

**GOVERNOR'S PROGRAM BILL
2024**

MEMORANDUM

An act to amend the navigation law in relation to duty to inspect vessels operated on non-navigable underground waters

Purpose:

The purpose of this bill is to increase public safety in the operation of vessels that carry passengers by applying provisions of the Navigation Law to vessels operated in underground non-navigable waterways with no navigable inlet or outlet (aka "caves"); allowing the suspension of an issued certificate of inspection if operation poses an imminent threat to public safety; and establishing a penalty for operating without a current certificate of inspection.

Summary of Provisions:

Section 1 of the bill amends Navigation Law §13 to include within the duties of an inspector the duty to inspect vessels carrying passengers for compensation, either received directly or where provided as an accommodation, advantage, facility or privilege at any place of public accommodation, resort or amusement which are operated on privately or publicly owned underground non-navigable waterways with no navigable inlet or outlet. Inspectors would also be authorized to apply germane provisions pertaining to Public Vessels to these vessels. The bill would also make other technical updates to Navigation Law §13 emphasizing inspectors in effectuating their duties to inspect should be governed by the general rules and regulations of the United States Coast Guard in all regards if practicable.

Section 2 of the bill adds Section 49-d to the Navigation Law applying the following sections to vessels carrying passengers for compensation, either received directly or where provided as an accommodation, advantage, facility or privilege at any place of public accommodation, resort or amusement which are operated on privately or publicly owned underground non-navigable waterways with no navigable inlet or outlet:

- Section 47 – duty to report accidents to law enforcement;
- Section 47-b – duty to report accidents to Commissioner of OPRHP;
- Section 48 – Negligence in use or operation of vessel attributable to owner;
- Section 49-a – Operation of a vessel while under the influence of alcohol or drugs;
- Section 49-b- Operating a vessel after having consumed alcohol under the age of twenty-one

Section 3 of the bill adds Section 63-a to allow inspectors to suspend a certificate of inspection if operation of a vessel poses an imminent threat to public safety and subjects an owner who operates without a certificate of inspection or during a time of suspension to a misdemeanor offense.

Section 4 of the bill contains the effective date.

Justification:

From late April to mid-July each year marine inspectors of the Office of Parks, Recreation and Historic Preservation, 5 in total, inspect approximately 300 public vessels. Marine inspectors are only authorized to inspect vessels that carry passengers for compensation when operating on the navigable waters of the State and are not authorized to inspect vessels which carry passengers for compensation on underground non-navigable waterways with no navigable inlet or outlet, otherwise referred to as “caves.”

Vessels which operate in caves should be inspected for seaworthiness, safe egresses, fire safety, have passenger capacity set and carry relevant safety equipment for their operations. At the same time, other provisions applicable to Public Vessels which operate on navigable waters may not be applicable to vessels which operate in caves.

This bill addresses the need for only applicable sections of the Navigation Law to apply to operations of vessels in caves. The tragic incident in the privately-run commercial Lockport Caves, where one passenger lost their life and several others were injured, is a reminder of the need to close this loophole and allow for additional safety regulation.

This bill would also make owners ultimately responsible for the negligent operation of their vessel and penalizes owners for operating without a current certificate of inspection.

It should be noted this bill does not include the requirement for operators of vessels carrying passengers operating in caves to hold a boating safety certificate or be licensed like operators of Public Vessels operating on navigable waters. Operation in non-navigable waterways do not require knowledge of the navigable rules of the road (which vessel has the right of way, etc.) which is the focus of boating safety education.

Legislative History:

This is a new proposal.

Budget Implications:

None anticipated.

Effective Date:

This act shall take effect ninety days after it shall have become a law.