

MINUTES OF THE HOUSE ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE

The meeting was called to order by Chairman Lana Gordon at 3:30 P.M. on February 12, 2008 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Ryan Hoffman, Kansas Legislative Research Department  
Jason Long, Office of the Revisor of Statutes  
Matt Todd, Office of the Revisor of Statutes  
Ann Deitcher, Committee Assistant

Conferees appearing before the committee:

Representative Ann Mah  
Representative Lee Tapanelli  
Chris Tymeson, Chief Counsel, Wild Life & Parks  
Kirk Keberlein  
David Farington  
John Butler  
Shawn Mercer  
Bryan Best

**HB 2657 - concerning motorboats; relating to exhaust noise requirements.**

The Chair introduced Matt Todd who explained **HB 2657**.

Representative Tapanelli addressed the Committee in support of **HB 2657**. (Attachment 1). He reminded the Committee that this issue regarding motorboat exhaust noise was passed in **SB 417** during the 2006 legislative session.

Representative Tapanelli said that should the Committee decide to work this bill, he would recommend that language be inserted into it, or an agreement with the Department of Wildlife and Parks be reached, that they would not force boaters to leave the lake immediately until compliance with the noise level. He believed that the boater should be given a reasonable amount of time to address the issue, such as 30-45 days.

Appearing next as a proponent of **HB 2657**, Chris Tymeson said that the bill would amend K.S.A. 2007 Supp. 32-1120 to clarify the law related to decibel levels for motorboat exhaust noise. (Attachment 2).

He explained that this clarification would allow any vessel to operate, without a muffler, cutout, muffler bypass or other device so long as the decibel levels don't reach the scientific test threshold.

Mr. Tymeson suggested that a correction be made to line 39 of the bill, striking the "or" and replacing it with "and". This would allow a vessel that meets the threshold for one of those tests to keep operating in compliance with the law.

Questions and answers followed.

The Chair said that they would not close the meeting on **HB 2657** but would plan to work it with **HB 2679**.

CONTINUATION SHEET

MINUTES OF THE House Economic Development and Tourism Committee at 3:30 P.M. on February 12, 2008 in Room 519-S of the Capitol.

**HB 2679 - concerning motorboats; relating to exhaust noise requirements.**

Representative Mah addressed the Committee in favor of **HB 2679** saying that what she is hearing from her constituents is how vague and unenforceable K.S.A. 32-1120 is. (Attachment 3).

She said they expressed their belief of the unfairness of the law in that it targets specific types of boats and ignores other noisier vehicles.

After studying existing laws in a number of states, the boat owners built **HB 2679** on what they considered to be the best of those laws.

Next to appear as a proponent of **HB 2679**, Kirk Keberlein who said how the bill was created from other states existing statutes and adapted to conform with Kansas lakes and it's surrounding environment. The noise limits were taken from Florida's noise law that was adopted in 2007. He asked that the Committee consider all aspects of their study and support **HB 2679**. (Attachment 4).

David Farrington told the Committee that after renting a boat slip at Lake Perry Yacht and Marina, he has now declined to renew his slip because with the current boat sound law he was afraid of getting a ticket.. (Attachment 5).

Mr. Farrington said that he would estimate conservatively that they spent about \$6000 last year at Lake Perry but that would not happen this year and he felt this to be a direct negative economic impact of the current sound level law.

John Butler addressed the Committee in support of **HB 2679**. (Attachment 6). He spoke of the laws that are causing boaters to go to Missouri for vacations.

Next to testify in favor of **HB 2679** was Shawn Mercer who spoke of the expense involved in retrofitting boats so that they're in compliance with the laws. (Attachment 7).

Bryan Best, the General Manager of Lake Perry Yacht & Marina spoke of his concern with boating in Kansas saying that he felt effort should be focused on growing boating in a state that ranks 35<sup>th</sup> in registered boats nationally. (Attachment 8).

Testimony in favor of **HB 2679** was offered by Dennis Hewitt who is a part owner and managing partner of a marina and resort. (Attachment 9). He said that they also sell boats and that in 2007 they had to turn back boats because they were not properly equipped for Kansas waters.

Speaking in opposition of **HB 2679**, Chris Tymeson who told the Committee that the muffler law that was in effect in the 90's was done away with but after numerous complaints, the 2005-2006 Legislature enacted another one that became active on January 1, 2007. (Attachment 10).

Mr. Tymeson also said that he would rather see the legislation repealed than the passage of **HB 2679** because he felt it would be unenforceable.

CONTINUATION SHEET

MINUTES OF THE House Economic Development and Tourism Committee at 3:30 P.M. on February 12, 2008 in Room 519-S of the Capitol.

Questions and answers followed.

Written only testimony in opposition was submitted from: Scott Leigh, (Attachment 11); Sabrina Nichols, (Attachment 12); William Lowe, (Attachment 13); Bill Holstun, (Attachment 14); Harold and Judy Spinner, (Attachment 15) and Stan Davis, (Attachment 16).

