

Date: 12 March 2021

To: Chairman Witt and Members of the House Committee On Agriculture And Natural Resources

From: Stan Halle, Oregon Resident, living on or near the River for 20 years

Re: TESTIMONY on HB 2695 – I support passage of this bill

What follows is a transcript of the OSMB Meeting 10/24/19 when the 10,000 lb weight limit was discussed and approved. **I CHOSE THIS TRANSCRIPT NOT AS FURTHER TESTIMONY ON HB2555/2725, BUT AS MY STATEMENT IN SUPPORT OF HB2695. THE FOLLOWING DEMONSTRATES THE BIAS OF AN OSMB MEMBER AND HOW 'MEMBER 1' STRONG ARMED THE REST OF THE MARINE BOARD WITH FALSE INFORMATION (SUPPORTED BY THE STAFF).** Please review the transcript and the chart below. **\*Red notes** are our comments on the accuracy of this proceeding. This is very revealing due to the **INACCURATE** information being presented by Member 1 (and Staff 1) to the other members intended to mislead the Board. By increasing the Board to 7 voting and 2 non-voting members, this kind of misrepresentation is far less likely to happen again. (Note: #'s are used in lieu of OSMB Member Names).

**ADDITIONAL NOTE: During the public hearing on HB 2695 yesterday, several past State Marine Board members and chairs argued that 'if it ain't broke, don't fix it.' With all due respect, it is broke – because of several factors:**

- 1. During the tenure of these past Members, the boat size and ability to create large high-energy wakes was not yet out on the river. Wake-sports specifically were in their infancy, with some wake-boarding going on using the same configuration as water-skiers.**
- 2. Since that time, boats have doubled & tripled in size, designed to very slowly plow through the water. These are the destructive wakes especially in narrow river channels.**
- 3. This is NOT a Upper Willamette (aka Newberg Pool) isolated issue – it is an issue that has both nation-wide and international attention. That is why the WSIA is so anxious to fight against any restrictions that would limit the sales of these 'monster boats'.**
- 4. Expanding the State Marine Board is an important legislative action to bring more balance to the Board – and begin to deal with these largely unaddressed environmental and safety issues that have grown exponentially over the last 15+ years.**

**NOTE: I accidentally posted a letter in support of HB2555/HB2725 instead of HB2695. I apologize for any confusion. Please ignore it.**

#### **Exec Director:**

We received significant public comment regarding the rules we initially proposed. Much was set in stone. The one sticking point was the requirement that the MB set a motorboat loading weight in rule and watercraft that exceed that loading weight are unable to receive the endorsement and decal therefore prohibiting that watercraft from participating in towed watersports in the Newberg Pool.

**\*24 testimonies against. 1. For.**

#### **Member 1:**

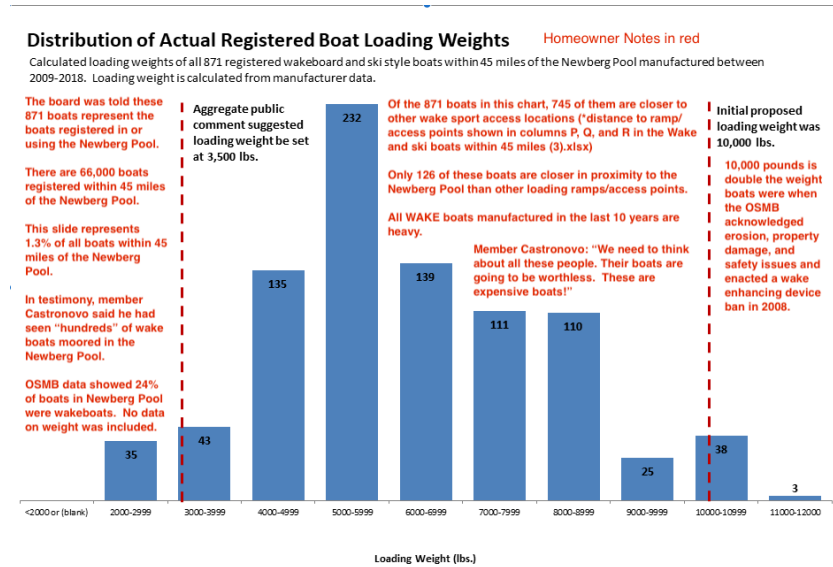
I have a question Josh, what % of these boats are actually moored or own homes on the river, cause I know I've been up and down that stretch and there is quite a few.. I mean hundreds of boats that would probably fall into the 10,000 to 11,000 range or more or less 9,000 to 10,000 range

