DAVID Y. IGE
GOVERNOR OF HAWAII

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committees on
WATER AND LAND
and
TRANSPORTATION AND ENERGY

Monday, February 6, 2017
2:00 PM
State Capitol, Conference Room 225

In consideration of
SENATE BILL 258
RELATING TO PROPELLER GUARDS

Senate Bill 258 proposes to require all motorized recreational vessels operating in nearshore waters to have properly functioning propeller guards. **The Department of Land and Natural Resources (Department) offers the following comments.**

The Department recognizes the concern of the general public regarding vessels strikes that have occurred in the State near shore waters. Due to the sheer number of people enjoying the near shore waters, it is inevitable that there are going to be interactions between vessel and swimmers, divers, snorkelers, etc. While propeller guards may decrease the possibility of critical or fatal injuries in some instances, they can also interfere with the operation of the vessel and can hinder navigation. For instance, debris such as plastic bags can become entangled with the prop guard and cause cavitation. Propeller guards are also not manufactured for all vessels as they are typically affixed to outboard engines but may be impractical to install on sailboats and certain straight shafted vessels.

The Department believes it would be more beneficial to engage in public outreach and training to help ensure that both vessel operators and the general public utilizing the State near shore waters are aware of their responsibilities as well as their surroundings while on the water. The Department implemented a mandatory vessel education requirement several years ago that requires all vessel operators that are operating a vessel with a ten horse power or greater engine to complete a training class on the safe operation of vessels and this includes training on specific Hawaii laws. The Department's Division of Boating and Ocean Recreation (DOBOR) also

engages in public outreach and has created marketing materials to get the message out regarding ocean safety that includes recreational users other than vessel operators. DOBOR participates during Boating Safety Week, works with the United States Coast Guard Auxillary, Power Squadrons, Hawaii Ocean Safety Team (HOST), and staff booths at various marine shows.

Conservation Council for Hawai'i
Hawai'i's voice for wildlife
Kō Hawai'i leo no nā holoholona lōhiu

Testimony Submitted to the Senate Committee on Water and Land
And Senate Committee on Transporation and Energy
By the Conservation Council for Hawai'i
Hearing: Monday, February 6, 2017 2 pm
Room 225

Support for SB 258 Relating to Propeller Guards

Chairs Rhoads and Inouye, Vice Chairs Gabbard and Dela Cruz, and Members of the Committees,

Aloha. The Conservation Council for Hawai'i supports SB 258, which requires all motorized recreational vessels operating in nearshore waters to have properly functioning propeller guards; takes effect on 01/01/2018.

The important bill will save human lives, reduce serious injuries caused by propellers, and protect marine life and ecosystems. Boats engaged in wildlife viewing and swim-with tours are popular in Hawai'i and may cause serious injury – and death in some cases – to marine mammals as indicated by the photos below.

Please protect human life and marine life by reducing fatalities and injuries caused by propellers. Please pass SB 258. Propeller guards are not an unreasonable or burdensome requirement for boat owners or tour operators.

Mahalo nui loa for the opportunity to testify.

Marjorie Ziegler

Scarred endangered humpback whale with calf (above) and wounded dolphin (left).

Telephone/Fax: 808.593.0255 | email: info@conservehi.org | web: www@conservehi.org
P.O. Box 2923 | Honolulu, HI 96802 | Office: 250 Ward Ave., Suite 215 | Honolulu, HI 96814

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 12:20 AM
To: WTL Testimony
Cc: dean@HawaiiGoesFishing.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/3/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Dean Sensui	Hawaii Goes Fishing	Oppose	No

Comments: The idea of a propeller guard being able to prevent the injury and death of a swimmer sounds like it would make a great deal of sense. But it has to be realized that in most of the boat-related fatalities laceration and uncontrolled bleeding isn't the primary cause of death. Instead, it's blunt-force trauma and subsequent drowning. The death of spearfishermen in Manalua Bay and Kailua Bay were due to boats operating at high speed and failing to see and avoid the victims. While there was evidence of a prop strike, please realize that in the process of getting run over by a boat there's the initial impact of the bow of the boat. It's usually a large and hard structure with a fairly acute 45-degree angle. Then there's the leg of the outboard engine, the width of a small tree trunk, along with a narrow skeg and cavitation plate. The part of a swimmer that's closest to the surface tends to be that person's head. Getting struck by a boat going at 15 knots, which is not an unreasonable speed, is like sprinting head-first into the corner of a concrete wall. Some outboards are also equipped with wider "planes" on the lower leg's cavitation plate, to help lift the stern when underway and provide additional fuel efficiency. All of these structures can inflict severe injuries, including lacerations, when a boat is underway, often at 12 to 18 miles per hour. Faster if they're pulling water skiers or parasailers. In none of those cases would a prop guard protect a swimmer if struck by a boat. It should also be noted that around 20 years ago there was an incident in Maunalua Bay where a 5-year-old child was allowed to operate a jet ski without an adult on board. The child lost control of it, and collided with two people on a tandem kayak. One died. Jet skis have no props extending from their hulls. The death was due to blunt force trauma, not unlike many of the more recent boating fatalities. I've been a boat owner and operator since 1983. The boat is primarily for diving, so it is often operated around people who were in the water. Any time anyone is near the stern of the boat, the engine is shifted into neutral so the prop isn't spinning. It's basic safety. It's the same way with other people I know who also dive and operate boats. And when underway in water that is 100 feet deep or less, at least two are constantly on lookout, watching for anyone in the water. Guards on boat props would be an expensive requirement that will not prevent injury or death due to reckless boaters. And in many cases there are no prop guards available for the wide variety of configurations of outboards, inboards and

I/O systems in use. Situational awareness, and being mindful of safe operating procedures, is what matters most. Thank you for your consideration in the matter. Aloha, Dean Sensui Executive Producer, Hawaii Goes Fishing.

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 12:45 PM
To: WTL Testimony
Cc: rgaffney@pacificboatsales.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/3/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Rick Gaffney	Hawaii Fishing & Boating Association	Oppose	No

Comments: SB258 mandating prop guards for recreational vessels, was no doubt submitted with the best of intentions, however, we feel the bill is ill-conceived, includes factual errors, and it is going to dramatically impact our recreational boating community and the industry that supports it. Propeller strike incidents are horrific, to be sure, but the truth is that propeller guards will not prevent grievous injury from a fast moving boat, or they would have been mandated by the US Coast Guard, and other states many years ago. Being struck by the propeller shaft, strut, rudder, outdrive leg or outboard motor leg, whether or not a propeller guard is in place, will cause serious bodily harm. Boats are heavy and with very little speed they bring a great deal of force to an impact with a human body. Moreover, propeller guards are largely designed and manufactured only for smaller outboard motors. They can be a relatively simple bolt-on for a small outboard, however most other propellers, particularly for inboard powered vessels, would require very expensive, uniquely engineered, custom installations, requiring a costly engineering and expensive, time-consuming haul-out for installation. There are also concerns that the installation of propeller guards on many modern outboard motors could void the warranty on a piece of equipment worth as much as $35,000, while at the same time weakening the anti-ventilation plate by exposing it to corrosion, assuring a very expensive repair down the line. There is a long list of reasons why what this bill proposes would be problematic and often unworkable. In truth, speed limits near crowded beaches, swimming areas, ingress/egress areas for surfers, dive mooring areas, and so on, would largely accomplish the same thing. If the legislature is bound and determined to enact a requirement for propeller guards in Hawaii, you should first appoint an expert task force to determine how to undertake that, without inducing a crippling impact on the boating community, and the many small businesses in Hawaii that support it. Mahalo, Rick Rick Gaffney, President Hawaii Fishing & Boating Association 74-425 Kealakehe Parkway, # 3-B Kailua-Kona, HI 96740 808 960-6767 (cell) rgaffney@pacificboatsales.com

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TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN SUPPORT OF S.B. 258

February 6, 2017

To: Chairwoman Lorraine R. Inouye and Members of the Senate Committee on Transportation and Energy, and Chairman Karl Rhoads and Members of the Senate Committee on Water and Land:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in support of S.B. 258, relating to Propeller Guards.

