

***Office of Adjudications***

***IN THE MATTER OF*** : ***SUSPENSION OF  
SAFE BOATING CERTIFICATE  
DEEP BUI # 21-007***

***JIMMY BIZIER*** : ***JULY 29, 2021***

***FINAL DECISION***

A hearing was held on July 27, 2021 regarding the suspension of the Safe Boating Certificate of Jimmy Bizier. General Statutes §15-140q. Participating in the Zoom meeting were: Attorney Joseph Serrantino for Mr. Bizier; Sergeant Christopher Dwyer of the DEEP Environmental Conservation Police; and Timothy Delgado of the DEEP Boating Division. Sgt. Dwyer, the arresting officer, provided testimony. DEEP-1 was admitted as an exhibit, which included: Case/Incident Report, with attached 24-hour License Revocation & Interim Certificate, Notice of Rights, and results of breath analyses (“Arrest Report”).

***PROCEDURAL HISTORY***

Jimmy Bizier was arrested for boating while intoxicated on June 29, 2021. Conn. Gen. Stat. §15-140q. A Notice of Suspension was mailed to Mr. Bizier on July 12, 2021; a timely request for hearing followed.

***FINDINGS AND CONCLUSIONS***

General Statutes § 15-140q(g) provides that I must affirm the following four factors to suspend Mr. Bizier’s boating certificate: (1) whether Sgt. Dwyer had probable cause to arrest Mr. Bizier for operating a vessel while under the influence of intoxicating liquor or drugs, or both, or while having an elevated blood alcohol content; (2) whether Mr. Bizier was placed under arrest; (3) whether Mr. Bizier (A) refused to submit to a blood, breath, or urine test or analysis at the request of Sgt. Dwyer; or (B) submitted to such test or analysis, and the results of such test or analysis indicated that at the time of the alleged offense there was an elevated blood alcohol content; and (4) whether Mr. Bizier was operating the vessel.

It is undisputed that Mr. Bizier was operating his personal watercraft (PWC) the night of his arrest, that there was probable cause for Sgt. Dwyer to arrest Mr. Bizier, and that Mr. Bizier was arrested and charged with boating while intoxicated. General Statutes §15-133(d). The only factor in dispute is whether the breath tests given to Mr. Bizier show that “at the time of the alleged offense there was an elevated blood alcohol content.” §15-140q (g)(3).

Counsel for Mr. Bizier argues that the suspension should be dropped as there was inconclusive evidence that Mr. Bizier was operating under the influence, specifically, that the results of the breath tests do not indicate an elevated blood alcohol content sufficient to provide evidence of intoxication.

In Connecticut, a person is considered to be under the influence of intoxicating liquor if the ratio of alcohol in the blood (blood alcohol content or “BAC”) is 8-hundredths of one percent or more of alcohol, by weight (.08%). General Statutes §§ 15-133(d)(2)(A), 15-140q(n). The results of Mr. Bizier’s breath tests, the first administered 1 hour and 30 minutes after he was arrested, and the second, 1 hour and 50 minutes after his arrest, showed a BAC of .0867 and .0764, respectively.

The results of the first test clearly establish that Mr. Bizier’s BAC was above .08% at the time he was operating his PWC. See General Statutes §15-140q(g) (“the results of the test or analysis shall be sufficient to indicate the ratio of alcohol in the blood of such person at the time of operation.”) The result of the second test was a BAC of .0764. This is 40-thousands of a percent less than a BAC of .08%. It is reasonable to conclude that this trivial decrease, over time, in the BAC result of the second test does not change the conclusion that Mr. Bizier’s BAC was elevated at the time of operation. It is also notable that Mr. Bizier did not challenge either of these test results or the method by which the tests were administered. They are valid and competent evidence that he was operating with an elevated blood-alcohol content.

There is abundant evidence in this record to support the conclusion that Mr. Bizier was under the influence of intoxicating liquor at the time of his arrest. When Sgt. Dwyer first approached Mr. Bizier, he observed signs of intoxication in Mr. Bizier, including slurred speech, slumping over the handlebars of his PWC, blood shot eyes, and a strong odor consistent with the consumption of alcoholic beverages. Sgt Dwyer had Mr. Bizier perform three standardized field sobriety tests, and Bizier passed only one to standard. Mr. Bizier was then arrested and transferred from the Haddam Meadows State Park boat launch to the Connecticut State Police Troop F in Westbrook. While there, the two breath tests were administered.

The primary purpose of this administrative proceeding, the suspension of a boating certificate, is to promote public safety by removing those operators who have demonstrated disregard for the safety of others. See *State v. Hickam*, 235 Conn. 614, 624 (1995), cert. denied, 517 U.S. 1221 (1996) (principal purpose of the statute providing for the suspension of drivers’ licenses is to protect the public by removing potentially dangerous drivers from the state’s roadways).

### **ORDER**

Having found in the affirmative on the four factors set out in General Statutes § 15-140q(g), it is hereby ORDERED that the **Connecticut Safe Boating Certificate** of **Jimmy Bizier** is suspended for a period of not more than ninety days, effective August 1, 2021 through October 30, 2021. If still in his possession, **Mr. Bizier is hereby ordered to surrender his Connecticut Safe Boating Certificate**, to the Division of Boating, Department of Environmental Protection, 333 Ferry Road, Old Lyme, CT 06371-0280, *within 2 days of receipt of this decision*. The Division of Boating is hereby ordered to direct Mr. Bizier as to how his Certificate shall be “surrendered” if not in his possession or if in-person surrender is impacted by COVID-19 restrictions.

*Entered as a final order of the Commissioner of Energy and Environmental Protection by:*

Janice B. Deshais, Esq.

Janice B. Deshais, Esq., Hearing Officer

**SERVICE LIST**  
**DEEP BUI #21-007 Bizier**

Jimmy Bizier

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