



Statement on HB 1328 and SB 665 Tennessee Paddlesports Association

Thank you for the opportunity to express support for amendments to SB 665 before the Senate Committee on Energy, Agriculture & Natural Resources and HB 1328 before the House Committee on Agriculture and Natural Resources. These bills seek to amend the broad legislative authority to regulate “all aspects” of paddlecraft rental businesses, which was granted to the Tennessee Wildlife Resources Agency in legislation that became law in 2018. Since that legislation passed, the TWRA has been considering various regulations and fees that are of concern to many responsible paddlesports businesses. This statement will clarify the issues and provide proposed, common-sense amendments to TWRA’s current authority.

Why TWRA’s Approach to Regulation of Paddlesports Businesses Is Misguided

TWRA has conducted no study to justify the fees or rules under consideration. In contrast, the State of Virginia just concluded a 3-year study of the issues related to use and funding of boating access.

This cavalier approach by the TWRA can be exemplified by one of their proposals to collect fees at access points not owned by the TWRA, which the agency erroneously claimed it had legal authority to do. While that proposal was withdrawn, our legal analysis submitted to the TWRA in January 2019 concluded that other proposed fees were also illegal and indicative of a lack of study, analysis and planning.

TWRA has proposed an annual permit, which may not be renewed if the outfitter does not provide the agency with the requisite information. This permitting process threatens to destabilize businesses who have operated successfully and responsibly for decades. Among other things, we suggest modifying the proposed permit to provide for a longer term.

SB 665 and HB 1328 are needed because the TWRA and the Fish and Wildlife Commission do not represent or understand paddlesports. The Commission has no representation from paddlesports interests. At their January 18, 2019 meeting, Commissioners referred to fishermen as “their customers”. One Commissioner suggested closing ramps to unregistered, non-motorized vessels. They assume that no paddlers have hunting or fishing licenses or pay for power boat registrations, when in fact they have no data to support this assumption. The hostility toward paddlesports displayed by some Commissioners indicates that, as it is currently structured, the Commission is not the appropriate entity to be regulating paddlesports without direction from the legislature.

For these reasons, Tennessee Paddlesports Association (TPA) believes that the General Assembly should define specific regulations for paddlesports businesses and not leave them up to the imagination of the TWRA and the Fish and Wildlife Commission. We agree to pay fees for use of TWRA ramps but reject the notion that TWRA is somehow entitled to fees to paddle the state’s navigable waters. We also believe that non-regulatory education and cooperative strategies with other users can relieve many of



the issues claimed by the adversaries of paddlesports. (See our proposed amendment to TWRA's existing authority).

Paddlesports Are Not Dominating Tennessee Waterways as Claimed

While it is true that paddlesports activities have grown, most of the use occurs in 24 weekend days during the summer months between the hours of 10:00 AM and 4:00 PM on approximately 80 to 90 miles of the 17,000 miles of warm water streams in the State. Furthermore, we believe that the greatest growth has been in non-commercial use due to the availability of inexpensive kayaks and stand-up paddleboards. But even that growth should flatten and moderate consistent with predictable product cycles.

By comparison TWRA supports trout fisheries and stocking in 845 miles of mountain streams in East Tennessee and 127 miles of trout stocked in the tailwaters of dams. In addition, TWRA's winter stocking program covers numerous other locations throughout the state. Compared to stocking programs, commercial paddlesports operations have a smaller footprint, but an economic impact that is at least as significant.

Are There Significant Conflicts between Fishermen and Paddlers?

While there may be occasional issues between fishermen and paddlers and some congestion at popular boat ramps, no recent definitive study of the issues has been conducted. The impacts are not as great as alleged and there are many strategies available to reduce perceived impacts without overbearing regulations. Our suggested amendments authorize the TWRA to work with stakeholders to resolve those issues. Providing for non-motorized vessel access adjacent to boat ramps would be one simple strategy to reduce congestion.

The Most Recent Study Conducted by the TWRA on the Caney Fork River in 2012 found:

- 98% of Caney Fork fishermen were satisfied with their fishing experience there;
- 78% rarely had issues with paddlers while 20% had occasional issues;
- 48% of the paddlers interviewed were private boaters, not customer of outfitters;
- Only 2% of fishermen said there were significant problems with paddlers.

Why the Push to Regulate Paddle Craft Outfitters Will Not Solve the Alleged Problems

- On most rivers, non-commercial, private paddlers make-up an estimated 50% of the use. These users take up more space at TWRA ramps because there are usually one or two boats for each car. Yet the only user segment covered by the proposed regulations are commercial paddle craft outfitters.
- Our concern is that the agency will double down on regulation of commercial outfitters to affect changes without solving any problems.