The hearing was closed on **HB 2657 and HB 2679**

The meeting was adjourned at 5:30 p.m. The next meeting is scheduled for Wednesday, February 13.

# STATE OF KANSAS

## House of Representatives



THE CAPITOL

Lee Tafanelli

Representative, Forty Seventh District

February 12, 2008

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### COMMITTEE ASSIGNMENTS

APPROPRIATIONS  
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JOINT COMMITTEE ON KANSAS SECURITY

## TESTIMONY IN SUPPORT OF HB 2657

Chairperson Gordon and Members of the Committee

Thank you for the opportunity to testify here today in support of HB 2657. HB 2657 attempts to address an issue regarding motorboat exhaust noise that was passed in SB 417 during the 2006 legislative session. Basically, the law set limits on the noise level that can be emitted. There has been much confusion among boaters with regard to Section 1 of the bill and whether the mere fact of having certain factory installed equipment on the boat made it illegal to operate in Kansas with or without having exceeded the established limit in acceptable decibels. I represent the Lake Perry area and have received numerous letters from boaters, residents and business owners including two of the marinas on Lake Perry regarding the provisions of this law and its enforcement. After visiting with many of my constituents and the Department of Wildlife and Parks it became apparent in order to clarify the intent of the law, legislation would be necessary. The bottom line is this bill takes out all reference to mufflers and exhaust systems and just asserts the decibel limits that are in existing law.

You will hear other testimony that speaks to whether the decibel threshold is too restrictive or not; that will be for the committee to consider. There are certainly differing opinions on that issue and that is why I attempted to bring forth HB 2657 to address at least the one area where there is agreement.

One last point that I would like to make is that should the committee decide to work this bill, I would recommend that language be inserted into the bill, or an agreement with the Department of Wildlife be reached, that the Department would not force boaters to leave the lake immediately until compliance with the noise level; but rather that the boater be given a reasonable amount of time to address the issue, such as 30-45 days. Additionally, I would also recommend that the Department of Wildlife and Parks provide an opportunity for boaters who wish to have their boat tested for compliance be afforded a no penalty opportunity so as to alleviate much of the concern by many of the boaters.

Madam Chair, members of the Committee, thank you again for the opportunity to appear before you today and I ask for your support of HB 2657.

A handwritten signature in black ink, appearing to read 'Lee Tafanelli', written over a horizontal line.

Economic Development & Tourism

Date: 2-12-08

Attachment # 1



DEPARTMENT OF WILDLIFE AND PARKS

*Kathleen Sebelius, Governor  
J. Michael Hayden, Secretary*

www.kdwp.state.ks.us

**Testimony on HB 2657 regarding Exhaust Noise  
Requirements For Vessels  
To  
The House Committee on Economic Development and Tourism**

**By Christopher J. Tymeson  
Chief Legal Counsel  
Kansas Department of Wildlife and Parks**

**12 February 2008**

HB 2657 seeks to amend one statute related to the exhaust noise requirements for vessels. The provisions of the bill would be effective on publication in the statute book. **The Department supports the provisions contained in HB 2657.**

HB 2657 would amend K.S.A. 2007 Supp. 32-1120 to clarify the law related to decibel levels for motorboat exhaust noise. K.S.A. 2007 Supp. 32-1110 was passed by the 2006 Legislature and went into effect January 1, 2007. The statute was originally proposed in response to complaints by members of the public about motorboat exhaust noise. Those complaints arose from anglers, other recreational boaters, park users and neighboring homeowners. The Department began enforcing the law in the summer of 2007 and wrote warning tickets to a few individuals for violation of the noise law. Since that time, quite a bit of misinformation has been spread regarding the law and the Department supports this clarification to the current law. The clarification would allow any vessel to operate, without a muffler, cut-out, muffler bypass or other device so long as the decibel levels for the scientific tests administered are not reached. In the spirit of compromise, the Department would suggest that a correction be made to line 39 of the bill, striking the "or" and replacing it with "and". This would allow for a vessel to be in violation of one decibel level test but still remain in compliance with the law.

The Department appreciates the opportunity to address the bill and the support of the Committee in making these modifications to the statutes.

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**Economic Development & Tourism**  
Date: 2-12-08  
Attachment # 2

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TOPEKA  
HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
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GOVERNMENT EFFICIENCY AND  
TECHNOLOGY

### House Committee on Economic Development and Tourism

Chairman Rep. Gordon

HB 2679 – Testimony

Chairman Gordon and Committee:

Thank you for hearing our bill today. I have a number of constituents who boat on Lake Perry. They contacted me last summer when they ran into issues with the enforcement of K.S.A. 32-1120 regarding motorboat noise. They believe the law is vague and unenforceable. As it turns out, they have a lot of boating friends around the state, along with marina owners, who also feel the law needs to be changed to be more boater-friendly.

