

NASBLA MODEL ACT FOR PERSONAL FLOTATION DEVICES

This act originally was adopted by the membership of the National Association of State Boating Law Administrators on Sept. 16, 1998, and amended Sept. 22, 1999. It is intended to set forth the requirements and conditions for using personal flotation devices (PFDs) in the operation of vessels, as well as special mandates for their wear by children, persons engaged in watersports, and persons on board personal watercraft.

In 2004, the NASBLA Law Enforcement and Boats and Associated Equipment committees proposed amendments to the act for the membership's consideration. The amendments included 1) the creation of definitions for "immediately available" and "readily accessible"—terms which used, but not otherwise defined in 33 CFR Part 175 Subpart B; and 2) in the "Special Mandatory PFD Wear Requirements" section, replacement of a prior reference to "water skiers" with the broader reference to "watersports" and "watersports participants." However, the amended model act was tabled until 2005 so that the committees could conduct further work and review as part of the Association's Model Act Review and Standardization Project.

The committees subsequently approved and recommended this version of the act to the NASBLA membership. The revision includes modified definitions for "immediately available" and "readily accessible." The act, in revised form, was approved by the NASBLA membership on Sept. 21, 2005.

In 2015, the Education and Outreach Committee revised the act to incorporate the terms "throwable" and "wearable" in response to Personal Flotation Devices Labeling and Standards Final Rule, [Docket No. USCG–2013–0263], effective October 22, 2014. The act, in revised form, was approved by the NASBLA membership on Sept. 15, 2015.

1 Section 1. [Short Title.] This act may be cited as the Personal Flotation Devices Act.

1 Section 2. [Applicability.] The provisions of this act apply on all waters within the jurisdiction
2 of this state.

1 Section 3. [Definitions.] As used in this act:

2 (1) "Immediately available" means stored in plain and open view in the area where it will be
3 used; not obstructed, blocked, or covered in any way and capable of being quickly deployed.

COMMENT: "Immediately available" applies to Throwable PFDs.

4 (2) "Operate" means to navigate or otherwise control the movement of a vessel, including
5 control of the vessel's propulsion system.

6 (3) "Operator" means the person who navigates or is otherwise in control or in charge of the
7 movement of the vessel, including the vessel's propulsion system.

8 (4) "Owner" means a person, other than a lienholder, having the property in or title to a vessel.

(5) "Personal flotation device" or "PFD" means a device that is approved by the United States Coast Guard under 46 CFR Part 160.

(6) "Readily accessible" means easily located and retrieved without searching, delay or hindrance.

COMMENT: "Readily accessible" applies to Wearable PFDs.

(7) "Serviceable condition" means a condition as defined by the United States Coast Guard under 33 CFR Part 175.23.

(8) "Underway" means the motorboat is on the water and not moored, anchored, docked or aground.

(9) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

(10) "Watersports" means activities that involve being towed by, or riding in the wake of, a vessel such as, but not limited to, water skiing, wake boarding, wake surfing, and tubing.

Section 4. [*Personal Flotation Device Requirements for Use.*]

(a) Every vessel shall carry for each person on board, so placed as to be readily accessible, at least one wearable personal flotation device.

(b) No person shall operate a vessel 16 feet or over in length, except for a canoe or kayak, unless there is in addition to one wearable PFD for each person on board, one throwable PFD on board said vessel.

(c) Each PFD must be used in accordance with any requirements of its approval label and in accordance with requirements in its owner's manual, if its approval label makes reference to such manual.

(d) No person shall operate a vessel unless each personal flotation device required by this act is:

(1) In serviceable condition;

(2) Identified by a label bearing a description and approval number demonstrating that such device has been approved by the United States Coast Guard;

(3) Of an appropriate size for the person for whom it is intended;

(4) In the case of any wearable PFD, readily accessible aboard the vessel;

(5) In the case of any throwable PFD, immediately available for use;

(6) Out of its original packaging; and

(7) Not stowed under lock and key.

(e) No person on board a vessel of the United States operated by foreign competitors while practicing for or racing in competition, shall be required to have on board said vessel any PFD required by this act, provided there is on board said vessel one of the sponsoring foreign country's acceptable flotation devices for each foreign competitor on board.

COMMENT: In Section 4(d)(3), "person" refers to a child or adult, and appropriate language may be added to indicate same.

Section 5. [*Special Mandatory PFD Wear Requirements.*]

(a) The operator or owner of any vessel being used for recreational purposes, other than a vessel required to have a certificate of inspection issued by the United States Coast Guard, shall require any child age 12 and under who is aboard such vessel to wear a PFD while such vessel is underway unless the child is below deck or in an enclosed cabin.

(b) Persons engaged in watersports shall wear a PFD. No vessel operator shall tow a watersports participant who is not wearing such a device. Exemptions to the requirements of this subsection are permitted under the following conditions:

(1) A skier engaged in barefoot water-skiing who wears a barefoot wetsuit designed specifically for such activity.

(2) A skier engaged in trick water-skiing whose movements would be restricted or impeded by the bulk of a PFD. For purposes of this subsection, a trick water-skier is a person whose equipment and activities have all of the following characteristics:

(i) Type of Skis: For standard double trick skis, a length of no more than 46 inches and width of at least 8 inches, with no keels on the bottom; for single trick boards, a length of no more than 56 inches and width of at least 22 inches, with no keel on bottom;

(ii) Speed of tow no more than 25 miles per hour; and

(iii) Tow rope no longer than 50 feet.

(3) The operator of a vessel towing a trick water-skier or barefoot water-skier shall make a PFD readily available aboard the tow vessel for each such skier who elects not to wear such a device while skiing.

(c) All persons on board a personal watercraft shall wear a PFD and no operator of a personal watercraft shall allow any person to be on board who is not wearing such a device. Provided no person on board a personal watercraft shall use an inflatable PFD to meet the PFD requirements of this subsection.

COMMENT: As an option for cold weather/water states, a subsection (d) may be added to Section 5 to read, “All persons aboard an open boat, a canoe or kayak, or deck of a boat shall wear a PFD, and no operator or paddler shall allow any person to be aboard who is not wearing such a device.”

Section 6. [*Exemptions.*] [Insert exemptions required by federal statute or include a current list of vessels so preempted.]

Section 7. [*Penalty for Violation.*] A violation of this act constitutes a [insert offense and penalty(ies).]

Section 8. [*Effective Date.*] [Insert effective date.]