S.B. 258 amends Chapter 200, H.R.S., requiring that motorized recreational vessels be equipped with a properly functioning propeller guard when used within 500 meters from the shore. Due to the risk of injuries that propellers pose to ocean swimmers, the requirement of installing propeller guards is good for public safety. HAJ members have represented several swimmers and divers who have been seriously injured or killed by boat propellers. These injuries and deaths are completely avoidable because the availability and effectiveness of simple guards is an appropriate solution. For this reason, HAJ supports S.B. 258.

Thank you for allowing me to testify regarding this measure. Please feel free to contact me should you have any questions or desire additional information.

Senator Lorraine R. Inouye, Chair
Senator Donovan M. Dela Cruz, Vice Chair
COMMITTEE ON TRANSPORTATION AND ENERGY

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
COMMITTEE ON WATER AND LAND

February 5, 2017

OPPOSE SB258, Relating to Propeller Guards

HFACT is a not-for-profit, IRS 501c(5) organization, that advocates for small boat commercial, non-commercial, and recreational fishermen throughout Hawaii. HFACT board members sit on a number of federal fisheries management and endangered species advisory committees; and, HFACT is thoroughly familiar with and participates in ocean and marine resource management in Hawaii and the central Pacific.

HFACT **OPPOSES** SB258, Relating to Propeller Guards.

The Bill appears to be based on deaths due to boating accidents that is grossly misleading. According to an U.S. Coast Guard press release showing the latest available data, dated May 18, 2016, shows that the national average in 2015 was 5.3 deaths per 100,000 registered vessels. The 2015 Recreational Boating Statistics Report (US Coast Guard. Report COMDTPUB P16754.29) shows that Hawaii had 12 boating accidents. Five were due to capsizing, three we swamping or flooding, two were grounding, one was fire/explosion, and one was uncategorized. The twelve boating accidents resulted in 5 fatalities and 9 injuries. None of the fatalities or injuries was due to the propeller.

While any death by accident should be avoided, cause of death must be accurately attributed. Hawaii and it's Legislature should not be swayed by "alternative facts".

The Coast Guard report attributes alcohol use as the Number 1 cause leading to accidental death, nationwide. The second most common cause of death is operating a vessel in hazardous waters, likely to cause capsizing, which was the Number 1 cause of boating deaths in Hawaii.

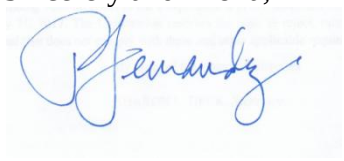
During the last several years, Hawaii has had two unfortunate accidents that involved propellers. One was a truly irresponsible boat operator who was operating at high speeds and another was a lady who made a bad judgment to jump into the water in a very congested environment of power boats and canoes.

The solution to preventing accidental deaths during boating is not propeller guards. At high speeds, propeller guards are likely to give boat operators less steering control and compromise the boat's ability to turn away from a person in the water. In the case of the person who was in the water and the boat backed into her, the force of the water going through the propeller guard would likely suck any object near the guard and propeller. Propeller guards are designed to deflect objects from hitting a propeller while in a forward motion of the boat, in a backward motion, a propeller guard could act as a suction device and pull objects or people toward the propeller.

As with so many issues that come in front of legislators, experienced boaters and boat safety experts should be consulted before considering a bill to avoid unintended consequences. HFACT believes that propeller guards may seem like a solution, but in fact will provide little if any contribution to overall safety for the ocean users of Hawaii.

HFACT thanks the chairs, vice-chairs, and committee members for this opportunity to provide comment and to assist in the safety of Hawaii's ocean users.

Sincerely and Aloha,



Phil Fernandez
President

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 9:56 AM
To: WTL Testimony
Cc: shyla.moon@ymail.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/5/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Shyla Moon	Hunting Farming and Fishing Association	Oppose	No

Comments: I'd like to refer to two websites (copied and pasted below) for my opposition testimony. Me, my husband and his family, my dad and his family, - all have or had boats and fishing in our lives. Together we have experience building and benefiting a lifestyle only some will appreciate and understand. That being said we don't need propeller guards, we need responsible and educated drivers of a boat. The more difficult you make fishing for us in Hawaii the more we lose our generational knowledge. Here are the two website and info regarding facts: http://hfact.org/2017-proposed-legislation-sb258-and-hb436-propeller-guards/ http://www.hawaiiboats-yachts.com/PropellerGuards.pdf HFACT Talking Points: – Data cited in proposed legislation is not supported by USCG statistics. USCG 2011 statistics reflect 6.2 deaths (not 44 as cited) per 100,000 registered recreational vessels nation-wide. (In Hawaii in 2011, three persons were struck by propeller; none in 2010 and none 2012.) – Concern of damage to marine animals and plant life understood, but applicable to any intrusions into the natural habitat. – Precise definition of recreational motorized vessel needed. Is a motorized vessel operated by a “week-end” fisherman with a commercial license considered a recreational motorized vessel? Do canoe paddling, paddle board, kayak, etc. escort motorized vessels operating for pay qualify as non-recreational? Are motorized vessels operating in support of commercial ocean-related business enterprises providing recreational opportunities considered “recreational?” – Improved granularity on applicability appears warranted. – Specification of what qualifies as an acceptable propeller guard needed – Are “kickers”, small outboard motors which are hopefully never used but installed for propulsion in the event the primary source of motoring becomes inoperative, required to have propeller guards installed? – Will sail boats which use motorized power primarily to get in and out of boating slips be required to have propeller guards? – As proposed, the legislation will unnecessarily impact the wallet of the entire population of recreational boaters – Collaboration among proponents and stakeholders is not evident and would be valuable Boats and Yachts: Here are lists of issues in no particular order that make this virtually impossible to comply with this proposed regulation for the foreseeable future: Possible Hazards and Problems Created by Prop Guard Devices • May Disable Boat if Malfunction • Cavitation of Propeller,