**\*28 boats within 45 miles of the Newberg Pool weigh between 9,000-10,000 pounds. Not one of those boats is close to the 2 ramps located between RM30 and RM50.**

Staff 1 – OSMB Staff (Referring to the attached chart):

So, what you're looking at in front of you would be a representation of the loading weight of those vessels that are currently moored or used on the Newberg Pool.

**\*This is not accurate. 745 of the 871 are closer to other water bodies available to wake surf or wake board.**



Member 2:

Just to make sure I'm reading this correctly. The two numbers that get thrown about are 3500 and 10000. **So, if we adopted the threshold at 3500 pounds, we would be excluding something like 835 boats from the Newberg Pool right now. If we adopted 10000 we would be excluding 41 of what is shown on that table. Is that, am I reading that correctly ?**

Staff 1:

Member Jackson, that is correct, with the one caveat that the watercraft aren't being excluded from the Newberg Pool. They are being excluded from getting the decal which means they cannot participate in wake surfing or wakeboarding on the Newberg Pool.

**\*This was not being read correctly**

Member 2:

Right... just trying to see, **am I reading this correctly in that 871 we'd be looking at excluding everybody, which is basically 830 some if we went with the 3500 and we'd be excluding from doing towed wake sports in the Newberg Pool, of the people accounted for on that graph.**

Staff 1 shakes his head yes.

Member 1:

And let me add again, that in the testimony yesterday, the spirit of the 10,000 pounds is again, **they didn't want** anything like the manufactures coming out with these like 27 foot 30 foot **wake surf boats that weigh 15,000 pounds so putting a 10,000 or 11,000 pounds threshold was to keep that from happening.** So, basically, **how this was all presented to the legislators was, ok the current boats that are on the river now that use that river, they would fall under that 10,000 pound loaded weight.**

**That's how I understood it. And they wanted to put a cap on it so you wouldn't see these giant super cruisers coming in there and wake surfing. That's how I understood how that came about.**

**\*Legislators NEVER discussed weight limits, they did not come up with the 10,000 pound number.**

**Exec Director:**

Members of the board, I would just like to add. We listened to the testimony several times, of course I was there for all the testimony and this particular piece was never discussed publicly with the legislators, so it's very difficult to nail down intent. I like to say once things are in the wild, the intention gets lost a little bit, and it becomes what was passed so we don't have a lot of legislative insight.

I would suspect that even some of them might be reflective of this range here. It's just a guess though. I did not discuss that individually with anyone. So, I think there were people involved in the bill that felt the way you (Vince) were describing and some of them changed and then it evolved.

**Staff 1:**

I would like to add that 10,000 pound weight, that was based on information we had on how the facilities in the area were engineered, the boats and trailers that they were engineered to handle. With that, because of the lack of true knowledge of legislative intent, we went with what we're comfortable with, what our bread and butter is, boating facilities and weight they're made to deal with.

**Staff 1:**

3500 was based on public comments we received. Most appears to be based on Lake Oswego limitation. The 10,000 is based more on engineering standards of our docks. Staff certainly agreed that probably any number we chose would be somewhat arbitrary in nature. On this slide we gave an example, if you put the line at 8500 pounds, **that would restrict roughly half of the currently available watercraft from the 6 big manufacturers from being able to participate in the Newberg Pool. So the question for the board is what percentage/how many watercraft does the board believe should be excluded from these activities on the Newberg Pool going forward.**

**Staff 1:**

If wake surfing and wakeboarding were excluded from the Newberg Pool, there is no need for this course because no one would need the endorsement legally.

