

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.

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 Type IV 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.

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

11 (6) "PFD" means a personal flotation device.

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

COMMENT: “Readily accessible” applies to Types I, II and III PFDs.

14 (8) “Serviceable condition” means a condition as defined by the United States Coast Guard
15 under 33 CFR Part 175.23.

16 (9) “Underway” means the motorboat is on the water and not moored, anchored, docked or
17 aground.

18 (10) “Vessel” means every description of watercraft, other than a seaplane on the water, used
19 or capable of being used as a means of transportation on the water.

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

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

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

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

7 (c) A Type V PFD may be used in lieu of a Type I, II, or III PFD required by this act provided:

8 (1) The approval label on the Type V PFD indicates that the device is approved by the United
9 States Coast Guard:

10 (i) For the activity for which the vessel is being used; or

11 (ii) As a substitute for a PFD of the Type required by this act on the vessel in use; and

12 (2) The PFD is used in accordance with any requirements of its approval label; and

13 (3) The PFD is used in accordance with requirements in its owner's manual, if its approval
14 label makes reference to such manual.

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

17 (1) In serviceable condition;

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

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

21 (4) In the case of any Type I, II, or III PFD, readily accessible aboard the vessel;

22 (5) In the case of any type IV PFD, immediately available for use;

23 (6) Out of its original packaging; and

24 (7) Not stowed under lock and key.

25 (e) No person on board a vessel of the United States operated by foreign competitors while
26 practicing for or racing in competition, shall be required to have on board said vessel any Type
27 of PFD required by this act, provided there is on board said vessel one of the sponsoring foreign
28 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.

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

2 (a) The operator or owner of any vessel being used for recreational purposes, other than a
3 vessel required to have a certificate of inspection issued by the United States Coast Guard, shall

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4 require any child age 12 and under who is aboard such vessel to wear a PFD while such vessel is
5 underway unless the child is below deck or in an enclosed cabin.

6 (b) Persons engaged in watersports shall wear a Type I, II, III or V PFD. No vessel operator
7 shall tow a watersports participant who is not wearing such a device. Provided no person shall
8 use an inflatable PFD to meet the requirements of this subsection. Exemptions to the
9 requirements of this subsection are permitted under the following conditions:

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

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

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

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

19 (iii) Tow rope no longer than 50 feet.

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

23 (c) All persons on board a personal watercraft shall wear a Type I, II, III or V PFD and no
24 operator of a personal watercraft shall allow any person to be on board who is not wearing such a
25 device. Provided no person on board a personal watercraft shall use an inflatable PFD to meet
26 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 Type I, II, III or V PFD, and no operator or paddler shall allow any person to be aboard who is not wearing such a device."

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

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

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