Cage, Wires, or Ring o Cavitation is very destructive to all materials surrounding it. It increases electrolysis, destroys bottom paint, and wears down fiberglass. o It can compromise the propellers effective operation in the water column • Drag • Decreased Top Speed • Decreased Acceleration • Down Time to Repair Vessel or Device • Durability, Reliability • Fatigue Failure of Guard Wires, Rods, Welds, or Castings Due to Propeller Cyclic Loads • Debris Impacts • Guards Requiring Holes to be Drilled in the Hull Create Stress Points which can compromise the water tight integrity of the hull • Groundings May Drive Guard into Propeller Which May Also Damage the Gears, break the shaft, cause the vessel to turn sideways in the beach break and loose steerage and ultimately loss of the vessel. • Additional Fuel Costs & Related Emissions • Decreased Performance in Reverse which is vital for safe harbor and launch ramp maneuvering • Increased Cross Sectional Area of Guard vs. Propeller in the water column • Level of Protection Provided May Depend on Orientation of Person's Body Near the Propeller/Guard AND Location on Person's Body of the Strike • Increased Draft • Entrapment: These vessels with snorkelers in the water close to the boat while at anchor. Swimmers and divers could get entangled in the cage. Type of Approved Propeller Guard for Outboards • Cage Guards o Mesh Size Tradeoffs o Conventional guards effectivity questioned • Ring Guards o Level of protection to rear is questioned Availability and Implementation Costs • Boating Industry Claims the Qualifications and Skills to Design and Test a Guard Are Beyond the Capability of Those Currently Manufacturing Guards • Cost of Devices if they can even be found • Installation Costs: Larger Vessels must be dry docked to install this type of apparatus. • The Legislature has not given any guidelines on what is an Approved device. • Down time to repair the device. • Guards Are Not Currently Issued as Standard OEM Equipment by Any Recreational Boat or Drive Manufacturer • Product liability • Huge impact on boaters. • Lack of Existing Standards for Propeller Guards and Related Devices This is just a partial list of the problems and issues related to this one size fits all rule. There • If we find a manufacturer what about product liability? • How much did the injured party or others contribute to the accident? • What happens if we lose a vessel because the prop guard fouls the prop and the vessel is lost in the surf with possible loss of life • What about personal liability? • Were there adequate warnings? • Which parties would be included in the case? • Who has the jurisdiction here? • Legal costs to the industry • Maritime Law, Admiralty Law, State Law • Effectiveness of proposed interventions and their availability prior to the accident • Safety performance of the proposed safer alternatives • Determine if the reduced maneuverability caused by the prop guards contributed to the accident are the legal issues as well. Crashworthiness Doctrine: Were the victim's injuries enhanced AFTER the accident occurred by a defect in the product? Could a propeller guard have prevented or mitigated a person's injuries AFTER an impact? We feel strongly that in spite of the swimmer accident protection intent of this proposed legislation that it is in fact poorly thought out, impractical, dangerous to the operation of the vessel and safety of its passengers, will have massive economic downside for the boat owner.

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Opposed to SB 258 Monday, February 6, 2017 TIME: 2:00 p.m. WTL Conference Room 225

Please oppose and hold SB258

Prop guards- they do not work!

The friction and torque on such a device limits it's use to low speeds only. Boat speed and performance is reduced. Prop guards are only are rated at 25 mph or lower.

Most have prop guards have issues with attachment, balancing and drag. Rust and corrosion also can be a factor. High speeds can cause catastrophic failure and prop damage, lower unit or out drive transmission damage causing a boater to be stuck out at sea.

This will now endanger and put at risk for sinking many boaters.

At higher speeds they shimmy causing vibrations which will damage gear casings or transmissions.

Manufacturers tell you only for low speed use!

They are nearly impossible to balance at high speeds. There are so many different designs we would need to do it you could never meet market demands.

Prop guards are not available for many make of engines! Especially inboards or straight shafts.

Prop guards can be very costly to buy and maintain. Maybe the state should pay for them the damage they would cause and the liability if someone loses their lives due to using one. The state should appropriate millions to engineer new designs!

Prop guards create more drag reducing engine efficiency increasing fuel cost. People could run out of gas because of them. You would be putting boaters lives at risk.

Prop guard vibrations and drag can cause failure of your gear case especially when they come loose and hit your prop.

Prop guards are nearly impossible to balance. They could easily leave you stranded in the ocean and cause the death of a boater.

We need to enforce dive flag laws; as many have lost their lives to swimming or diving without one!

This SB 258 will end up costing every boater in Hawaii hundreds of dollars on prop guards which do not work, break, put boaters at risk, reduce engine performance, and are not even made for most boats.

Trying to extend the effective date to 2018 will not give engineers time to come up with a prop guard miracle!

SB 258 is a very bad law which will not even be able to complied with if passed. I can see thousands of boaters buying prop guards to have them fail or cause damage to only fall off and go bad in a short time.

Most will not even be able to get them and only try to comply with bad designs and the resulting expensive engine damage.

Please hold SB 258

Ron Tubbs B.S.N.D.
RT Distributors

35 years boating and I have never hit a whale, dolphin, turtle or marine life with my boat!

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 2, 2017 7:56 PM
To: WTL Testimony
Cc: bcsc@hawaii.rr.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/2/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
William K. Chang	Individual	Oppose	No

Comments: I oppose this bill

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Testimony to Oppose Bill SB 258
February 3, 2017

Gregg Ono
617 Hoomoana St.
Pearl City, HI 96782
(808) 306-9925
Email: greggono@oneshotsupplies.com

I would like to oppose bill SB 258. I am a recreational boater with a 13' Boston Whaler powered by a 25hp Mercury Bigfoot outboard.

I primarily go fishing offshore up to 4 miles out and the 25hp outboard is just enough power to push the boat reasonably. If I were to put a prop guard on it the power would be reduced which would actually make it less safe for me to travel the coastal waters not to mention the increase in gas usage which I currently can hold 2ea. 6 gallon containers and I use around 9 gallons on a day out trolling. The additional gas use could make my boat not hold enough fuel for a day out on the ocean.

I have read a lot of testimonies and reviews about prop guards and majority of them are negative and say prop guards reduce performance, reduce your control, reduce fuel efficiency, can cause mechanical issues and ultimately can actually contribute to injury.

Ultimately if I needed to put a prop guard on my boat I would need to fish alone as the 2nd person on the boat would make it too heavy to be powered by the 25hp outboard. This would definitely be much more dangerous to myself and honestly I would not want to go out alone.

Maybe a bill for prop guards make sense for certain activities like if the boat was used for water competitions where there will be people in the water around a motorized boat or dive boats where again people will be in the water around a motorized boat but to make it a law for all recreational boaters within 500 meters of shore would affect to many people for no real benefit.

I have a whole list of testimonies I found online from boating and propeller experts below:

Boating Industry Statements About Propeller Guards

Boating Industry Speaks Out on the Futility of Propeller Guards

Over the last three decades, the industry has repeatedly declared propeller guards do not work, cannot work, and will never work. A collection of some of those statements is below.

If anyone even ever slightly leaves the door open, they immediately try to close it, and in the very rare instances when an industry representative makes a statement about the usefulness of guards, they are quickly reprimanded and brought back into the fold. This page also covers a few of those instances.

Richard Snyder now retired of Mercury Marine, and longtime industry propeller guard expert:

- Grisly Accidents Spark Campaign for Guards on Boat Propellers. Atlanta Journal Constitution. 28 September 1989. Speaking of propeller guards in general, Dick Snyder was quoted as saying:

  "It's a sham device. To us it's a non-product other than in specialized uses. It'll kill more people than propellers do."

- James M. Pree v. Brunswick Corporation. Jury Trial. September 20, 1991. St. Louis Missouri. Richard Synder testimony. Jury Trial Volume 5. Page 166.

  Question – And you're a mechanical engineer of lots of years of training.
  Answer – Yes, sir.
  Question – Who is unable for his company to conceive a propeller guard that will work, correct?
  Answer – Yes. Myself and, as far as I can see, anyone else in the world since anyone ever tried thinking about prop guards has not conceived any idea, either.

