

Florida Fish and Wildlife Conservation Commission

Legislative Affairs Office

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2015 Session Legislative Proposal Life Jackets

Title: Modify Life Jacket Requirements

Submitted by: Division of Law Enforcement

I. Summary of the Proposal

Life jackets are required for boating in Florida; however Florida law specifically requires life jackets to be worn when operating personal watercraft, for children younger than six, and for certain watersports such as skiing and tubing. Florida law also defers to U.S. Coast Guard approved life jackets, specified by type, as the authorized safety equipment on Florida waters. This proposal would repeal language specifying the labeled “type codes” (I, II, III, IV, and V – type depends on usage, such as calm waters, offshore/rough waters, etc.) and replaces it with the phrase “used in accordance with the U.S. Coast Guard approval label”. The Coast Guard is in the process of eliminating the classification of life jackets by “type” in Federal code, classifying them instead based on their buoyancy, size, and intended use to make it easier for the public to understand. Modifying Florida law before the Federal code is changed (2016) will ensure that citizens will be legal using their life jackets with current labels as well as the ones with updated labels.

II. Present Situation

The U.S. Coast Guard (Coast Guard) is in the process of eliminating the “type codes” for life jackets (also referred to as personal flotation devices, PFDs, and life vests) in federal code. The type code (I, II, III, IV, or V – see below) is specified on the label of the life jacket. This change in federal code will require modification to Florida law that references these specific types of life jackets that are required to be worn. The Coast Guard effort is intended to harmonize life jacket requirements within North America and eliminate most, if not all, current inconsistencies between life jackets approved in the U.S. and Canada. This will also allow North American life jackets to gain acceptance in many European countries.

Currently, there are five official “types” of personal flotation devices approved by the Coast Guard.

Each “type” is briefly described as follows:

Type I – Off-Shore Life Jacket
(inflatable, buoyant foam or kapok)



Designed for rough or remote waters where rescue may take some time. They provide the most buoyancy (22 to 33 pounds), are excellent for flotation and will turn most unconscious wearers face-up in the water.

Type II – Near-Shore Vests

(inflatable, buoyant foam or kapok)

These vests provide minimum buoyancy of 15.5 pounds and are good for calm waters when quick assistance or rescue is likely. They will turn some unconscious wearers face-up in the water, but turning is not as pronounced as with a Type I. This type of inflatable turns as well as a Type I (33 pounds buoyancy).



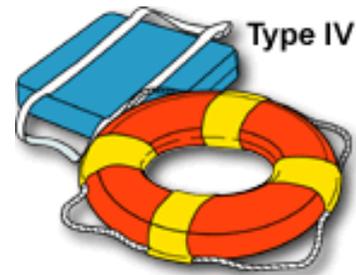
Type III – Flotation Aids

These devices are either vests or full-sleeved jackets good for calm waters when quick assistance or rescue is likely. Buoyancy levels range from 15.5 pounds for the buoyant foam models and at least 22 pounds for inflatable versions. They are not recommended for rough waters since they will not turn most unconscious wearers face-up.



Type IV – Throwable Devices

These are either rings or cushions designed to be thrown to someone in the water. They are not designed to be worn and, although part of the US Coast Guard regulation changes, they are applicable to this proposed legislation since Florida law does not specifically address Type IV devices by reference.



Type V – Special-Use Devices

These devices include immersion suits, hybrid devices and others specifically designed for activities such as windsurfing, kayaking or water skiing. Some models are inflatable, and all Type V devices must be used in accordance with the approval label.



Federal code is being changed to remove the classification of life jackets by “types” and to classify them instead based on their

buoyancy, size and intended use. The result will be new labels that contain specific fields of information which will improve the ability of the consumer to understand what activities a specific device is approved for and how it can be expected to perform in the water.

The new label, which uses internationally recognized symbols, will also benefit non-English speaking boaters by allowing them to better understand the benefits and limitations of life jackets.

All Coast Guard approved life jackets must have a label affixed which meets specific federal standards, and a booklet, titled "Think Safe," must be attached to each approved life jacket by the manufacturer. In combination, the label and booklet serve as the educational tools to inform life jacket owners about the types of life jackets, their capabilities and intended uses, and other safety tips. It is commonly believed that the booklets are rarely read by consumers and, therefore, fail to serve the intended purpose. Revising life jacket labels to make them more user-friendly and informative about critical safety information and specific qualities of each life jacket is expected to provide the consumer a permanent, understandable information source permanently attached to each life jacket.

Life jacket labeling is required in 46 C.F.R. part 160. Labeling of life jackets is an important safety matter, as it is the primary means by which the manufacturer communicates to the end user how to select the right life jacket and use and maintain it properly. Based on a volume of queries, the Coast Guard believes that the current labels are confusing to the boating public and do not effectively communicate important safety and regulatory information to users and law enforcement personnel.

In 2004, the consultant Applied Safety and Ergonomics (ASE) did a study of the current personal flotation device classification and labeling system. The ASE final report, entitled "Revision of Labeling and Classification for Personal Flotation Devices (PFDs)" suggested that the current labels are inadequate and that users do not adequately understand life jacket type codes.

Life jackets undergo rigorous testing for compliance with federal product standards. This testing is performed by various approved testing laboratories, and each life jacket label must disclose which laboratory tested that particular model. All life jackets bearing an official Coast Guard approval label are satisfactory to meet Florida boating safety laws, regardless of which testing laboratory was involved in product testing. Life jackets with a missing, severely damaged or illegible Coast Guard approval label are considered by federal law to no longer meet minimum product standards and will not satisfy either state or federal safety equipment carriage requirements (per 33 C.F.R. 175.21).

