Alliance of Connecticut. My name is Margaret Miner for Bill 141 that makes provisions to the wetlands statute. I have submitted testimony suggesting some particular language changes that I think would be helpful, but the thrust of our testimony is that there's been a trend over the last 20 years when authorities were transferred to the towns to do wetlands monitoring and protection. The idea was to make the State's influence and effectiveness in the town more apparent and more effective. I just said effective. Over the years more and more of the work has been shifted to the towns. The State, which used to come down and help with naughty problems, is not to be seen and I understand they don't have people, but the workload and the guidance and the expertise has shifted to the towns to develop. And some do and some don't, but what this bill does is remove -- is actually shift over to the towns the liability.

The towns had the backup in the past that if they had a problem they couldn't get enough people, not a



Connecticut Department  
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**ENERGY &  
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**STATE OF CONNECTICUT  
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – February 24, 2016  
Environment Committee

Testimony Submitted and Presented by Commissioner Robert J. Klee

**Senate Bill No. 136 (Raised) – AN ACT REGULATING THE USE OF JETTED ARTICULATED VESSELS AND CERTAIN WATER SKIING DEVICES**

Thank you for the opportunity to present testimony regarding **Raised Senate Bill No. 136 – AN ACT REGULATING THE USE OF JETTED ARTICULATED VESSELS AND CERTAIN WATER SKIING DEVICES**. The Department of Energy and Environmental Protection (DEEP) welcomes the opportunity to offer the following testimony. In 2015 the precursor to this proposal was designated Senate Bill 868. This bill passed the senate, was reported favorably in the house and was designated House Calendar Number 556. It was not called for a vote before the close of session. Although some of the proposed language has been changed this year for the sake of clarity, the concerns that this bill seeks to address remain the same as those of its predecessor.

We appreciate the Committee's willingness to introduce this bill at the request of the DEEP. This bill, which we strongly support, does two things. First, it makes overdue and necessary revisions to the water skiing statutes to expand the definition of water skiing to include watersports that share their origins in water skiing but have outgrown the current definition, and increases safety by codifying two water skiing safety precepts that have heretofore been championed but unwritten. Second, it introduces operational safety rules for an attractive but potentially dangerous emerging type of vessel, which we call a Jetted Articulated Vessel (JAVs).

There are three sections to this proposal. Section One makes a necessary and substantive change to the definition of water skiing to include those water sports that rely on a moving host vessel to create a wake or suction that "tows" a participant behind the host vessel, without the use of a line or tether. DEEP's concern is not with the activity itself, but that the sport escapes the current definition of water skiing, thereby making it impossible to legally require safety measures. Specifically, it is unclear whether "wake surfing", when performed without a tow rope, is considered to be water skiing and it is therefore unclear whether participants must wear a lifejacket and have a competent observer monitoring their progress (both of which are water skiing requirements). The proposed change in definition will make clear that *all* watersports conducted behind a moving vessel must comply with the safety requirements applied to water skiing. Additionally, and as a matter of housekeeping, we also take the opportunity to eliminate the reference to "aquaplaning," a definitional artifact that no longer serves a useful purpose. DEEP recommends a minor change in the text in that the word "or" should be added and a comma deleted on line 49 after the word "pressure" because the hose may be articulated or just be a smooth flexible conduit.

Section Two formalizes two very important water skiing precepts that heretofore have gone unwritten. While DEEP has taught for years that the aggregate of water skiers and vessel occupants must not exceed the carrying capacity of the towing vessel, this rule was never codified for general vessels – although it was



codified for personal watercraft. The idea behind the rule is common sense: a vessel must have the capacity to carry a tired or injured water skier and all others in the water skiing party without overloading the vessel and endangering all aboard. Here, DEEP also codifies the precept that that the vessel operator, who is causing or allowing an activity, is responsible for any damage done to person or property by the wake from the ski boat or the water skier.

In Section Three, DEEP addresses a growing concern over "Flyboards" or "Jet Levs" (both trade names) as they are gaining in popularity in Connecticut. A picture of the device is attached to this testimony. We believe that the potential danger posed by the unrestricted operation of such a vessel, to its operator and to nearby observers, is self-evident. DEEP proposes first to establish a definition of the vessel in Section One under the term Jetted Articulated Vessel, or JAV. A JAV consists of a base pumping unit (often a modified personal watercraft) an articulated hose used to convey water or other media under pressure, and a device such as a platform or backpack through which high pressure media is ejected, thereby elevating the operator or passenger and propelling the entire vessel. Sometimes operation requires a person to ride the base unit and is integral to the operation of the vessel, sometimes not.



A typical PWC-based JAV

The purpose of the vessel-based system is to allow an operator or passenger to "fly" significant heights above the water (limited by the length of the hose) and to perform both aerial maneuvers and submerged maneuvers. A person performing such maneuvers needs both adequate depth and an area free from spectators or other obstacles to safely operate. In the interest of safety, for operators and spectators alike, we propose to include JAVs under the rubric of personal watercraft rules, thereby applying age and speed limits that already exist and are familiar to certified resident operators. As an additional safety measure meant to address the wide variety of vessel configurations currently being used and developed, DEEP requires all passengers of JAVs as well as operators to hold a certificate of personal watercraft operation. DEEP anticipates little or no fiscal impact to any of these proposals.

In summary, DEEP strongly supports **Raised Senate Bill No. 136 – AN ACT REGULATING THE USE OF JETTED ARTICULATED VESSELS AND CERTAIN WATER SKIING DEVICES** and looks forward to working with the Committee to refine this proposal to update the water skiing statutes and to introduce operational rules for Jetted Articulated Vessels so as to provide a safer experience for all those who use Connecticut's waterways.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact Robert LaFrance, DEEP's Director of Governmental Affairs, at 860.424.3401 or [Robert.LaFrance@ct.gov](mailto:Robert.LaFrance@ct.gov) or, Elizabeth McAuliffe, DEEP Legislative Liaison, at 860.424.3458 or [Elizabeth.McAuliffe@ct.gov](mailto:Elizabeth.McAuliffe@ct.gov).