- Linda Gaitan v. Ultra Custom Boats, et. al. Superior Court of the State of California. County of Los Angeles. Case # BC288600. Deposition of Richard Snyder. July 15, 2004. Page 114. Speaking about propeller guards:

  Why don't you make them? I've given you so many reasons today why we don't make them. And until some new technology comes along that I can't even conceive of, we are not going to make them. It's a ill thought device."

- Jacob A. Brochtrup vs. Mercury Marine, et. al. U.S. District Court for the Western District of Texas. Austin Division. C.A. No. 1: 07-CV-643-SS. Oral Deposition of Richard H. Snyder. April 7, 2008. Pages 212-213.Speaking about what had been done since Dick Snyder invented the guard for the Marine Corps:

  Question – That's 18 years ago. And since you originally developed it you haven't spent any – you haven't done anything to significantly refine or improve that design, is that correct?

Answer – That's right. I haven't thought of anything nor has there been any potential use of it.
Question – And Mercury Marine hasn't done anything to try to improve on that design, have they, as far as you know?
Answer – I'm not aware of anyone else at Mercury that has worked in that – in the area specifically of a cage guard.
….. a question about guards designed by others, then questioning continues …
Question – And Mercury Marine has not made any efforts to work on those guards and try to refine the design or improve them, have they.
Answer – Other than thinking about it. I don't recall anything specific about making hardware to refine it because nothing has been thought of that would be worthy to do.

- Richard / Dick Snyder public response letter dated July 13, 2011 to USCG on the Engine Cut-off Switch Advanced Notice of Proposed Rulemaking:

… at the end of the second paragraph, you say, " – – – in a scenario we refer to as the "circle of death"." To the best of my recollection the expression was first used by plaintiff's expert, Robert Swint, back in the earliest prop guard law suits in the '80s. The defense (The Recreational Boating Industry) objected to the plaintiff's using that expression as "inflammatory". They didn't want the jury to here (sic) it. Some judges agreed and would not allow its use in court. So, when you say "we", are you referring just to the USCG, plaintiff's lawyers, and plaintiff's experts? Because, many industry people consider it offensive.

- Joe Pomeroy, Lead Counsel for Mercury Marine in an article titled, Lawyer Sees No Avalanche of Prop Guard Lawsuits, by Jim Flannery. Soundings Trade Only. January 2003. Pages 12-13.

"Barring some kind of breakthrough in prop guard technology, plaintiffs face an uphill fight."

OMC Statements

- Letter to CBS News, Erin Moriarity, New York NY. August 30, 1989 from Laurin Baker. OMC Director of Public Affairs. In response to an upcoming August 31, 1989 CBS This Morning segment.

"OMC has eighty years of involvement in marine engineering, and that experience has taught us that so-called propeller guards are infeasible. There is no viable, workable device which protects people in the water against being struck by a boat, and outboard motor skeg, or a propeller at normal planing speeds. Juries throughout the country have repeatedly agreed with OMC and the industry on this matter."

- Calling Out the Guard. Sheryl James. St. Petersburg Times Floridian. September 4, 1989. Pages D1 and D3.

  "Our contention," says Laurin Baker, director of public affairs for Outboard Marine Corp. (OMC), another major boat engine manufacturer, "is that (propguards) are not feasible to build for thousands of boat models, and that even it they were, they would not appreciably decrease propeller injuries and might even increase them."

- Audrey Decker and Frederick Decker vs. Outboard Marine Corporation. Circuit Court of the 20th Judicial Circuit in and for Collier County Florida. Exhibit 269.This reference discusses an unsigned and undated document, purported to be a position statement on propeller guards written in 1977 by OMC legal representatives. The statement is below.

  "Although Outboard Marine corporation has investigated and attempted to develop an efficient propeller guard for personal protection over the years and has examined and tested such claimed devices developed by others, no device which will protect the swimmer under some operational conditions without causing greater risk of injury under some other operational conditions is within the state of the art of engineering design."

- Don Kueny, longtime Senior Chief Engineer at OMC, written deposition exhibit dated October 6, 2006:

  "These are people problems, not equipment problems, and should be addressed at their source, without burdening manufacturers and consumers with expensive and cumbersome devices that make recreational boats less safe than they are today.
  Proposed propeller "guards" would benefit only a few individuals; those who seek to carry on a limited range of activities in a careles and irresponsible manner. These same devices would make boating less safe for the broader category of careful, informed and sober boaters and their passengers."

Ralph Lambrecht -longtime OMC technician and expert witness

- Propeller Guards, Again. by Ralph Lambrecht. Boat & Motor Dealer. Marine Service Technicians Corner. Jan/Feb 2003. As to the possibility of propeller guards ever working, Ralph Lambrecht said:

  "No one has been able to repeal the laws of physics or mechanics to design a low-drag propeller guard that is soft, fat and strong regardless of claims."

National Marine Manufacturers Association (NMMA)

After a series of local propeller accidents and a fatal propeller accident involving a young girl, the Orlando Sentinel (Florida) interviewed several parties on propeller guards and

published a story on 7 September 1987 titled, Propellers Are a Deadly Problem. Among those interviewed was David Beach, Manager of Engineering Services for the National Marine Manufacturers Association.

In response to propeller guards, Mr. Beach said:

David Beach NMMA
"Technically, this has been kicked around for the better part of three decades. The problem is, that producing a workable guard is a rather complicated thing. All proposed so far have deleterious effects."

In response to propeller accidents in general, Mr. Beach said:

David Beach NMMA
"Admittedly, they are kind of gory and gruesome and they command a certain amount of attention, but in the overall picture, they're no worse than what happens when somebody rolls a rock down a hill and hits a bus in Colorado."

Mr. Beach finished by citing USCG Event 1 only propeller fatality statistics for 1986 (16 deaths) and falsely claimed they represented all deaths that year. Event 1 statistics (first event of the accident sequence) only represent a small fraction of USCG reported propeller accidents or fatalities in a given year.

In March 2002, NMMA responded to a USCG request for public comment on a proposed propeller safety regulation for houseboats with call to arms encouraging its members to write USCG and expound the list of points they presented.

NMMA Houseboat Propeller Guard Press Release
22 March 2002

NATIONAL MARINE MANUFACTURERS ASSOCIATION
200 E. Randolph Dr., Suite 5100
Chicago, IL 60601-6528
312/946-6200
FOR IMMEDIATE RELEASE
NMMA ISSUES ACTION ALERT ON PROP GUARD PROPOSAL
CHICAGO, March 22, 2002 – – The United States Coast Guard has extended the deadline for submitting comment on a proposal regarding mandatory propeller protection devices on houseboats until May. National Marine Manufacturers Association (NMMA) is taking advantage of the extra time to issue an action alert to members of the recreational marine industry to voice their objections to the proposal.
The proposal requires owners who lease, rent, or charter non-planing recreational houseboats to install either a jet drive system, propeller guards or three combined measures. The three combined measures include installing swim ladder interlocks, a clear visibility aft device, and an ignition cut-off switch. Owners of non-planing, non-rental houseboats would be required to install the interlocks and the clear visibility aft device, but not the ignition cutoff switch.

