



Thomas O'Keefe, PhD
Pacific Northwest Stewardship Director
3537 NE 87th St.
Seattle, WA 98115
okeefe@americanwhitewater.org

January 20th, 2021

Cindy Ryu (D), Chair
Matt Boehnke (R), Ranking Minority Member
Washington State House of Representatives
Committee on Community & Economic Development
John L. O'Brien Building
P.O. Box 40600
Olympia, WA 98504-0600

RE: Public Hearing on House Bill 1018, Concerning Boater Education, Sponsors, Lovick, Ryu, Ortiz-Self, Goodman, and Orwall.

Dear Chair Ryu and Ranking Minority Member Boehnke:

I am writing on behalf of American Whitewater and our interest in paddlesports safety and education. We appreciate the attention the legislature, and your Committee, has placed on this important issue. With ever increasing demand for outdoor recreational opportunities that utilize water, ensuring that people safely engage in these opportunities is important. We do not believe however that the proposed legislation is the appropriate approach and American Whitewater is opposed to HB 1018.

American Whitewater is a national non-profit 501(c)(3) river conservation organization founded in 1954 with approximately 50,000 supporters, 6,000 dues-paying members, and 100 local-based affiliate clubs, representing whitewater enthusiasts across the nation. We represent approximately 3000 enthusiast paddlers in Washington State and we have a long history in the state with the Washington Kayak Club among our founding local affiliate clubs. American Whitewater's mission is to protect and restore America's whitewater rivers and to enhance opportunities to enjoy them safely. The organization is the primary advocate for the preservation and protection of whitewater rivers throughout the United States, and connects the interests of human-powered recreational river users with ecological and science-based data to achieve the goals within its mission. Public safety on rivers and public education on safe boating is central to our mission.

Washington State has been at the forefront of discussions on paddlesports safety and drowning prevention nationally; we acknowledge and recognize the great work of the Washington State Drowning Prevention Network and the Washington State Parks Boating Safety Program focused on reducing boating accidents and unintentional drowning.

Data from the most recent Coast Guard Recreational Boating Statistics Report shows that 79 percent of fatal boating accident victims drowned.¹ Of those drowning victims with reported personal floatation device usage, 86 percent were not wearing a personal floatation device and alcohol continued to be the leading known contributing factor accounting for 23 percent of total fatalities. I have personally read the majority of the Recreational Boating Accident Reports from the past decade for Washington State involving paddlesports fatalities. Many of these individual reports back up the statistics with tragic stories of accidents that could have been prevented by wearing a personal floatation device. We need to supplement data on accidents with data on participation rates to gain a better understanding of the actual rate of fatalities. We are not aware of an analysis for Washington State but testimony at today's hearing suggested that there were fewer paddlesports fatalities this past year with substantially increased participation; if this is in fact the case, then the rate is declining.

The most immediate action we can take to further reduce the fatality rate is to work collaboratively between state and federal agencies, recreational paddlesports organizations, paddlesports manufacturers, paddlesports retailers, local parks departments, and the general public to change the culture of water-based recreation to encourage greater use of personal flotation devices that are not just carried on boats, but worn. The ski industry went through a similar culture shift with helmets – this did not take a law or regulation but was a concerted effort by the community working together and today the vast majority of skiers wear a helmet. We are strong proponents of more aggressively promoting the WearIt Campaign of the National Safe Boating Council that encourages individuals to wear a personal floatation device when out on the water.² Through this campaign we can reach both boaters and those who recreate on rivers and waterways using inner tubes, air mattresses, sailboards, and small rafts that are explicitly excluded from the proposed legislation. We also need to ensure that the state's Life Jacket Loaner Program, that was suspended in 2020, is immediately reinstated.³ Life jacket loaner stations serve an important role by not only making personal floatation devices available for use but also provide a visual reminder encouraging use of personal flotation devices.

¹ https://uscgboating.org/statistics/accident_statistics.php

² <https://safeboatingcampaign.com/>

³ Earlier in 2020 Washington State Park alerted the public that "Due to public health concerns, many life jacket loaner stations are closed for the rest of the year."

<<https://parks.state.wa.us/956/Life-Jacket-Loaner-Program>>

We oppose HB 1018 because it will largely fail to accomplish its goals while having sweeping unintended consequences. It is a well intentioned but misdirected approach to addressing water safety that ignores the primary factor in paddlesports fatalities of not wearing a personal floatation device; this can be addressed with an enhanced commitment to education and without resorting to new regulatory requirements that will increase the barrier to entry for opportunities to enjoy our region's waterways.

