



FAX COVER LETTER

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No. of pages including cover letter: 7

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October 16, 1995

Senate Committee on Environment and Energy
P.O. Box 7882
Madison, WI 53707-7882

Re: Senate Bill 252

Dear Ladies and Gentlemen:

Enclosed please find testimony opposing Senate Bill 252 as promised at the hearing on September 26, 1995.

Very truly yours,

Roy T. Montgomery
Vice President
Government and Industry Affairs

RTM/rg
Enc.

cc: Governor Thompson
Senator Weeden, Sponsor
Committee on Environment and Energy
Senator Cowles
Senator Panzer
Senator Farrow
Senator Burke
Senator Clausen
Senator Buettner
Representative Dobyms
William Engfer, Boating Law Administrator, State of Wisconsin

**TESTIMONY
IN OPPOSITION TO
SENATE BILL 252**

COMMITTEE ON ENVIRONMENT AND ENERGY

Submitted by: Roy T. Montgomery, on behalf of Mercury Marine,
a Division of Brunswick Corporation, Fond du Lac, WI

October 16, 1995

Background

My name is Roy Montgomery. I am Vice President of Government and Industry Relations for Mercury Marine, Division of Brunswick Corporation. Mercury Marine has its corporate headquarters in Fond du Lac, WI and is the largest manufacturer of recreational marine engines in the world. We sell engines under trademarks Mercury, Mariner and Force outboards and MerCruiser inboards and sterndrives. Mercury's annual revenues are in excess of one billion dollars. We employ in excess of 4,000 people in the state of Wisconsin with an annual Wisconsin payroll exceeding 150 million dollars. Mercury is also proud to be a net exporter. That is, our exports to international markets exceed our imports from international suppliers. Mercury Marine is a division of Brunswick Corporation headquartered in Lake Forest, Illinois. Brunswick is the largest manufacturer of recreational boats in the world, marketing under the trademarks SeaRay, Bayliner, Starcraft, Fisher, Monark, Astro and Procraft. This testimony is also being presented on behalf of the National Marine Manufacturers Association (NMMA) which has over 1600 marine member manufacturers in the United States. I serve on the NMMA Board of Directors and was its immediate past Chairman.

As a general principle Mercury Marine, Brunswick Corporation and NMMA are very concerned about limiting access to public waterways unless that limit is truly based on safety considerations. It is our position that multiple uses should be encouraged. Conflicts on waterways have existed for centuries between power boaters and sailors, sailors versus wind surfers, fishermen versus other boaters, etc., etc. On the other hand the business of Mercury Marine is in supplying boat power and we encourage caution when it comes to potentially arbitrary and capricious local regulations of public waterways. Those regulations should be based on safety considerations, pure and simple.

As a sidelight enclosed is a recent letter from a boater concerned about the closing of his Wisconsin lake based on the theory of excessive weed growth stimulated by phosphate suspension as a result of propeller turbidity. There is absolutely no scientific evidence to suggest that these causes and effects are in any way related. From the standpoint of carriage and operation, there are state laws on noise levels, appropriate lights, appropriate safety devices such as Pfd's and fire

extinguishers and requirements for safe and sober operation. Adequate enforcement is a concern and should be improved. These types of law should be uniform and statewide in nature.

As Governor Thompson has so often said, while Minnesota advertises its 10,000 lakes we have 15,000. Hopefully this state is not proceeding in the direction of 15,000 separate local lake regulations. Boaters are becoming more and more mobile and not just out of state boaters. A recent DNR study concludes that over 50% and as many as 70% of Milwaukee area boaters do most of their boating upstate. A comprehensive but cumbersome system would be needed, and regularly updated, as to the local lake rules on every lake in the State.

At the recent National Association of State Boating Law Administrators (NASBLA) meeting a major topic of discussion at the long range planning committee was difficulties of inconsistent local ordinances and their effect on the confusion to mobile boaters and the potentially negative effect on both tourism and safety.

With regard to the Senate Bill 252, we have three major concerns. First, the deletion of the word "inconsistent" from the provision that local regulation should not be contrary nor inconsistent with state regulation. Second, the expansion of the requirement that local regulation should be based on health, safety and welfare but may also be based on the "preservation of the scenic and natural resources" of the State. Third, the provision that majority rule when it comes to adopting local lake ordinances rather than unanimous acceptance being required.