John Mcknight, NMMA director of Environmental & Safety Compliance, says that this proposal is not only about houseboats, but about engines as well, and in the future it could spread to all types of boats.
"NMMA clearly supports steps to reduce boating accidents and fatalities, but this proposal raises the question as to whether in this case the risk justifies the cost of regulation," says Mcknight. McKnight points to statistics that the USCG bases the need for this rule on. From 1990 to 1999, there were a total of 18 propeller-related injuries and two deaths. The proposal estimates the total cost to rental operations to upgrade each boat would be $440; costs NMMA believes are underestimated.
NMMA is making it easy for the industry to voice their objections. A sample letter opposing the proposal can be accessed on NMMA's website at www.nmma.org. On the site, click on "Making Waves" and follow the steps to send an industry letter.
"Based on the volume of responses the USCG has currently received, the recreational marine industry is outnumbered five to one by those in favor of propeller protection devices. The industry has to make their voice heard before it's too late," says Kelly Bobek, NMMA director of Federal Government Relations.
For more information on the prop guard proposal, contact McKnight at (202) 721-1604; jmcknight@nmma.org.

John McKnight, NMMA Director of Environmental Compliance and Safety responded to the recently released U.S. Coast Guard & ABYC Propeller Guard Test Procedure. He responded it in an interview published in a September 16, 2013 Soundings Trade Only post titled, "ABYC and Coast Guard Join on Propeller Guard Test".

John McKnight, NMMA, comments are in this quote from the post:

In the past, there had been several "snake oil salesmen designing guards in their garage," McKnight said. "In litigation, the question would be asked, 'Why wasn't one of these put on?' Though we don't endorse the document, we can live with it."

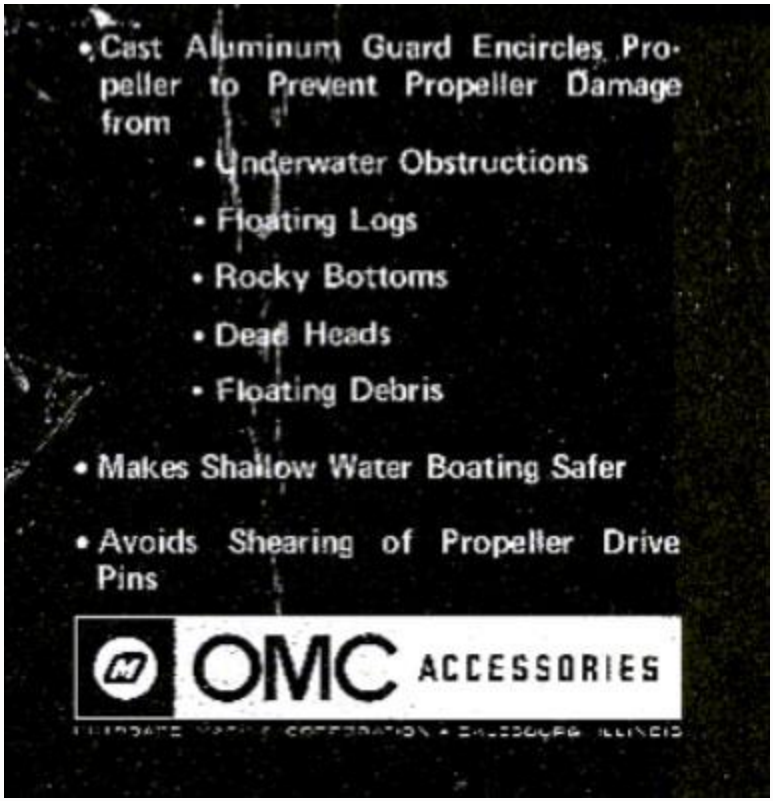
National Boating Safety Advisory Council (NBSAC)

NBSAC is a U.S. Coast Guard Advisory Group that is sometimes dominated by industry representatives.

In 1988, in response to a number of propeller accidents, a NBSAC subcommittee was formed to investigate the feasibility of propeller guards. They issued a final report in 1989. It was strongly opposed to the use of propeller guards as seen in the quote below from page 24 of the report.

"Although the controversy which currently surrounds the issue of propeller guarding is, by its very nature, highly emotional and has attracted a great deal of publicity, there are no indications that there is a generic or universal solution currently available or foreseeable in the future. The boating public must not be misled into thinking there is a "safe" device which would eliminate or significantly reduce such injuries or fatalities."

OMC put the following statements in the installation kit with their small ring guard years ago, to indicate it was not for protecting people.



OMC Propeller Guard box label

OMC GENUINE PARTS ACCESSORIES

PROPELLER GUARD KIT

INSTALLATION INSTRUCTIONS

KIT NO. 172333 & 172334

The propeller guard kit gives protection to the propeller from damage caused by underwater objects encountered in rocky or stump laden waters. IT IS NOT INTENDED FOR GIVING PROTECTION TO SWIMMERS.

OMC Gale Propeller Guard Installation Instructions

Slightly Opening the Door to Prop Guards

Richard Snyder now retired of Mercury Marine, and longtime industry propeller guard expert:

- James M. Pree v. Brunswick Corporation. Jury Trial. September 20, 1991. St. Louis Missouri. Richard Synder testimony. Jury Trial Volume 5. Page 166.

Question – For a very limited purpose you testified that your guard will work for the purpose that the Marine Corps wanted it to, is that correct?
Answer – I believe it will be an effective device for the very low speed activities on these Marine Corps boats, yes sir.
Question – Okay. Well, you would not have sent it to the Marine Corps for use if you didn't believe that, would you.
Answer – That's correct.

- Richard Synder interview in Soundings Trade Only, July 1996 article titled, " Emilio's Mom Revives Prop Guard Debate".

  "Yet he acknowledges that in specific situations – where boat speeds are subplaning and the waters are not too shoal or full of weeds – a prop guard could work safely on a houseboat."

- Richard Snyder 2002 letter against proposed houseboat propeller safety regulations. Mercury Marine letter to USCG dated 26 February 2002. USCG Docket Item # USCG-2001-10163-106. Page 4.

  "A well designed, well built, all encompassing cage type prop guard with smaller hole sizes designed for suitability on 10 mph maximum speed or less vessels can be beneficial with SOME of the accidental contacts on SOME waters (non-weedy, non-shallows)."

- Robert Leroy Ard v. Brunswick Corporation. Trial Transcript. Richard Snyder testimony 25 April 2006 Pages 203-204.

  Question – Would you tell us again when you think those (referring to propeller guards) are appropriate?
  Answer – Generally whenver you've got something that is dedicated, slow-moving operation, and that can be such as rescue boats that are dedicated to rescue. Of course, little family, boat operations, often called bumper boats, they've had them as long as I've ever seen them.
  There can be military operations like we talked about where the boat is slowed down to nearly no velocity and there is training of people getting off and getting on in possibly very rough water. That is excellent use of something like that.
  It would make sense to me if you had slow-moving, big houseboats that went 5 or 6 miles and hour and were not not areas where they would hit the bottom or run into weeds, that could be a decent application of some form of guard.

- Robert Leroy Ard v. Brunswick Corporation. Trial Transcript. Richard Snyder testimony 25 April 2006 Page 239.

  Question – All right. (refering to an old Mercury test) So this is a 1973 test by Mercury on a guard where there was no particular problem with the steering in this particular test, correct?
  Answer – Under these circumstances, yes.

Question – And the performance deficit was from 16.5 to 15.1 (miles per hour) correct?
Answer – Right, and since you said you wouldn't cut me off, this is a small, seven-and-a-half-horse fishing outboard, another small boat that only goes 15, 16 miles an hour, and I told you before that at speeds that low, drag differences are minimal and this in fact — This is partly why it was being done, was to let it serve as a pipefitting ring to help acceleration. It served that purpose and at these low speeds there aren't any problems like that.