**Member 3:**

In my view, they can't be de-coupled. Based on the testimony we've heard in the past couple days.

**Member 1:**

I would like to start. I would like to say, with the testimony yesterday, obviously these rules were comprised of a compromise and stakeholders getting together and say hey what's gonna be a good compromise that might work and so, everybody had great intentions in doing this. They all wanted to give a little and take a little. In talking with some of my constituents and witnessing the river mile 42 that section there. I personally think that is too small a section. I think section, what they call it hell zone. If you look at the 219 section, we've got one dock. I can see that working if people obey the rules if people actually did what they're supposed to, like I do. **\*two boats cannot pass and be in compliance** That section there, the repeated pass, you get too many boats in there and so the tweeking part was let's try it and if works great and if it doesn't, can we remove that section? I think removing it, I think I've talked to other people, not everybody's gonna agree but that's the spirit of compromise and that's what as a board and talking with other people, you've got a pretty big stretch of the red zone there. I would say those people could use some relief. And that comes from a boater who uses this river. I think that and

being out there personally, you got one or two boats no problem. You got what you saw in the video, that's a problem. Then you got tubers as the pinball, then jetskiers in there. And maybe these wake surfers are trying to do the right thing, but they just can't. Larry Warren, I mean director Warren, sorry, you've been on that stretch of the 219. It's a wide, wide open stretch with one dock on it. You've seen that. It's definitely more conducive to what wake surfers do than that little section there.

**Member 3:**

Then I'm concerned about the docks and the owners who are suffering damages. **It's obvious that getting big wakes that are causing issues and problems.** How do you address the people's concerns that the red zones and yellow zones treat people differently?

**Staff 1:**

That was the initial plan for the summer, when it became evident that there was not a compromise those stakeholders would agree on. **A committee that never met. There wasn't any discussion or direction. Different "members" of the committee were given different directives.** That's what ended up evolving into the work session from yesterday. We can try that again, but I am not optimistic that I can come back with a solution that the entire committee will agree on.

**Member 2:**

One of these things I kept hearing yesterday. Going back and looking at some of the science materials that were given out is, I think it was Joanne mentioned how narrow this stretch is I think 419 and 719 feet. Is kind of the range of this area. We keep using the 300 feet rules. There's a substantial amount of this area that is just really bloody narrow. Going back to the officers were saying, it's hard to manage, it's hard to enforce, too many buoys, too much confusion. If there was just....It's kind of like that minimum width rule, if it is so many feet wide, no towed wake sport activity with a weight limit.

**Member 3:**

I think if we're going to take the testimony seriously, I think we have to look at the entire Newberg pool and address their concerns. That doesn't mean we have to do anything, but we have to consider their concerns. What does that look like? I don't know, maybe it getting a group together to talk about it further or maybe the staff evaluates their concerns to see if there is anything we can do to address them and prove the rules we have already have in place.

**Member 1:**

But we don't have the education piece. I thought we tweak one zone, we add education, we see how it goes you know, instead of dumping it all and starting all over again, which has been going on for, you know, 10 years.

**Member 3:**

We have rules in place for the Newberg Pool. We're looking at the rules already in place and seeing if they can be adjusted based on public testimony we had yesterday to improve boating on the river. We're not starting from scratch. But were honoring the testimony we had yesterday, we're not just dismissing it. We're honoring it and considering what they had to say and seeing if we can make adjustments to improve the river.

**Member 1:**

I think that what you have there should work. 300 feet for wake boarding and wake surfing. I think

tubers are in that too. I don't see that being a problem if people actually did what they're supposed to do.