My constituents believe that hundreds or even thousands of Kansas boats, especially older houseboats, cannot meet the standard of 86 decibels. They also believe that strict enforcement is driving away boaters in favor of more lenient standards in surrounding states' lakes. They also believe Kansas law unfairly targets specific types of boats and ignores other noisier vehicles – like cars loaded with tons of stereo gear and drag racers.

The boat owners studied existing laws in a number of states and built HB 2679 on what they consider to be the best of those laws. They require the use of meter specifications from the American national standards institute. Where current law can require the immediate removal of a boat in violation of the statute, they recommend escalating fines.

I appreciate your attention to this matter, as we are working hard to attract tourists to our state, and this current law is not helpful in that regard.

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Attachment # 3

**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM**  
**In support of HB 2679**

Kirk Keberlein  
3751 S.E. 45th  
Berryton, Kansas 66409  
House Representative Ann Mah, District 53

Kirk Keberlein is a Kansas native with over 35 years of boating experience and has personally owned pleasure watercraft for the last 28 years. His vast knowledge of watercraft is notable with over 600 hours of operating time in twin engine pleasure watercraft. He also is responsible for the operation and maintenance of SCI Cable, a broadband communication provider serving communities in NE Kansas. His management and technical experience span over the last 30 years with knowledge of broadcast, RF and Fiber optic laser transmissions. These technical requirements include the operation of spectrum analyzer's light decibel meters and RF signal decibel meters. This equipment has similarities to the noise level meters operated by state water patrol.

**HB 2679 ARCHITECTURE**

This bill was created from other states existing statutes and adapted to conform with Kansas lakes and it's surrounding environment. The noise limits were taken from Florida's noise law adopted in 2007. The noise ring architecture was adopted by Oklahoma in 2004 and the penalty section came from the Missouri statute. With other changes made to 32-1120, HB2679 is "boater friendly" to all types of watercraft yet sets noise limits as needed to protect the public.

**"Noise rings" around docks at Marina facilities during daylight hours**

The noise limits in HB 2679 (90db at 50ft within fifty (50) feet of any dock located within a marina facility or at any location from the hours of 9PM to 9AM) would allow many existing factory sport boats, houseboats and motor cruisers (which many have been on Kansas lakes in excess of 15 years) to operate without expensive muffler modifications during the daytime hours within a marina facility. Also, the above structured limits impose noise standards that are acceptable which would protect the marinas during the day, after dark and in the early morning hours where an overnight population exists.

**Demographics, residential population and noise level calculations**

Nearly all Kansas lakes are owned and operated by the Army Corps of Engineers with their primary function being water conservation and flood control. Residential population is therefore limited to those areas outside of corps property with no residential population on or near the shoreline. After reviewing Kansas geological survey maps(7.5 minute topographical) of all corps owned Kansas lakes, and after calculating the distances to any residential property near or adjacent to corps owned property,(this included a onsite evaluation in the fall of 2007) concludes that there are no residential properties within 800' of any navigable water way. In the previously mentioned study conducted by the EPA it was determined that the maximum amount of noise that is acceptable at a residential property is 75db. Noise dissipates into the atmosphere at the following rate.

**Noise source at proposed Kansas limits 90 db (50' from the stern of the boat)**

At 100' in distance.....85db  
At 200' in distance.....80db  
At 400' in distance.....75db  
At 800' in distance.....70db

When applying the above calculations to Kansas residential area properties it confirms that the proposed noise limit of 90db at 50' from the stern of the boat complies with the December 2000 EPA study. Further, most watercraft travel parallel to the shoreline over 95% of the time while underway, thus as noted above the direct amount of noise(off the stern of the boat only occurs 5% of the total time that the boat is in operation. It should then be considered that an additional 6db should be subtracted from the above calculations since the watercraft is not perpendicular but rather parallel to the residential property located around corps owned property at Kansas lakes.

**Symmetrical vs Directional flow of noise**

Noise emitted from a motor boat is not symmetrical but rather directional since the exhaust flow exits the stern of the boat. It has been determined that noise tests conducted at the same distance off the rear port or rear starboard side of the boat would conclude at least a 6db drop in noise level when compared to the test being conducted off the stern of the boat. This concludes that as the motor boat travels forward a directional cone (off the stern of the boat) of exhaust noise is emitted into the

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atmosphere.

### **Average noise levels on Marina docks after dark**

After the beginning of the noise tests conducted at Perry Lake by KP&W in August of 07 an independent group of concerned boaters purchased a noise meter to monitor the average amount of noise on the docks where many large house boats and motor cruisers are moored. Noise levels were monitored during average evening group conversation with many boats air conditioning units on and several dock circulation fans running. Noise levels were observed between a low of 74db to a high of 93db. With an average of 86db, this confirms other National noise findings (the average crowded restaurant 86db). With the proposed noise limitations, the maximum amount of noise entering the center of the docks (where human population exists) should be no more than 88.5 db. This calculation assumes that the average slip is 40' in length and that the watercraft is 25' away from the edge of the dock with the stern of the watercraft perpendicular to the populated dock area. Most watercraft do not travel perpendicular to marina docks but travel parallel to the docks thus emitting 6db less (82.5db) in actual noise entering the populated dock area.