- Robert Leroy Ard v. Brunswick Corporation. Trial Transcript. Richard Snyder testimony 25,26,27 April 2006 Page 275.

Question – Thank you. Now you agree that if the boat involved had had a cage guard on it and the wires were close enough together that Mr. Ard would still have his leg?
Answer – Yes, sir.
Question – And do you agree that there are many instances where a propeller guard would have prevented injury of passengers or water skiers?
Answer – Yes, sir.
Question – Do you agree that almost all low-speed injuries could be prevented by a decent cage guard?
Answer – As long as you qualify with a decent cage guard by my definition, yes.
Question – And there is no question in your mind that back in 1973 a cage guard which did not cause dangerous steering characteristics and which would have prevented against this kind of injury could have been manufactured by Brunswick?
Answer – Yes, sir.

- Robert Leroy Ard v. Brunswick Corporation. Trial Transcript. Richard Snyder testimony 25,26,27 April 2006 Page 279.

Question – In 1987 if you had been asked to develop a guard that would protect people at 5 to 10 miles per hour, would you have any problems developing such a guard from an engineering standpoint?
Answer – I don't — I don't think there's any problem in developing a guard that would be ANSI correct and would function at 5 or 10 miles an hour.

Rouge Statements About Propeller Guards Reeled Back In

OMC Australia saw the market for guards on the local surf saving life boats. OMC was already selling the ring guard for small outboards under the guise of protecting the

propeller. OMC Australia teamed with a local manufacturer to build a companion “face mask” for the ring and started selling the combo guards like hot cakes. Then they made the mistake of bragging about their invention to the folks back in the USA in a faxed letter dated September 19, 1977.

“This combination of the 2 guards when bolted together has proven extremely effective in preventing injuries to swimmers. …. For normal situations these guards will prevent limbs being struck by the propeller (referring to OMC’s ring). Unusual circumstances could see feet or hands still being hurt and hence the “Face Mask” addition.”

Upon receipt of the faxed letter, OMC’s attorney, Alex Marconi, immediately faxed OMC Australia the marching orders (the position statement on guards). OMC had already sent it once before. OMC Australia responded the same date (September 19, 1977) with the faxed comments below:

“Dear Alex, Many thanks for your reminder note on the propeller guard position, it was already on my desk when I returned in early August.”

And amazingly, the following statement about selling their small outboards to the surf saving market in Australia slipped into the Winter 1996 issue of Power (OMC’s corporate magazine) almost two decades after the first debacle,

“The modifications include …. and a stainless-steel propeller “mask” which prevents prop related injuries.”

That particular issue focused on the launch of FICHT technology. We suspect all their editors were too focused on all the hoopala surrounding FICHT to catch the prop guard statement.

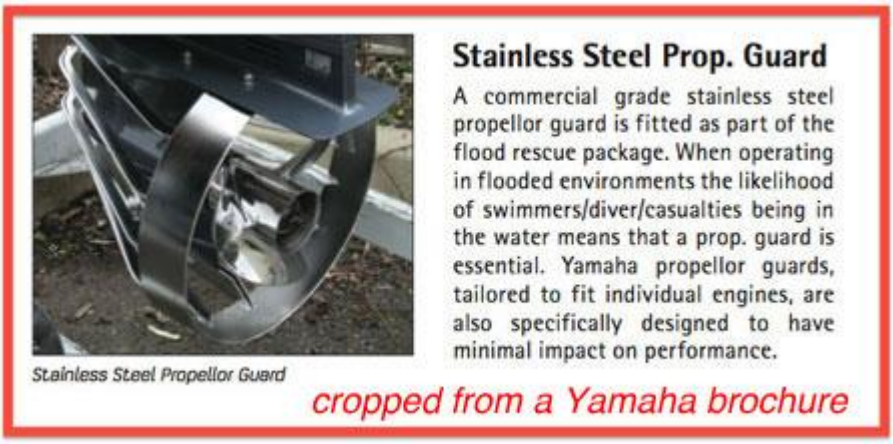
Another interesting exchange with the Aussies about the OMC surf guard occurred in a 19 Nov 1987 fax from Mike Sweetwater (OMC Australia) to Dick Snyder. In that fax, Mike Sweetwater said:

“With regards to the injuries when guards are fitted, we have enquired at several clubs operating these units, and no serious injuries have been reported. People do get struck by the outboard motors with guards, and the only ill effects being minor bruising and abrasion. Collisions with people in the water have occurred at various speeds including full throttle.”

But, after having been thoroughly indoctrinate by the folks at OMC stateside, and Dick Snyder at Mercury Marine, Mike Sweetman (OMC Australia) issued an Office Memo to Dick Snyder on 1 June 1988 that tells a different tale. In the 1 June 1988 memo, Mike Sweetman states;

“Coming back to the topic of injuries, when guards are fitted (paragraph 3 – fax 19th November 1987) I would add the following information:-
… The guards are fitted to minimize injury when a “patient” is alongside.
The guards are not and do not afford any protection, when craft are proceeding to and from patient pickup. …. The S.L.S.A. personnel are aware that impact with swimmers, etc., whilst the craft is operated at anything over idle speed, could cause fatal injury.”

It is quite obvious the “official memo” was written to try to cover themselves from some of their earlier braggadocious statements about the guard. Yamaha U.K. got caught in this same trap in 2012 with their flood rescue outboard guard.



Yamaha Prop Guard Statements

2012 found Yamaha U.K. heaping accolades upon their stainless steel flood rescue outboard propeller guard. In October 2012 we published three posts about their new guard and included some of their statements. By early November all references to Yamaha’s new prop guard had been erased from the Internet. Sound familiar to the OMC S.L.S.A. guard situation?
We later republished Yamaha U.K.’s actual documents. We asked the USCG Office of Boating Safety to ask Yamaha what was going on since they would not respond to us. USCG later reported Yamaha said they just had a customer that wanted to buy some outboards with some guard so they bought some and put them on. Kind of odd that all the literature was published after they delivered the flood rescue outboards to Lincolnshire and then vanished shortly after our coverage of it. They did not provide an explanation for that.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 4:43 PM
To: WTL Testimony
Cc: heatherlymw@gmail.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/3/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Heatherly	Individual	Oppose	No

Comments: Honorable Legislators Thank you for the opportunity to be heard. I sympathize with the State's desire to legislate safer boating, but in my opinion as a professional engineer, this law would tend to heap significant technical problems onto the boating public, with little assurance of achieving the desired result. While it is possible that a properly designed and installed prop guard may reduce the severity of injuries in the rare event of a strike, it is CERTAIN that ALL prop guards ADD DRAG, thereby decreasing fuel-efficiency and increasing emissions for the life of the installation. Aftermarket prop guards are manufactured for outboards and outdrives, NOT inboards, which are common among sailboats, ski boats, and work boats. Original equipment outboard manufacturers (Mercury, Yamaha, Honda, etc.) do not market people-protection prop guards. As such, Hawaii's boaters would be forced to a). Build their own (see "inboard" above) or b). Purchase something that is indeed "One Size Fits All". Legislating universal implementation of such technology forces unqualified boat owners to adapt and custom-engineer untested equipment to their boats. This is in itself a hazard. It is not my intention to suggest that nothing can be done, but instead to recommend that other measures could be more effective and less problematic. As an example, expanding Hawaii's marked beachside swimming areas is a simple, effective action that costs little, and with no moving parts, requires modest maintenance. Thank you for your kind consideration.

