

# Senate Energy and Natural Resources Committee

## Griffin Roberge 271-3042

**HB 115**, relative to wake surfing.

**Hearing Date:** March 29, 2021.

**Time Opened:** 1:46 p.m.

**Time Closed:** 1:59 p.m.

**Members of the Committee Present:** Senators Avard, Giuda, Gray, Watters and Perkins Kwoka.

**Members of the Committee Absent:** None.

**Bill Analysis:** This bill defines and regulates "wake surfing."

This bill is a result of 2019, 77, the commission to study wake boats.

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**Sponsors:**

Rep. Suzanne Smith

Rep. J. MacDonald

Rep. Gunski

Rep. Fellows

Rep. Wuelper

Sen. Ward

Rep. Gottling

Rep. Deshaies

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**Who supports the bill:** Scott Behner, USA Waterski and Wake Sports; Chris Bischoff, Water Sports Industry Association; Shane Carey; Captain Tim Dunleavy, NH Marine Patrol; Representative Sallie Fellows, Grafton - District 8; Jodi Grimbilas, NH Marine Trades Association and Water Sports Industry Association; Peter MacCallum, NH Marines Trades Association; David Packard, Lakes Management Advisory Committee; Pam Price; Representative Andrew Renzullo, Hillsborough - District 37; Representative Suzanne Smith, Grafton - District 8; Robin Vogt; Senator Ruth Ward, NH Senate District 8; John Whalley, NH Marine Trades Association.

**Who opposes the bill:** Curt Howland

**Who is neutral on the bill:** None.

**Summary of testimony presented in support:**

*Representative Suzanne Smith*

*Grafton – District 8*

- HB 115 closes several gaps in existing state statute so that wake surfers are subject to the same safety laws as other water sports that require a tow rope, such as waterskiing, wakeboarding, and tubing.
- In wake surfing, a surfer holds onto a very short tow rope, releases, and surfs five to ten feet behind a boat's wake. HB 115 does several things related to wake surfing:
  - A spotter, or observer, is required to be on the boat watching the wake surfer.
  - A motorboat operator who is towing a wake surfer must comply with all navigation rules.
  - No person shall operate a boat engaged in wake surfing during the period between sunset and sunrise.

- No person shall engage in wake surfing unless such person is wearing a Coast Guard approved personal flotation device.
- No person shall operate a motorboat propelled by an outboard motor, inboard/outboard motor, or water jet while a person is wake surfing in or on the wake of such motorboat, unless the propulsion system is specifically designed by the manufacturer for that activity.
  - Boats designed for wake surfing usually have V-Drive motors. These systems are not located at the rear of the boat, but underneath the middle of the boat. The propeller comes out under the hull in front of the transom. These systems significantly reduce the likelihood that a wake surfer will be injured by a boat's propeller if they fall.
- HB 115 was requested by the NH Marine Patrol. HB 115 was reviewed and unanimously approved by the Commission to Study Wake Boats (Commission), which was created via HB 137 (2019).
- HB 115 was recommended "ought to pass" by the House Resources, Recreation, and Development Committee by a vote of 19-1 and was placed on the House consent calendar. The full House supported the committee's recommendation by a voice vote.
- Senator Watters noted that wake boat issues had been before the Senate Transportation Committee in the past, such as HB 137. Senator Ruth Ward served on the Commission. He noted that the Commission thoroughly reviewed many of the wake boat issues that had come before the Senate Transportation Committee.
  - Representative Smith said she could not specifically speak to any previous bills that were before the Senate Transportation Committee regarding wake boat issues, but the Commission was very inclusive – it had three legislators, representatives from NH Marine Patrol and the NH Department of Environmental Services, and representatives from the water sports industry. The Commission also had a field trip to further understand wake boat issues.

*Peter MacCallum – provided written testimony*

*President, NH Marine Trades Association & Owner, MacCallum's Boat House in Epsom, NH*

- Served as the governor's appointee to the Commission.
- The Commission spent many months looking at issues related to wake sports and wake boats. The suggestion of improving the laws relative to wake surfing came from NH Marine Patrol and was met with unanimous support from the Commission.
- HB 115 will require wake surfers to follow the same regulations as other watersports like waterskiing and tubing.
- Senator Gray referenced page 2, lines 5-8. He said there was no propeller external to a water jet. He asked why water jets are included in the prohibition on the types of motors used in wake surfing.
  - Mr. MacCallum said that language was inserted by NH Marine Patrol in response to some issues with high jet nozzle pressure that could potentially impact a user. There are some jet boats that have some provisions as wake surf boats. The prohibition that Senator Gray referenced also clarified that an outboard motor, inboard/outboard motor, or water jet may be used if that system is specifically designed by the manufacturer for wake surfing.
- Senator Gray asked if changing "specifically designed" on page 2, line 7 to "approved" would be problematic.
  - Mr. MacCallum said he would not see any issue with that change, but that NH Marine Patrol could better address Senator Gray's question.

*Tim Dunleavy*

*Captain, NH Marine Patrol*

- Reiterated previous testimony in support of HB 115.
- Captain Dunleavy responded to Senator Gray's question about changing "specifically designed" to "approved" on page 2, line 7. Having a manufacturer's approval is not something that is likely recognized by industry. The National Marine Manufacturers Association would be the body that approves the different propulsion types for different devices. The Association's structure is set up in a way so that individual manufacturers are not acting on their own. There are industry level standards.
- Senator Gray said there are boats that create substantial wakes that are not specifically designed for wake surfing but could do so safely. Senator Gray did not want to exclude people.
  - Captain Dunleavy said boaters who use outboard motors, inboard/outboard motors, or jet pumps can create significant safety issues for wake surfers. NH Marine Patrol has seen a variety of serious injuries to wake surfers using jet pumps. Unless jet pumps have been altered or manufactured in a way to be specifically designed for wake surfing, jet pumps can cause as significant an injury as a

traditional propeller driven boat. Captain Dunleavy said he was not aware of any aftermarket attachments that could be installed on a drive configuration to better protect a wake surfer.

**Summary of testimony presented in opposition:** None.

**Neutral Information Presented:** None.

GJR

Date Hearing Report completed: March 29, 2021.