### **Enforcement of both SAE noise tests**

Very few states require both tests to be administered (both J34 WOT pass by test and J2005 1 to 1.5 meters off the stern of the boat which is a stationary test). Example; Missouri references both tests but separates the tests based on boat year and manufacture (J34 to be used on boats manufactured before Jan. 1996 and boats manufactured after Jan. 1996 use the J2005). Missouri does use the pass by test as a reference to determine whether to stop the boat and then proceed with an official noise test based on year and manufacture of the boat. Oklahoma only references J2005 as a required test. Texas only requires J2005 but admits that few if any actual tests are preformed. **Florida dropped all references to SAE tests in 2007 and adopted 90 db at 50' off the stern of the boat. Please keep in mind that Florida is the number one state for registered watercraft in the country and has many populated inland waterways with many multimillion dollar homes built on the shore line. Prior to 2007 Florida enforced 90db per J2005 with problems.**

### **Problems with administering the J34 test.**

In a noise study conducted by the EPA and its conclusions published in December 2000, the EPA concluded that J34 is a difficult test to perform since the test requires the operator of the boat under test to accelerate the watercraft to WOT (wide open throttle) and then pass within 50 feet or more of the WP conducting the test. The original intent of the authors of J 34 was never designed to be administered to the public. It was solely written by the EPA for manufactures of pleasure watercraft to comply with a proposed national noise requirement. This proposal by the EPA (1971 )never matured and was later referred to as J-34 by the Society of Automotive Engineers (SAE). Most importantly ,the operator of the watercraft under test was only intended to be a professional watercraft operator with extensive training in the safe and proper operating procedure for boats being tested at WOT (wide open throttle). By referring to J34 within the state statute it "sets a stage" for some very serious liability exposure upon the state water patrol. Nation wide there is no boating skills test required to operate **any** type of pleasure watercraft (some states have recently adopted safety courses but not boating skill tests) only that the operator is at least 16 years of age. Under J 34 requirements, the WP requests the boat operator to accelerate the watercraft to WOT and pass by the WP within 50ft or more. Under state law the operator of the watercraft must comply with state WP request even though the operator may have little or no experience operating the watercraft (especial at WOT). With speeds from new factory built boats exceeding 110mph (this does not include smaller under 23' low profile Jet type boats witch could exceed the speeds of the above mentioned factory boats) even the slightest mistake of the operator at WOT (including overcoming uncontrolled water conditions) could end up in disaster for the operator of the boat and potentially the WP and public (Fortunately to my knowledge this has not yet been reported, but the potential is there). J-34 also violates existing Kansas boating safety rules where a boat underway and on plane, is not to be within 100', of any moored boat or stationary dock. It has also been determined that a stationary test such as J2005 will almost always be within 5% of the WOT pass by test (J-34; less wind and wave action caused by the forward motion of the watercraft).

After considering all the information above it is apparent that J-34 should not be considered by our legislative body. In conclusion, please consider all aspects of the above study and support HB2679.

Respectfully,  
Kirk Keberlein



## Decibel (Loudness) Comparison Chart

Here are some interesting numbers, collected from a variety of sources, that help one to understand the volume levels of various sources and how they can affect our hearing.

Environmental Noise	
Weakest sound heard	0dB
Whisper Quiet Library	30dB
Normal conversation (3-5')	60-70dB
Telephone dial tone	80dB
City Traffic (inside car)	85dB
Train whistle at 500', Truck Traffic	90dB
Subway train at 200'	95dB
<i>Level at which sustained exposure may result in hearing loss</i>	<i>90 - 95dB</i>
Power mower at 3'	107dB
Snowmobile, Motorcycle	100dB
Power saw at 3'	110dB
Sandblasting, Loud Rock Concert	115dB
<i>Pain begins</i>	<i>125dB</i>
Pneumatic riveter at 4'	125dB
<i>Even short term exposure can cause permanent damage - Loudest recommended exposure WITH hearing protection</i>	<i>140dB</i>
Jet engine at 100', Gun Blast	140dB
Death of hearing tissue	180dB
Loudest sound possible	194dB

OSHA Daily Permissible Noise Level Exposure	
Hours per day	Sound level
8	90dB
6	92dB
4	95dB
3	97dB
2	100dB
1.5	102dB
1	105dB
.5	110dB

.25 or less	115dB
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Perceptions of Increases in Decibel Level	
Imperceptible Change	1dB
Barely Perceptible Change	3dB
Clearly Noticeable Change	5dB
About Twice as Loud	10dB
About Four Times as Loud	20dB