- Outfitters are already educating their customers not to litter and trespass in addition to providing safety instructions, so these paddlers are likely to be a responsible user segment. As well, many paddle craft rental outfitters prohibit alcohol on their trips.

TPA Supports Fees to Cover Use of Boat Ramps, But Not Inventory or Paddling Fees

- Since our first meeting with TWRA in September 2018, TPA has offered to pay fees for use of TWRA ramps. We propose per vehicle parking passes as outlined in the attached amendment.
- While TWRA abated their fee proposals for 2019, their past fees proposals were for permit fees, a fee to launch and take-out at their access points, and an inventory fee on outfitters' rental fleet. The TPA believes this fee burden is unsustainable.
- Paddlecraft outfitters are already paying sales tax, real and personal property taxes, as well as other taxes, and in some cases fees to local agencies. They cannot afford the additional fee burdens proposed by the TWRA.

Paddle Craft Rental Operations Leave Rivers Cleaner Not Dirtier

Adversaries of paddlesports outfitters claim their customers leave litter in their wake. In fact, most outfitters organize annual clean-ups of their rivers and leave them better than they were at the start of the season. They provide trash bags to their customers and advise them not to litter. Outfitters cannot control what private boaters and fishermen do, however, and since there has been no study of the issues, these accusations are nothing more than anecdotal assertions upon which TWRA is basing their regulations.

Are There Safety Issues Among Commercial Customers of Outfitters?

- No. Operations of paddlecraft rental outfitters provide a safer experience. A review of the data shows that the experiences provided by commercial paddlesports outfitters are safer than those of non-commercial paddlers. According to the U.S. Coast Guard's 2017 Recreational Boating Statistics, nationwide only 10.6% of fatalities associated with canoes, kayaks and SUPs involved paddle craft that were known to be rented.
- In Tennessee, there were 2 fatalities among paddlers (canoes, kayaks, rafts), according to TWRA's 2017 Tennessee Boating Incident Statistical Report. None were attributed to commercial paddlecraft rental outfitters. While we cannot rule out the possibility of a fatality occurring among rental customers, any review of the data will conclude they are more likely to occur among paddlers who are not subject to the proposed regulations.

For these reasons, we believe the state legislature should define and approve specific regulations on paddlesports rental businesses (rather than leaving them up to the TWRA) by amending Title 69, Chapter 9, Part 2, 69-9-227. (See the proposed amendment).



Proposed Amendment Title 69, Chapter 9, Part 2, 69-9-227

a) As used in this section:

(1) "Non-motorized vessels" means canoes, kayaks, stand-up paddle boards, tubes, and any other vessels powered only by their occupants and propelled by manual methods, including, but not limited to paddles and oars, which are also referred to as paddle craft; and

(2) "Waters of Tennessee" means any waters within the territorial limits of this state, except privately owned ponds or lakes not used for commercial purposes.

(b)(1) The commission is hereby authorized to ~~establish rules, regulations, permits, and procedures regulating all aspects of~~ issue a permit and charge \$244 annually for that permit. The requirements attached to the application for the permit shall be limited to:

- i. Ranges for number of boats or tubes (specify which) used for rental purposes
- ii. Areas intended for operation
- iii. Intended months of operation
- iv. Insurance certificate at the time of the application
- v. Customer orientation consistent with industry standards of care to include a warning to avoid trespass on private property
- vi. Name of the company on each vessel
- viii. Proof of business registration with Secretary of State

(b)(2) Proprietary business information shall not be part of the public record.

(b)(3) The permit shall be granted for a term of 5 years within 30 days of submission of a complete application or on or before the 1st of December in the year prior to the permitted operations provided that the fee shall be paid annually, and the applicant shall be given an additional 21 days to correct incomplete applications. The permit shall be renewed after the five-year term upon request and submission of an application by the paddlecraft rental business.



(b)(4) The commission shall issue parking passes and provide adequate access or parking for permit holders' vehicles to TWRA-managed access points and ramps for vehicles and trailers used for launching and retrieving paddle craft.

Car, truck or van under 26,000 lbs. gross weight \$ 75

Trailers

Single axle \$ 25

Double axle \$ 50

Vehicles over 26,000 lbs. gross weight \$ 150

(3) Regulation authority granted under subdivision (b)(1) shall not apply to operations at locations where local, state or federal agencies are regulating paddle craft rentals at the time of this Act or subsequent to passage of this Act;

(4) The commission may work with stakeholders through an advisory group or stakeholders at each waterway, as may be needed, to develop and implement non-regulatory strategies to address issues and facilitate access among all users;

(5) The regulatory authority granted under subdivision (b)(1) shall not apply to commercial outfitters operating pursuant to and in possession of a permit issued by the United States Forest Service on waters in and adjacent to the Cherokee National Forest, unless those rental craft operators also use TWRA access point outside the Forest.