**Staff 1:**

The NP is fairly static, on average it's 600 feet. I think for the Newberg Pool it is similar enough that from ease of enforcement and simplicity of rules perspective, I would view the whole NP as roughly the same width. It doesn't change appreciably from J to A.

**Member 1:**

And just to be clear too, we didn't get the whole story yesterday. There are still countless general public that wasn't invited for testimony, so there's a lot of other people that opinions never really got heard. You definitely heard some of the homeowners but there are quite a few and a handful of stakeholders that think the new rules are working. I know every time I unload my boat at the ramp I ask people, they didn't know who I was, hey 'what do you guys think of the new rules?' and I've had homeowners say they're better I didn't get any negatives. So, I just want to be clear, we didn't hear all the testimony yesterday. **Homeowners don't load their boat at the ramp.**

**Member 3:**

When you have conflicts like this you can't resolve every one of them, but we can try to at least look at and minimize them try to address them to the extent we can. There are still going to be unhappy people on the river, that's granted. But, I think it's our role to try to minimize that and make sure people are using it wisely and safely for the benefit of the river and the benefit of the people on the river. You're not going to diffuse all the conflicts we have.

**Member 1:**

One thing I do want to raise, as far as one user group, the tubers, they're just as part of the problem and for them to be left out of that education, I know director Warren mentioned that possibly, at no charge because we can't go back, that they would be required to take some of the education part of that. So, they know what they're doing too. I don't know if that's something we can rule on but the more people who know what's going on the better.

**Member 2:**

Part of what Member Withy was saying, that's why I wanted to bring that weight limit question back because it kind of plays back into this, there may not be direct correlation between boat weight and boat wake size, but there's definitely, as the boats have gotten heavier, the wakes have gotten bigger. So, as part of this tweeking, to set that limit at a point to where maybe we are eliminating some of the boaters so that the yellow zones become less hell zones and the congestion maybe isn't as much because we've set a weight limit that reduces the number of boats that can actually be towed wake sporting out there. They can be out there but they can't be towed wake sporting.

**Member 1:**

I can give you a little background on different sized boats. In our experience boating for years and years and years. As a smaller boat **as it is plowing**, has a certain amount of weight and is going to have a certain size wake. The larger boat you go from 20' to 23' you're going to need a lot more weight to get that boat going to make the same wake that little boat is making. So, when you see these bigger boats that have advertised 3,000 pounds of ballast, they have to do that because of the displacement of the boat, the surface area, it's a no brainer. It has to.. in order to make a boat plow good, it has to be in the water a little deeper more weight. So, the science of it is not . you may have a 4,000 pound boat with

2,000 pounds of ballast it's 6,000 pounds but to make that same wake energy, you're going to have to on a larger boat, you're going to have to add 4,000 or 5,000 pounds to make that same wake and that is a proven. We've always been taught that and that's just displacement. It's common science. So when you see a 23 foot boat that has 2,600 or 4,500 pounds of ballast it's a lot bigger boat and it's gonna take more to sink it and so you gotta be careful when we're talking about a smaller boat lighter weight is going to cause the same size wake as a larger boat. So, the weight isn't a true factor of that. And again, unfortunately, these manufacturers exaggerate that because they want to... that's just what they do. That's how they sell boats. I know my boat at 5,000 dry weight, and it's got 4 tanks at 1600 pounds. The wedge, that's the wake enhancing device, the manufacturer puts that in. We use our wedge but we don't use it near like what that would be. So it's kinda like exaggerated. **We don't put as big a bags as what they say is the max. We never do that. It's way too much. So you gotta be careful when you're talking a boat those 25% that are at 9000 pounds.** That's just an average 23' boat are gonna be at that weight. That's not a giant weight, So to **drop that down to anything below 10,000 pounds you've got people that have invested a lot of money in their boats that live on that river that have lived there for years now their boats will be obsolete, so you're looking at a financial thing for them because their boats are worthless, so now they gotta sell their boats, so we gotta be careful when we're... there's a lot of people on that river that have the same rights as everybody else that paid money to be on that river and so if we gotta be careful with that loaded weight because you're going to cause a hardship.. I guess an unforeseen hardship because now they gotta get rid of their boats. and a 23' boat is pretty average on that river. They're all gonna be in that 8,000-10,000 pound range.**

**\*In all cities along the Newberg Pool, there are 65 boats from this chart. Only 20 weigh over 7,500 pounds. \*wake enhancing device bans were in place. Use of these boats would not be different than they were in 2018**

**Member 4:**

They don't have to get rid of their boat.