Sound Levels of Music	
Normal piano practice	60 -70dB
Fortissimo Singer, 3'	70dB
Chamber music, small auditorium	75 - 85dB
Piano Fortissimo	84 - 103dB
Violin	82 - 92dB
Cello	85 -111dB
Oboe	95-112dB
Flute	92 -103dB
Piccolo	90 -106dB
Clarinet	85 - 114dB
French horn	90 - 106dB
Trombone	85 - 114dB
Tympani & bass drum	106dB
Walkman on 5/10	94dB
Symphonic music peak	120 - 137dB
Amplifier rock, 4-6'	120dB
Rock music peak	150dB

NOTES:

- One-third of the total power of a 75-piece orchestra comes from the bass drum.
- High frequency sounds of 2-4,000 Hz are the most damaging. The uppermost octave of the piccolo is 2,048-4,096 Hz.
- Aging causes gradual hearing loss, mostly in the high frequencies.
- Speech reception is not seriously impaired until there is about 30 dB loss; by that time severe damage may have occurred.
- Hypertension and various psychological difficulties can be related to noise exposure.

4-4

- The incidence of hearing loss in classical musicians has been estimated at 4-43%, in rock musicians 13-30%.

Statistics for the Decibel (Loudness) Comparison Chart were taken from a study by Marshall Chasin, M.Sc., Aud(C), FAAA, Centre for Human Performance & Health, Ontario, Canada. There were some conflicting readings and, in many cases, authors did not specify at what distance the readings were taken or what the musician was actually playing. In general, when there were several readings, the higher one was chosen.

## House Committee on Economic Development and Tourism HB 2679

Thank you for allowing us to speak about House Bill 2679. My Name is David Farrington. I live in Overland Park and have been boating and renting slips at Lake Perry for over 10 years.

You may know me from the Kansas City Star newspaper article concerning the Boat Sound level law changes from last year. The article pointed out that I was taking my boat out of Lake Perry and moving it to Lake of the Ozarks due to the current boat noise level laws. That was true at that time. Currently, I do not know where my boat will end up but it will NOT be at Lake Perry.

Today I was prepared to discuss sound levels, and in particular the yr. 2000, Pleasure Motorboat Model Noise Act by Richard Lamphier. However, Mr. Kirk Keberlein has discussed that aspect in-depth, so I would like to briefly cover the economic impact of the current law to Lake Perry and the surrounding areas.

As I mentioned, I **was** a 10-year slip renter at Lake Perry Yacht and Marina. I have declined to renew my slip this year and currently have my boatlift for sale. The current boat sound law is why I decided not to return to Lake Perry. As the newspaper article stated, my family ended our boating season last year at Lake of the Ozarks. We were afraid of getting a ticket at Lake Perry.

Last year I spent \$2700 for my slip. I spend about \$2500 on boat gas, most of this from the Lake Perry Marina. My family ate at the restaurants approximately 2 to 3 times a month or more. I never got out of there for less than \$75 a visit. We like the social aspect of boating and we frequently invited friends out to visit. They also bought food and drink at the lake and surrounding areas. In addition, I bought parts and paid for service from Lake Perry Yacht and Marine.

I estimate conservatively that **we spent about \$6000** last year at Lake Perry and that **will not** happen this year. This is a direct negative economic impact of the current sound level law. I will not tell you that I know of anyone else that has taken the steps that I have. However, I can tell you that there is a huge concern by the boating community with the current sound law.

An interesting characteristic of the powerboat community is that they like to travel. We have friends from Wichita, Omaha, St. Louis and Des Moines that visit Lake Perry twice a year and have done so for several years. This is thoroughly documented on a popular boating website. There are at any one time, between 15 and 25 boats or more (about 50 to 60 people) that visit on these weekends. They stay from Thursday or Friday night through Sunday night. They spend money on hotel rooms, cabins and campsites, slip rentals, a lot of boat gas, and food and drink. I cannot estimate the money spent on and around Lake Perry when they visit but I am guessing it is a substantial amount. If they current law does not get modified, they are going to be

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very apprehensive about coming to visit this year. No one wants to pay for weekend expenses and risk getting a ticket including the possibly of having to remove their boat from the lake. It is not worth it. An example is last year, at the first Annual Poker Run conducted by the Lake Perry Commerce group. Several boaters were tested for sound, apparently failed and were told to **not bring** their boats back to Kansas. What happened that weekend generated lots of negative email traffic and website discussions concerning the Kansas law.

**In conclusion**, I would like to ask for your support for the revised law, House Bill 2679. We have done our homework. We studied many other state sound laws and this one is a good compromise. A change in the law will be widely publicized and will help to ensure continuing visits by out of area boaters. Their visits will have a **positive** financial boost to the local economy of the Lake Perry area and the state of Kansas. We need to return Kansas to being considered a boater friendly state. A bonus is that our version of the law will be more easily enforced than last year's law.