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3 February 2017

To Whom It May Concern:

In regards to SB258 I would like to submit testimony in opposition to the bill as written. In its current form the bill is too broad.

As an auxiliary powered sailboat owner, the bill would apply to me if I sail close to shore. My prop is surrounded on the forward side by my keel and on the aft side by my rudder. My max speed through the water is approximately 7 miles per hour. The likelihood of a prop strike on either humans or sea life is extremely unlikely.

Affixing a prop guard to my vessel would not increase safety and would have to be done at great expense to me. Installation would require me to move my vessel from its mooring at the Alawai Harbor to Keehi Marine Center whereupon I would have to spend thousands of dollars for a haul-out, yard time and to have a prop guard specially designed for the shape of the underside of my hull. This would also require drilling holes into the bottom of my hull, reducing the integrity and safety of my vessel. Cheap, off-the-shelf prop guards for inboard diesel engines are simply not available.

The bill should be focused on outboard engines of vessels capable of high speeds that are operated in close proximity to swimmers or paddlers.

Respectfully,
Paul Miles
Captain, SV LOKAHI
Honolulu, HI

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 12:18 PM
To: WTL Testimony
Cc: adamrlipka@hotmail.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/5/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Adam Lipka	Individual	Oppose	No

Comments: While this may sound like a good idea at first but further research into the idea will most definitely show that is would cause more harm that good. Many owners of older boats would end up having to either remove their boats from the state or have them destroyed to prevent themselves from getting into legal trouble as their designs would not allow for prop guards at all and the ones that do get modified could loose control and maneuverability in the water which is also very dangerous if not more so. Since fewer boats would be available in the state the cost of marine products would also increase which the few small fishermen who complied to this law and operate small vessels would be also put out of business due to unreasonable costs. Then the cost of fish and fishing related products would also increase. Harbors would also be impacted as a fair number of people wouldn't be able to afford the thousands of dollars of modifications and would abandon their vessels or otherwise sell their boats out of the state and make the already suffering marinas here suffer more with lack of business. Increased drag from bad designs on boats that were never designed to have this would cause greater fuel consumption and increase marine pollution from the engines running them. Also it would entirely kill any tourism from the many boaters who sail here from all over the world as they would be then barred from entering the state because their boats were not in compliance and couldn't reasonably be made into compliance either. I'm sure there are many other concerns this legislation could create if passed but these are what come to mind at first. I urge you to not move forward with this legislation as it is a bad idea.

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 11:08 AM
To: WTL Testimony
Cc: rnvfishing@gmail.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/5/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Roy N Morioka	Individual	Oppose	No

Comments: Aloha Chairs Inouye and Rhoads, VC Dela Cruz and Gabbard, and Members of the Senate Committee on TRE and WTL: I Oppose SB258 as it presents an unnecessary and costly burden on boaters transiting nearshore waters but rather recommend a broad review of incidents involving boat strikes involving humans and the development of appropriate rules to mitigate such incidents. To think that a prop guard would prevent boat strikes is a stretch at best as the hull and running gear of a motorized vessel can cause catastrophic injury with or without a prop guard. As I transit harbor channels around our state, the ever increasing ocean recreation activities creates great concern. Kayakers, paddle boarders, canoe club paddlers, sailboarders, etc. all use these channels and are not governed by safe boating rules and regulations.. For example, while returning after sunset yesterday there were two kayakers mid-channel without lights in dark clothing. If I did not have my spotlight on and simply relying upon my GPS track, I may have struck them. I strongly urge your committee to direct the DLNR/DOOBOR to first perform a comprehensive assessment of current rules and regulations against the numerous aquatic activities in our nearshore waters and employ the Administrative Rule process to have a comprehensive, inclusive/transparent informational briefings with discussion and debate of proposed rules. Thank you for this opportunity to testify and comment. Respectfully, Roy N. Morioka

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 10:20 AM
To: WTL Testimony
Cc: john.nadler@hawaiiantel.net
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/5/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
John Nadler	Individual	Oppose	Yes

Comments: SB 258 This bill will effect boats such as sail boats, fishing boats, ski boats and visiting boats from around the world. Installation of guards on Inboard engine boats (shaft driven prop up under the boat) such as fishing boats and ski boats will void manufacture hull warranty. Imagine a fishing or a ski boat traveling between 20 to 30 MPH and the guard failing do to mechanical failure or hitting a obstruction and the guard hitting a propeller at 2500- 3000 RPM, this would be like a bomb going off with flying pieces of metal going in all directions killing or maiming surrounding people. Inboard guards will have to be custom manufactured locally for each variation of hull design and how will these guard be tested by the coast guard Sail boat guards will have to be custom manufactured locally for each variation of hull design and how will these guard be tested by the coast guard. What about entrapment? The industry says people can get caught by …….them What about blunt trauma? The industry says being struck by a guard in the water can be even worse than being struck by a propeller. Guards create boat handling issues that can make some boats unsafe per the industry. Guards create drag reducing boat speeds and increasing engine emissions. Guards will increase travel time between the islands and fuel consumption What about small outboards about 20 horsepower and under? They are rarely involved in fatal propeller accidents Most outboard manufacturers have threaten to void their warranty if you …….install guards. Most outboard manufacturers say the outboard is not designed for loads the guard may place on it Mahalo John Nadler John.nadler@hawaiiantel.net 808 226-0887 Avast logo This email has been checked for viruses by Avast antivirus software. www.avast.com

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 10:10 AM
To: WTL Testimony
Cc: mcleanj001@hawaii.rr.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/5/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
James g McLean	Individual	Comments Only	No

Comments: The amount of safety that you get from a cage around a propeller is very misleading. There are many other parts of the boat that hit first. Very costly. Good boating pratices can be enforced and would get better results.

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William J. Plum
P.O. Box 3503, Honolulu, Hawaii 96811-3503
(808) 528-0050

February 4, 2017

RE: SB 258 RELATING TO PROPELLER GUARDS
HEARING 2-6-17 @ 2:00 PM
TESTIMONY IN OPPOSITION

Dear Chairs, Vice Chairs, and Committee Members:

I write in opposition to SB 258. While this bill may be well intentioned, passing it would create a host of new problems and in the end, not solving the problem it was set out to solve.

For background, I have spent literally thousands of hours of my life in and on the water since childhood and have been around boats of all kinds. I am a former competitive water skier, a former professional water ski instructor, and the current treasurer of the Oahu Water Ski Club. I further am a certified SCUBA diver. Prior to my current career, I also held positions as a civilian life guard and swimming instructor for the U.S. Navy.

Reasons for not passing this bill:

1. The benefits to be had at anything above idle speed will likely not materialize or materialize in only a few specific situations, and even at idle speed, the benefits depend on a host of other variables that make the outcome highly questionable.

2. The bill does not differentiate between inboard propulsion units, outboard propulsion units, or inboard/outboard propulsion units. The availability, design, installation, cost, and ultimate usefulness of a guard will vary significantly between them.

3. While there are aftermarket kits available that *claim* they can be fitted to various outboard or inboard/outboard brands of propulsion units, I have never heard of one for a boat with an inboard propulsion unit - even after a recent Google search. That is probably due to the fact that unless a boat is of the exact same length, make, and model, of another boat, no two hulls on those boats will be the same, and therefore, since the guard will need to be secured to and through the hull, mass fabrication is impossible. The majority of the power boats docked in marinas across the state have inboard propulsion units and those units can be found even many sailboats.