**Member 1:**

Well that's the whole reason they buy these boats is to wake board and wake surf. I'm being honest.

**Member 3:**

They can go to other water bodies.

**Member 1:**

Well, they live on the river. **How many boats have been purchased after the WED ban?**

**Member 3:**

They can go to the lower Willamette.

**Member 1:**

I'm just giving you facts. There's a lot of people. I go down all up and down that river, Josh has been down that river. And all along there, there are 23' boats, **23' boats, they're all along that river. So you gotta be careful when you come up with this loaded weight because you eliminate 1/3 of those boats that live on the river.** That's my experience to help you guys understand how that loaded, it's kind of a skewed way of looking at it. It's close and it can be but it doesn't show the true picture of wake energy.

**Member 4:**

Well and that's part of what we heard yesterday is the wake energy part is what we need to start looking at a little bit more and we've been talking about that forever. Technically, we've been talking about wave energy and trying to understand that a little bit better and trying to understand the science behind it.

**Member 1:**

You want to put a year restriction, say anything 2020 or newer and have a different weight restriction, then you're not disqualifying all those people that have purchased boats and that's a lot of money. And for them to have to sell them on the used market, I'm saying that there's more than 1 way of doing that and **to lower it below 10,000 pounds, there's a lot of consequences in that.**

**Member 3:**

Looking at the graph, most boats are 5000 or 6000 pounds. What kind of boats are those?

**Staff 1:**

We've got data that shows 45 sample models. And then there's a table. That shows some of the models. Are they wake boarding, wake surfing. What makes them different?

**Member 1:**

I'll just tell you, **a very popular boat on the Newberg Pool is a G23** and we used to laugh when we were driving by. And we used to laugh because most people have them and they're very expensive boats and if you're looking at a G23 2800 pounds. They're not including their wake enhancing device but Malibu includes their wake enhancing device. It looks like it's double the weight but it's not. **You're going to see more of those G23s under that smaller weight restriction and then you're going to eliminate all the Malibu's that use that.** \*Vince Castronovo represents Malibu boats. I'm not saying that personally. I'm just letting you know. Malibu's have power wedge, the Gs have a different type of wake enhancing device. It's not listed in their maximum weight because it's a different manufacturer listing it, you know. I guarantee those boats, looking at a G23 here, 5900 pounds. It's 900 pounds heavier than my boat dry weight. They're not advertising their loaded capacity as much, not including their wake enhancing, so again, the 25 boats is not representative of what's really going on, so you gotta be careful with the data that you search.

**Member 3:**

So what I'm trying to understand is how these boats are being used. Are there all be used for wake boarding and wake surfing?

**Member 1:**

So yeah, that is what you're going to find. That is the main reason for these boats. Yeah, this is what you're going to find, **the majority of the Newberg Pool is going to be this type of boat.** Josh has been up and down that river. I've been up and down that river for 10 years. This is what you're gonna find. Those are the boats.

**Member 3:**

So, if we set at 6000 you still got wake boarding and wake surfing going on



**Member 1:**

**Yeah, but you're going to eliminate**

**Member 3:**

I understand that, that's not my question

**Member 1:** Correct, yeah, that's true

**Member 3:**

You're still going to have wake energy. Wake energy isn't just the boat weight. It's the speed, the design of the boat, etc.