Contrary and Inconsistent

The current law requires that local regulations can not be contrary nor inconsistent with State regulation. The amendment proposes, that the word "inconsistent" be deleted. The proponents suggests that there is very little, if any, difference between the two provisions. We suggest there is significant difference and "inconsistent" is essential to the standard which should be met locally. If they are correct and there is not much difference, then why delete "inconsistent" in the first place? We feel local regulation should not be inconsistent with State law.

Preserving the State's Natural and Scenic Resources

Current law requires that a finding be made that local restrictions are in the interest of "public health, safety or welfare". The amendment proposes to include "including the public's interest and preserving the state's natural and scenic resources". We suggest that this is an extremely subjective standard. Something as simple as children swimming in the lake could negatively affect the natural resources of that lake. Such provisions invite the type of arbitrary and capricious efforts to locally regulate that is reflected in the enclosed letter. Relative to that letter, motor usage actually helps clarify such lakes through aeration rather than stimulating weed growth through stirring up phosphorus.

Majority Rule

Senate Bill 252 changes current law from requiring unanimous approval of the local municipalities to needing the majority of the municipalities representing at least 60% of the shoreline to adopt a restrictive regulation. Here again, this provision invites local abuses of the minority particularly in light of the very subjective "scenic and natural resources" provision discussed above. While perhaps current law should be reduced from an unanimous requirement because there may be a single contentious or disagreeable small property owner, we would suggest that the majority should be like the 90% level to avoid arbitrary decisions.

Hearing Question

Senator Clausen asked during the hearing what this bill might do to the business of Mercury Marine. I did not have an answer for that question nor do I now. However, please allow me to make some subjective observations. The Marine industry is an extremely delicate industry. We not only sell consumer durables priced in the range of major appliances and higher, but the purchase of those durables is totally discretionary. We can cite three examples of national issues or proposed government policy that had an enormous affect on our industry. First of all, the energy problems of the 1973 - 1974 era caused a decrease in the boating industry business by at least 30%. In 1980 the mere proposal (never adopted) that in the event of, and

only in the event of a national energy emergency, one of the seven actions potentially to be taken would be prohibiting boating on weekends. The marine business again fell in excess of 30%. The 10% luxury tax that was adopted in 1990 applicable to the purchase amount in excess of \$100,000 reduced the sales of new boats in that category by over 80%, reduced the sales of smaller inboard and sterndrive powered cruisers by over 55% and, in combination with an economic downturn reduced overall boat sales by over 40%.

Therefore, while we can not assess the specific harm that such a regulation as Senate Bill 252 will do on our business, if the tendency which Wisconsin appears to want to lead to more and more regulation of waterways should spread nationwide, boaters will drift from boating into other activities such as golf and tennis. Only the avid boaters would continue. Our business would be reduced by as much as 20%. Obviously, this would represent a loss of over 1000 to 1500 jobs in the state of Wisconsin.

Compromise Suggestion

At the hearing it was asked by the chairman whether Mercury Marine would be willing to work with the sponsor to reach some compromise amendment. We are certainly willing to do that. One suggestion would be to require at least 90% property lake owners representing at least 90% of the shoreline be required to adopt restrictive rules on public lakes. We continue to maintain that the words "and inconsistent" should be included in the statutes and the terms protecting the "scenic and natural resources" not be incorporated in the statutes. In addition, we would suggest that some state level review be provided for all local restrictive regulations. This state level review should be by a tourism oriented agency. Perhaps the DNR. Such a system has been adopted in the state of Minnesota quite successfully.

Finally, we would recommend that any council organized for purposes of reviewing these amendments should incorporate not only the industry of the State but also tourism interests.

Thank you for your time and attention.

SEP 25 1995

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Sept. 22, 1995

Dear Sir,

We have a controversy and possible boating restrictions about to be applied on our lake in Wisconsin. It involves weeds and the resuspension of phosphors due to turbidity caused by propeller rotation.

Because we have a common interest in safe boating, I am requesting from you any information that you might have on this subject.

The action pending is a local law restricting boating to every other day. I do not agree with the opinion of a few, but they seem to be getting the ears of many.

At this point speed is of great importance. Again any documentation you might have would be helpful.

Thanks For Your Help

Robert C. Arcuri

Robert C. Arcuri

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DesPlaines, Il. 60016

WHAT LAKE?? -708-297-5439