Key Concerns With Bill As Drafted

- A state-mandated education program is inconsistent with how safety training is provided for human-powered activities in our state and across the nation. Mountain biking, backcountry skiing, rock climbing, and even hiking all have risks and every year accidents in these sports result in fatalities. As with paddlesports, all of these activities require safety training but that training occurs through the organizations, clubs, and professional instructors who provide this service. We contrast these recreational pursuits with driving a car, operating a motor driven boat, or hunting with a firearm that require instruction and an exam regulated by the state; these activities, in contrast to human-powered recreational pursuits, are regulated not just for personal safety but for the safety of others. While we welcome state partnership in safety education, we do not believe the state should regulate safety training for paddlesports.
- The legislation, as originally proposed, would institute a new requirement that would prohibit those under twelve years of age from operating a human-powered boat. While prohibited from operating a human-powered boat, those under twelve years of age could apparently operate a motor driven boat less than 15hp or a sailboat. The initial legislation would have a significant impact on youth paddling programs, youth health and fitness, parents teaching their kids to paddle, and manufacturers who design boats for kids in the 30-80 pound range (e.g. Soul Waterman Mini Me or Jackson Fun 1). The amendment submitted by Representative Lovick makes an effort to address this concern by modifying the language such that individuals under the age of 12 must be "accompanied by and is under the direct supervision of a person sixteen years of age or older." Many of our members, including myself, enjoyed childhood paddling experiences with siblings that did not involve direct adult supervision. Just as kids go out and explore their neighborhood on a bike, my younger brother and I explored the lake we lived on by canoe or rowboat. Existing law imposes safety requirements for youth requiring them to wear a personal floatation device: "No person shall operate a vessel under nineteen feet in length on the waters of this state with a child twelve years old and under, unless the child is wearing a personal flotation device that meets or exceeds the United States coast guard approval standards of the appropriate size, while the

vessel is underway.”⁴ Many youth learn to paddle at a young age and we do not support age restrictions on paddling.

- The unique educational requirements of human-powered vessels are not acknowledged in the legislation. If an individual currently has a boater education card, would that allow them to also operate human-powered boats or would they need to secure a different card? If someone obtained a boater education card for purposes of operating human-powered boats would they also be permitted to operate a motor driven boat with that card? By making minor edits to existing state law the proposed legislation opens several questions on implementation that are vague and unclear.
- No provisions in the proposed legislation distinguish the substantially different operational requirements between a motor driven boat and human-powered boat. The skills required to safely whitewater kayak, sea kayak, paddleboard, raft, or surfski are all very different. These skills can not be taught in an online course and must be developed through experience and training. The American Canoe Association has developed standards and courses for all of these disciplines and is the recognized leader in providing this training.⁵ We do not believe Washington State should adopt its own set of standards and a certification program that would be inherently inferior to those that already exist.
- The legislation does not include inner tubes, air mattresses, sailboards, and small rafts or flotation devices or toys customarily used by swimmers. Washington State Department of Health data indicate that of Washington State residents who died from unintentional drowning, 10-20% were boating accidents, with approximately half of those representing individuals who were engaged in human-powered boating. The majority of fatalities and close calls in the river environment, where our members recreate, are associated with swimming or use of flotation devices that are not classified as boats. The legislation does not address this primary issue. As an alternative, we strongly support increased education and adoption of use of personal floatation devices; we need to extend our reach beyond those engaged in paddlesports to other on-water recreational activities that are higher risk and involve individuals with considerably less experience and training.
- The legislation raises equity issues with respect to enforcement. As with jaywalking, where the vast majority of tickets are issued to minorities,⁶ we are concerned that enforcement will be highest in urban areas close to water and areas where minority populations have a higher likelihood of engaging in human-powered boating. We

⁴ RCW 79A.60.160(4)

⁵ <https://www.americancanoe.org/page/Courses>

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<https://nyc.streetsblog.org/2020/01/27/jaywalking-while-black-final-2019-numbers-show-race-based-nypd-crackdown-continues/>

strongly support education – and specifically education that targets diverse communities – over regulation and enforcement. Additionally, the proposed legislation limits the ability of lower income people to participate in these activities by renting versus having to purchase a watercraft. Requiring individuals to obtain certification would limit opportunities for individuals, particularly those with more limited financial means, to gain exposure and learn these activities prior to making a decision to invest in the necessary equipment.

We appreciate the opportunity to share our perspective and knowledge with the Committee and welcome opportunities for further engagement on the issues of water safety and reducing the paddlesports fatality rate. While we do not support HB 1018, we strongly support greater adoption by Washington State Parks and local recreation providers of the WearIt Campaign and request immediate re-establishment of the life jacket loaner program for the 2021 boating season.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'T. O'Keefe', with a long horizontal stroke extending to the right.

Thomas O'Keefe, PhD
Pacific Northwest Stewardship Director

cc:

Representative Lovick, Washington 44th LD

Representative Ortiz-Self, Washington 21st LD

Representative Goodman, Washington 45th LD

Representative Orwall, Washington 33rd LD

Jon Snyder, Senior Policy Advisor to Governor Jay Inslee

Rob Sendak, Manager, Boating Law Administrator, Washington State Parks

Owen Rowe, Policy and Governmental Affairs Director, Washington State Parks