One last thing: It is ironic that the device I installed on my boat called Captains Call made my boat illegal in Kansas. And this was the focus of the Kansas City Star article. I installed it to be a good marina neighbor. In fact, I have had 2 different visits by **sail boaters, believe it or not** telling me thanks for being a good neighbor and helping to keep the sound down in the marina, especially early and late in the evening. Now, between the Captains Call and the possibility of failing a sound check, I am leaving the lake. This was a very difficult choice for me to make as we have been Lake Perry boaters for a long time.

**Thank you for listening to me and if you have any questions, please ask!**

**David Farrington  
12717 West 122 Terrace  
Overland Park, Kansas  
66213**

**913-254-8625**

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

CHAIRMAN REP. GORDON

HB 2679 - TESTIMONY

My name is John Butler

931 SW 31st Topeka, KS 66611

I am a boat owner and voter that supports House Bill HB2679. These laws greatly affect the choices I and my friends make between boating here in Kansas or going to Missouri.

I'd like hope that the elected officials will do the right thing and pass HB2679, and not drive Kansas boats off our own lakes.

Thanks

John Butler

Economic Development & Tourism  
Date: 2-12-08  
Attachment # 6

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM  
HB #2679

TESTIMONY OF SHAWN MERCER

I would like to testify in support of HB #2679. These are the points I would like to speak about:

1. How expensive it will be to retrofit all of the boats that do not meet the 86 Decibel sound level currently in K.S.A. 32-1120.
2. No boat repair shop that I deal with between Manhattan and Kansas City owns a sound meter to test the level. If a customer does spend thousands of dollars to comply with the limit, no dealership has the ability to test it.
3. No muffler manufacturer will even guarantee 90 Decibels –Teague, Corsa, Gibson.
4. Reality of how unfair K.S.A. 32-1120 & HB #2657 are. They give the right to law enforcement (water patrol) to “terminate the voyage” of the motorboat until the boat no longer operates in violation of this statute. In layman’s terms, they kick you off the lake. This is exactly what Kansas Wildlife & Parks did on Labor Day weekend 2007. If the boat did not pass any part of the “on the water” test, you were told to remove your boat from the water.
5. I have friends and customers who are spending thousands of dollars and won’t know if they pass until law enforcement makes them submit to a water test – then if they fail, they still get kicked off the lake.
6. Law enforcement needs to spend their time enforcing existing safety laws, not worrying about the loud boats driving across the lake.
7. I live less than one mile from the lake, and on a calm day, I can hear the boats, but if my neighbor to the South mows his yard, I can hear his lawnmower and he lives ½ mile from me.
8. I know people who intend to sell their boat because the cost to bring their boat into compliance is too much considering it is not guaranteed to pass even then. Others plan to do their boating out of state, which will send revenue to other states which would have been spent here in the State of Kansas.
9. I do support a 50’ from any dock, 90 Decibel limit from 9:00 p.m. to 9:00 a.m. as proposed by HB #2679.

I have been a certified boat mechanic for over 15 years. I have extensive knowledge in all areas of boat repair and maintenance. I have worked on everything from sailboats to houseboats to performance boats. I own a 2000 31’ SeaRay that is registered in the State of Kansas, and I pay personal property taxes in Jefferson County.

I have been an avid boater my entire life. I own and live on 20 acres less than one mile from the Slough Creek Arm of Lake Perry.

(James) Shawn Mercer  
6980 Lincoln Rd.  
Oskaloosa, KS 66066  
785-224-0080

Economic Development & Tourism  
Date: 2-12-08  
Attachment # 7

# LAKE PERRY YACHT & MARINA,



10770 Perry Park Drive  
Perry, KS 66073

*Boat Slip\* Rental\* Sales\* Service\* Store\* Lodge\* Restaurant*

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02-11-2007

## HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

In support of HB 2679.

Bryan Best  
10770 Perry Park Drive  
Perry, Ks. 66073

House Representative Ann Mah, District 53  
Committee Secretary Ann Deitcher

Dear Representative (s),

My name is Bryan Best, current General Manager of Lake Perry Yacht & Marina. I have been a resident of Kansas for the past 15 years, all of which have been associated with the marina and Lake Perry. I have acquired an immense amount of knowledge and experience dealing with boating trends in our area. For the following reasons below I am in full support for HB 2679:

1. **Demographics:** Lake Perry is a dedicated flood control body of water, under the governing law of US Army Corps of Engineers. With this said there is a ¼ mile restriction pertaining to build sites for general housing. The lack of housing in the areas directly surrounding Lake Perry, solidifies the reasoning to eliminate any "daytime" concerns pertaining to db levels around the lake.
2. **Noise Rings:** Within HB 2679 it limits noise to a rate of 90 db within 50ft of any dock structure within a marina facility. This alone protects the only "residential atmosphere" on or near the lake to reasonable db level. It also allows many of my customers' boats to be able to operate on a normal basis (some which have been doing so for 15+ years). I have concerns for the customers' boats that are borderline, and/or are in violation with the current law. Some of the houseboats and older cruisers will not have the means to make an economical remedy.
3. **Enforcement:** Currently in the proposed HB 2657, violations are subject to a fine and/or "terminating the voyage of the motorboat until the motorboat no longer operates in violation of this section". I am amazed to see that the state would enforce a law with such an unreasonable penalty. The fact of the matter is if a 43' Houseboat were pulled over from a noise violation, they would be forced into a pull launch fee of over 700.00 dollars. The remedy, if possible could range from \$1000-\$3000 dollars. That is potentially over a \$3500.00 bill for a Kansas Boater that has been on the same lake, same boat for 20 years.

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In closing I hope I have conveyed my overall concern for boating in Kansas. As a marine business in Kansas I am in favor of supporting any measure that can broaden the spectrum of boats that can operate in our state. I want to focus our combined efforts to grow boating in a state that ranks 35<sup>th</sup> in registered boats nationally. By approving HB 2679 it will allow all boats to enjoy Kansas waterways, and promote boating as a whole for the state.

Sincerely,



Bryan N. Best  
General Manager  
Lake Perry Yacht & Marina

Good afternoon, my name is Dennis Hewitt and I am part owner and Managing Partner of Rock Creek Marina & Resort and the Ozawkie Boat Company. I am here today to voice my support for House Bill 2679, An act concerning motorboats; relating to exhaust noise requirements.

My family and I have been in the boat business for over 30 years in the Lake Perry area. Over that span of time I have seen many changes, most of them have been positive and supported the boating community.

Unfortunately, last year KSA 207 supplement 32-1120 and 32-1180 were enacted and the boating community was both shocked and financially restricted. I would like to give you several examples that cover this issue.

Last summer there were several instances involving houseboats that had through hull exhaust (describe what that means) that were escorted back to the marina and instructed to shut down their motors because of they did not comply with the new decibel rating. I should mention that some of these boats have been operating on Perry Lake for over 30 years without incident or complaint.

For my second example please understand that we not only own and operate a marina, we also sell boats including fishing boats, pontoons, sport boats and cruisers. We carry new inventory in all of these types of boats. In 2007 we had to turn back a load of boats because some of them were equipped with a

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captains call exhaust system, which is currently against the law to have in a boat on Kansas waters.

This caused a definite decline in our boat sales income potential, as these were popular styles and sizes.

Numerous other examples occurred over the past year. Without dwelling on this fact I would like to once again voice my support for this bill and view its' passing as a strong show of support for the boating business and recreation communities

**Testimony on HB 2679 regarding Exhaust Noise  
Requirements For Vessels  
To  
The House Committee on Economic Development and Tourism**

**By Christopher J. Tymeson  
Chief Legal Counsel  
Kansas Department of Wildlife and Parks**

**12 February 2008**

HB 2679 seeks to amend one statute related to the exhaust noise requirements for vessels. The provisions of the bill would be effective on publication in the statute book. **The Department opposes the provisions contained in HB 2679.**

HB 2679 would amend K.S.A. 2007 Supp. 32-1120 to change the law related to decibel levels for motorboat exhaust noise. The history and purpose of the law was provided in previous testimony related to HN 2658.

This bill was drafted off of the draft for HB 2658. The bill would allow any vessel to operate, without a muffler, cut-out, muffler bypass or other device, similar to HB 2658. However, the bill raises the decibel levels for operation, strikes any scientific testing basis, and allows an exemption from the decibel levels of operation from 9 am to 9 pm. Those are the main hours that boaters on are on the waters of the state. Therefore, that exemption is essentially reverting back to no regulation of vessel noise. This idea for the exemption comes from a law in Oklahoma related to Grand Lake. Grand Lake is operated by a separate entity and the general law in Oklahoma requires all vessels to be muffled. Further, Grand Lake is 46,500 surface acre feet and therefore sound disperses over a broader area. By contrast, the largest reservoir in Kansas, Tuttle Creek, is 15,380 surface acre feet and obviously sound dispersal on a smaller reservoir is more difficult and impacts users more dramatically. The bill also strikes provisions related to terminating the voyage of vessels in violation of the statutory provisions and sets limits on Class C misdemeanor fines related to violations of the statute.

The Department appreciates the opportunity to address the bill and the support of the Committee in making these modifications to the statutes.

I have had a sailboat at Lake Perry for over three years now. I would like to convey my thoughts and concerns on these two bills. While I understand that the lake is for motor boats and sailboats alike, I can not find any reason to change the current laws. Actually it would be really great if the current laws were enforced a little bit more.

1. Here is why I am against these Bills:

1) Lake Perry is not Lake Michigan. The boats really have to fit the body of water. I would not take my 24 foot C&C Sailboat into the ocean. I also think that bringing these extremely fast, loud, and powerful boats to Perry is too much boat on too small of a lake.