**Member 1:**

And going off your chart here and if you did keep the weight at 10000, you wouldn't have, if you look at the 25 boats, you don't have that many that are between that 999 so the majority are still going to be in that 5,000, so again it's not like there's 500 boats are in that 10,000, there's going to be quite a few less boats at that heavier weight. So that's something to consider too. I don't know if that makes sense, seems like the majority are in that 5,000 to 7,000 pounds range.

**Member 1:**

I think the thing we just gotta keep in mind is eliminating so many users. I mean you start, the farther down you go, you've just eliminated a lot of people that recreate, the general public that recreate in that area. The 10000 is going to get you 98-99% of the people that currently live there and currently use that river currently. Anything less than that and you're going to start to drop.

**Member 3:**

How do we determine if its working out? People we heard yesterday say it's not working out now.

**Member 1:**

I can guarantee you, when you take 50 wakeboarders that are wake boarding, nobody is running that much weight. There's only a few boaters that will max their boat out. These are really good wake boarders. You're seeing a lot.. so it would be surfing would be the biggest thing. But you're talking about the red zone and people wake surfing and they're not loaded up near that weight. Most of those boats when you have that much, most of those boats can't even sustain that. You know, trying to get up to 22-23 miles an hour with all that weight, trust me I know, it doesn't work. So, you would just be the wake surfers not the wake boarders if that's the concern. Nobody runs that heavy. Very little people do. If that eases your mind about how heavy these boats are. Wake surf, they will, but not the wake boarders.

**Member 2:** What about tubers?

**Member 1:**

**No, nobody loads their.. like when we do wake the....no, the least amount the better. People don't want to hurt their kids. Haha.** So you don't have to worry about tubers cause one, it wastes gas and you know when you're loading em up, you're wasting a lot of fuel. People are pretty conscience about that.



**Staff 2:**

Chair Early, that does not mean it is not a hot topic of discussion. That question is being asked in a lot of states.

**Member 4:**

So, the 10k based on that definition um, you're not going to launch your boat with the ballast.

**Member 1:**

No, no, you don't. **You drain that while you're waiting for them to back down the ramp. You don't want to tow that, your tires wouldn't hold up. Haha**

**Member 4:**

Technically, I understand that as a starting point, it has nothing to do with the boat launch. It has to do with the starting point to be able to identify. Because these boats are only 5800 pounds and some are even less than that that will be excluded and what brings them up to the 10,000 is their ballast capacity. Sitting on a trailer, I mean this one is only 7800 or maybe 8700 based on the table we have for the table we have for the manufacturers and boat weights. But we do need to consider the ballast because that's a big portion and we just passed the definition of it, so...

**Member 1:**

And again, you gotta put in the factor of displacement. Larger boat takes more weight to make the same wake than a smaller boat. I have a few friends that have smaller boats that really load the heck out of them and they throw a big wake. That's a 4500 5500 pound boat so the wave is almost identical, so you put in a ton more just to get to that. That's just true on water experience. That's what we see. The maximum capacity is not a true of how much wake energy is coming out because it takes more weight to make a smaller weight boat so it's again, not a true science.

**Member 4:**

So that smaller boat you're saying is going to load their ballast all the way to capacity and then maybe even add some more?

**Member 1:**

I'm just saying that a smaller boat because it's smaller and can sit in the water and you know it doesn't have as much surface so it doesn't take as much weight to make that large a wake that a bigger boat you have to put a lot more in to get that boat to sink down in the water. So it may sound like "oh man they got so much more ballast" well it takes that to even make them to even make the wake as big as a smaller boat. So that's the science on that and THAT IS TRUE! So, it sounds like these boats at 9000 10000 pounds "Oh my god there are going to be 8 foot waves" but that's not how it is. That's not real life. **You can get that giant wave out of a 6,000 pound boat too.** So I'm just saying that... It just takes more for a bigger boat but it doesn't really equal wake energy is going to be increased.

OK so we have a motion for the 10,000 pound limit on here for a definition. **Note: The 10,000 pound limit passed by a vote of 3 yes's to 1 abstention.**