4. If all inboard boats are required to have guards, the cost per boat will be significant - as in thousands of dollars per hull. Machine shops will have to custom design and fabricate each device, and due to the Hawaii saltwater environment, and you are looking at stainless steel being the material of choice. Nothing is cheap when you build with stainless. Then there is the need to haul out all the boats that are in slips, measure them, and relaunch them while the device is made. Hauling out a boat is hundreds of dollars each time you do it. Then there is the installation. If the boat is in a slip, it will need to be hauled back out of the water a second time for the installation. Undoubtedly, the installation will require through-hull-bolts on most inboards. That means drilling holes in the hull and running bolts to the inside of the hull. If a boat has a deck inside the hull, it will have to be cut or removed to get access to the hardware, then repaired or replaced. Finally, the holes that were just drilled in the hull need to be sealed and the boat relaunched.

5. Many boats tend nowadays to have 5 year to 10 year hull warranties. Drilling multiple holes in a hull as described above and affixing a large basket to that hull will probably void the warranty. In addition, since the hull was never engineered to have this large product affixed to it, the fact that once the device is installed, the hull may experience stresses that crack or damage the hull and ultimately cause the boat to sink - either with passengers in it or without. The Coast Guard assets such as helicopters, cutters, and smaller vessels may be in for a few more rescues each year. A sinking boat can cause deaths, no matter how fast the emergency services arrive.

6. If the boat has an outboard or inboard/outboard propulsion unit, a proper fitting after market device will need to be found. The problem there is that over a dozen different outboard and inboard/outboard engine manufactures exist and within each manufacturer, there are several to over a dozen or more engine shapes, sizes, and designs. The next problem is that aftermarket products in the marine environment tend to over claim results and under perform when used. If the device does not fit perfectly, modifications will need to be made. Likewise with hulls, manufacturers tend to give 3 to 5 year warranties on these propulsion units. These new devices could cause warranty issues or damage to the propulsion units through increased vibration, other stresses, or simply falling off while in use. Additionally, the guards could cause the boat to handle differently and experience problems in operation. You will never know until you spend all the time and money to install a guard and try it out.

7. Weeds, plastic bags, and other debris can get caught up in the guards, requiring someone to jump in the water and clear the debris out. If you did not bring your swimsuit and were not planning on going swimming on that particular trip, you are out of luck.

Thank you.

Sincerely,

William J. Plum

sb258-1.wjp

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 10:25 AM
To: WTL Testimony
Cc: morrislures@yahoo.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/4/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Nick Morris	Individual	Oppose	No

Comments: Totally against this. Because one person gets hurt from a careless action of another person you want to infringe a bunch of new rules on other people. I fish deep ocean and this will greatly affect the performance of my vessel. Also no one manufactures prop guards for these bigger motors and vessels.

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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 9:16 AM
To: WTL Testimony
Cc: oggyen@gmail.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/4/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Gordon "Nalu" YEN	Individual	Support	No

Comments: I support SB258 in its entirety. I am a long time boat owner that has been using prop guards on my twin engine outboards for over six years here on Maui. I'm involved with numerous community ocean events which include canoe races, channel swims and recreational fishing. Our nearshore oceans are a multi-recreational playground here in Hawaii, and prop guards provide the added human safety mechanism to prevent a potential accident. I can compare prop guards to your portable fan at home or office, the fan blades are always protected with a surrounding shield to prevent injury. Operating it without that shield can pose a significant safety hazard. Proper guards are a preventive measure on the ocean. SAFETY FIRST !

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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 5:50 AM
To: WTL Testimony
Cc: tampaltin@gmail.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/4/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Tamara Paltin	Individual	Support	No

Comments: Aloha Senators, I am in strong support or the use of propeller guards. I agree that recreational and commercial recreational boats should be using propeller guards especially if they are operating near shore with outboard motors. My main concern is the result of a personal experience I had 9/17/16; I was an emergency medical responder working at DT Flemings during the Pailolo challenge long distance canoe race and I along with many others responded to a lady who had been hit by a boat propeller in the groin area. I had to put tourniquets on both her legs. Miraculously this lady did survive although she ended up losing one leg due to infection. The thing is this is the third such incidence that I know of that has occurred during ocean races another man was propped on his back during the Molokai Hoe a few years back and another man was propped during a swim race from Lanai a number of years ago and lost his arm. So my main concern is that if the State DOBOR continues to issue MOWE marine ocean water event permits, one of the requirements should be if they come into close contact with swimmers prop guards should be a condition of permits being issued, it should be a basic part of the safety plan. This type of thing happening one time is a horrible tragedy but three times is too much. At the very least please consider a law to change the requirements to issue a MOWE. On a bigger scale I also know of 3 men killed by recreational &/or commercial/recreational boats so if this broader Bill can realistically be passed I'm in strong support.

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Gentlemen;

My name Nash Kobayashi, I'm a fisherman on the Big Island of Hawaii.
30 years ago, I gave up shore fishing for Ulua when too many of my friends lost their lives to the Ocean due to treacherous shore conditions.

I then purchased my boat, which I still own today.
Being a responsible and safe person, I took the Coast Guard Boating classes and found a mentor to teach me offshore fishing.
My boat is trailer-based and I launch out of Wailoa River in Hilo.
In my 30 years of boat ownership, I've seen, in order, The Wind-Surfer, The Kayak, The Jet-Ski(PWC), and the Stand-up Paddle Board.

During all these new Ocean users, I've noticed ONE thing in common, the above users have little or NO knowledge of boating regulations and I've personally heard 3 dealers of these craft state " Don't worry about the Power Boats, THEY have to yield right of way to you".

What good will a Prop-Guard do when these people turn right in front of you and you run into them at a high rate of speed?
I've had a few close calls when people don't look and cut in front of me

In Hilo, one of the biggest hazards entering the Wailoa River mouth is the presence of young children swimming in the river mouth, right in the main Ship-channel
This goes on DESPITE a prominent "NO SWIMMING" sign posted right at the river mouth.
I've had young children, with their parents watching, swim out right in front of my boat as we were coming into the harbor.
Unfortunately, there is NO enforcement of the No Swimming rule at the river mouth.
This also is a huge problem at the Pohoiki launch ramp.
Since the Black Sand beach at Kaimu was destroyed by lava flows, the Pohoiki launch ramp has become a popular swimming area.
The conditions at Pohoiki require a high-speed entry and with all the young children swimming in the launch area, it's a disaster waiting to happen.
Again the launch area is a "NO SWIMMING" area.

I've also had a close call with a group of divers diving near the end of the Hilo Breakwater WITHOUT a Diver's flag, another violation of state rules.
Here again is a situation that has little or no enforcement.

Checking with Prop-Guard manufacturers indicate adding a prop-guard to a vessel will incur a 15-20 loss of mileage and speed, adding more costs to an already expensive costs of running a boat.

Why must WE, the boat owner suffer when a lot could be done by simply enforcing rules that we already have?

Nash Kobayashi
Owner/Captain F/V Ocean Warrior
156 Laukona St.
Hilo, Hawaii, 96720
(808) 938-5991 (C)

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 10:13 AM
To: WTL Testimony
Cc: marinaqueen@hawaii.rr.com
Subject: Submitted testimony for SB258 on Feb 6, 2017 14:00PM

SB258
Submitted on: 2/5/2017
Testimony for WTL/TRE on Feb 6, 2017 14:00PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Gayle Carr	Individual	Comments Only	No

Comments: See Attachment

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