2) The bay by Lake Perry Yacht & Marina can become rather congested with boats on a busy day. Add to that larger, loader, and faster boats that go roaring out of the marina as soon as their nose crosses the no wake sign. If only the water/wakes knew to stop right there! The wake is really a problem for the docks right at the entrance to the marina. FYI: The no wake sign is more than 50 feet away from any dock.

3) The other problem I see with introducing these two bills is it gives credence to obnoxiously loud boaters. A sailboat has the right of way over power boats because we don't have the power, maneuverability, or speed. It seems the louder and faster the boat the less this is understood. I think this is going to create more problems and more issues on the lake.

4) What is the point of having a loud boat? We have noise ordinances in town, why not the lake. I would like more justification on why a loud boat is necessary to performance. From what I understand it does nothing but make noise.

Thank you for your time!

*Best Regards,*

*Scott Leigh*

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Attachment # 11

HB 2657 and HB 2679

I oppose these bills. The bills are for a few while disturbing the majority. Please do not pass these.

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Sabrina Nichols

Lake Perry users

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Attachment # 12

I have a slip at Lake Perry. My wife and I use the lake most weekends during the boating season, usually overnighiting one or two nights a week. The noise from "cigarette" type boats and some others with huge gasoline engines (without mufflers) can be deafening. Although there a not a large number of these type boats on the lake, it only takes one or two to completely shatter any thoughts for other boaters, fisherman, and campers of going to the lake to enjoy peace and quiet. I'm not sure why the original Bill needs amending but HB 2679 completely removes the protection intended by K.S.A. 2007 Supp 32-1120.

Most of the monster boats that come to the lake can reach speeds in excess of sixty mph. That makes it ridiculous to consider racing these boats because they can get from one end of the lake to the other in a matter of minutes. They are not only a noise pollution concern but also a safety concern for all slower craft trying to enjoy the lake. Their wakes increase shoreline erosion and their massive fuel consumption contributes an out of proportion amount of hydrocarbon pollution to the water. Allowing these boats to blast along to within 50' of a dock/marina helps nothing. Expecting some of these loud boat captains to use courtesy and common decency will not work. We have had instances where one of these boats, parked in a slip at our marina has started and revved up his enormous, unmuffled engine at 2 or 3 in the morning. The only way to protect the vast majority of recreational lake users, not only at Perry, but in all Kansas lakes is to discourage these boaters from using the lakes altogether or, least to muffle their engines like everyone else does. A few boaters should not be allowed to annoy the many who try to relax with a day at the lake.

Respectfully

William Lowe  
Leawood KS.

Economic Development & Tourism

Date: 12-08

Attachment # 13

HB 2657 and HB 2679

These are bills that I oppose.

They are helping a few loud boats impact the enjoyment of the many who visit Kansas lakes.

Bill Holstun

Lenexa, KS

913-782-0544

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Attachment # 14



We would like to comment on the subject bills regarding the noise limits for boats. HB 2657 is a reasonable compromise to the original bill that prohibits exhaust bypasses. This is acceptable as long as they are kept closed except for races or in areas where noise levels do not interfere with others.

HB 2679, however, only limits noise levels within 50 feet of a marina or during nighttime hours (9 PM to 9 AM). As boat owners and tax payers at Perry Lake in Kansas, we can attest to the need to limit noise levels as prescribed in your original bill. We have been forced to listen to countless hours of noise from a few noisy boaters, most of which, are stored out-of-state and do not pay Kansas taxes.

We urge you to consider the needs and rights of the vast majority of boaters and campers on Kansas lakes rather than the wants of a few people who want to run their as loudly as possible.

Harold and Judy Spinner  
Lake Perry Yacht & Marina  
Slip E2  
[jspinner@kc.rr.com](mailto:jspinner@kc.rr.com)

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I write to offer my respectful strong opposition to these bills. I own both a sail and a power boat on Lake Perry. I have used both Lake Perry and Clinton Lake for recreational purposes since I came to Kansas in 1984. About two years or so ago, a number of high-powered, very loud racing-type boats (Scarab and equivalent) began to appear on Lake Perry. Before that, it was very much a once in a while thing. These boats are primarily trailered to the Lake, and I understand primarily from Missouri, which drove them off its lakes with noise laws. These boats are a public nuisance unless they are strictly regulated. The noise interferes with use and enjoyment of the Lake by everyone else, and some seem to take pleasure in revving their motors near the marina, at all hours, as well as terrifying other boaters as they move across the lake at 60 plus mph. It simply is not fair to allow a few to destroy the recreational and natural asset represented by our lakes. If there were set races or regattas for these boats, then one could plan for the event, and those wishing to own and use them would have an outlet for what they are intended to do: race. But to allow everyday use of these much too loud machines would be a disservice to the public.

I appreciate your consideration.

Stan Davis  
Lawrence, Kansas

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