STATEMENT OF FRED B. LIFTON, EXECUTIVE DIRECTOR, BOATING INDUSTRY ASSOCIATION, ACCOMPANIED BY WILLIAM PEARSON, PRESIDENT; AND THOMAS H. BOGGS, JR., COUNSEL

Mr. LIFTON. Mr. Chairman and members of the subcommittee, I am Fred B. Lifton, executive director of the Boating Industry Association, 333 North Michigan Avenue, Chicago, Ill. I am accompanied here this morning by Mr. William Pearson, the immediate past president of the Boating Industry Association, and Mr. Thomas H. Boggs, Jr., the attorney for the Boating Industry Association.

The Boating Industry Association (hereinafter referred to as "BIA") is a nonprofit national trade association representing 350 manufacturers of all kinds of pleasure boating equipment and providing many services of an educational and informative nature to the entire industry and to the boating public. In addition, BIA has regular programs of serving marine dealers and distributors. We also work directly with boat owners through our two consumer divisions, the Outboard Boating Club of America (OBC), serving members of affiliated boating clubs, and the Boat Owners Council of America (BOCA), serving individual boatowners.

We sincerely welcome this opportunity to testify on H.R. 13192, a bill to amend the Fair Labor Standards Act to exempt certain employees of boat sales establishments from the overtime compensation requirements of the act.

Sections 6 and 7 of the Fair Labor Standards Act provide for minimum wages and maximum working hours for employees of businesses to which the act applies. Certain businesses, however, are specifically exempted from these sections by section 13 of the act. The reason for the exemptions is that while minimum wage and maximum working hour standards are generally desirable, in some instances these requirements would be self-defeating because of the economic burden they would impose on the employers.

The employer in some types of businesses would have to alter his employment policies and business methods quite drastically to survive at all under the act. The necessary economic result would be curtailed employment and reduced earning power of employees. Congress was well aware of these economic facts and so stated in part I of Public Law 49 of the 80th Congress, which is the policy statement preface to relieving amendments to the Fair Labor Standards Act of 1938.

Changed economic conditions in 1966 again warranted further amendment to the Fair Labor Standards Act. Many of the amendments involved exemption of certain types of businesses from the application of the act where such application would be unjustifiably burdensome and self-defeating. These exclusory amendments are contained in section 13 of the act.

Pertinent to the bill presently under consideration, H.R. 13192, is the legislative intent embodied in section 13(a)(3) exempting amusement or recreational establishments from sections 6 and 7 of the act under certain conditions. It was the intent of the amendment that these types of businesses would be exempted from the act if (a) they did not operate for more than 7 months in any calendar year, or (b) during the preceding calendar year their average receipts for any 6 months of such year were not more than one-third of the average receipts for the other 6 months of the year.