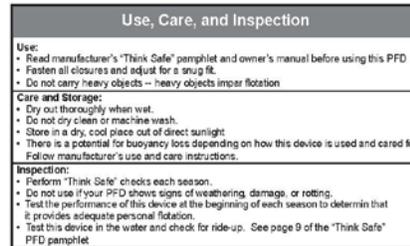
The following are examples of current and proposed life jacket labels:



Current Label



Label according to prc
Size is 9 pt



Proposed Label

Under both state and federal law, the operator of any vessel is required to carry life jackets in sufficient quantity, correct size, and correct type so that each individual on the boat has at least one “wearable” life jacket onboard. There are additional specific requirements in Florida law which mandate that life jackets are to be worn by persons participating in water sports (like skiing and tubing), on a personal watercraft, and by children under the age of six while on a recreational boat less than 26 feet in length.

With more than 900,000 registered boats in Florida, an estimated 1 million non-registered boats (canoes, kayaks, rowboats, etc.), and significant numbers of boats being brought into the State by visitors each year, it is important that Florida law conform to federal law to ensure understanding and compliance and that people boating in Florida can do so within the law.

The following statutes require persons to wear a life jacket of specifically identified “type” in three instances:

1. Section 327.37, FS, requires each person being towed in water sports, like skiing and tubing, to wear a type I, II, III or V life jacket.

2. Section 327.39, FS, requires everyone riding on a personal watercraft to wear a type I, II, III or V life jacket.
3. Section 327.50, FS, requires children under six years of age to wear a type I, II, or III life jacket in specified circumstances.

Section 327.50, F.S. also requires the owner and operator of every vessel on the water to carry safety equipment in accordance with Coast Guard safety equipment requirements. This has the effect of requiring a life jacket for everyone on board.

The Coast Guard has advised that the revision to federal code is anticipated to be complete in 2014, and that there will be a transition period until the end of 2016 to allow manufacturers the time to come into compliance with the new standards and to allow states the time to modify their laws.

III. Effect of Proposed Changes in the Bill

The proposed changes will serve to broaden the reference to life jackets in a way which will benefit the boating public and marine retailers by allowing life jackets currently approved by the Coast Guard under the current “type” codes to be acceptable to meet state laws while still ensuring that those using the new classification system will be acceptable as well. References will also be added which will require life jackets to be approved by the Coast Guard and either carried or used in a manner which is in accordance with the life jacket manufacturer’s product label (Coast Guard approval label).

Specifically, this proposal repeals the references to the “type” codes for life jackets in Florida law and replaces them with the phrase, “in accordance with the U.S. Coast Guard approval label”. The proposed modification will allow life jackets that are currently labeled by “type” and those that will be labeled under the new classification system to be acceptable to meet state laws.

Anyone who owns and/or operates a boat in Florida will be allowed continued use of life jackets labeled under the current “type” code system to meet state law while being assured that any Coast Guard approved life jackets purchased after implementation of the new classification and labeling system will also meet state law.

Failing to modify state laws in a manner that recognizes that newly manufactured life jackets will no longer be labeled using “types” would lead to confusion among the boating public, life jacket distributors and marine law enforcement officers as to their compliance with state and federal laws.

IV. Impact on All Pertinent Statutes/Rules/Constitution

This proposal will require statutory changes. There are no rules which will be affected in any way.

The statutes that will be impacted are as follows:

1. Section 327.37 Water skis, parasails, and aquaplanes regulated. This statute requires that persons engaged in water skiing, parasailing, aquaplaning, or any similar activity must wear a noninflatable type I, type II, type III, or type V personal flotation device approved by the U.S. Coast Guard.
2. Section 327.39 Personal watercraft regulated. This statute requires that any person riding on a personal watercraft wear a noninflatable type I, type II, type III or type V personal flotation device.
3. Section 327.50 Vessel safety regulations; equipment and lighting requirements. (1)(b) requires that every person under six years of age on board vessels less than 26 feet in length wear a type I, type II, or type III Coast Guard approved personal flotation device while the vessel is underway.

Note: (1)(a) does not need to be amended as it requires that owners and operators of every vessel on the water carry, store, maintain and use safety equipment in accordance with current U.S. Coast Guard safety equipment requirements as specified in the Code of Federal Regulation.

- A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?
No.
- B. Does the proposed legislation raise significant constitutional concerns under the United States or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, and impairment of contracts)?
No.
- C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?
None anticipated.

V. Affected Agencies and Groups

Boaters, boating interest groups, and life jacket manufacturers will be interested in this proposal, and their positions relative to this proposal are anticipated to be favorable. The Boating Advisory Council is in support of the issue.

Anyone who owns and/or operates a boat in Florida will be allowed continued use of life jackets labeled under the current “type” code system to meet state law while being assured that any Coast Guard approved life jackets purchased after implementation of the new classification and labeling system will also meet state law. This is a positive effect to all people who boat on Florida’s waterways. Additionally, the manufacturers of life jackets will be positively affected as a result of having their new products, labeled under the new classification and labeling system, being acceptable to meet boating safety requirements in the State.

VI. Fiscal Impact

A. On FWC (recurring and non-recurring; source of funding, i.e. GR, trust fund; source of revenue, i.e. license fees, grants; new staffing that may be required; contracts; salary and expense; or whether the fiscal impact of the bill can be absorbed in the current base budget or operations – PLACE AN “X” IN THE APPROPRIATE BOX)

- No fiscal impact is anticipated
- There may be a fiscal/workload impact but it can be absorbed in FWC’s base operations
- A fiscal or staff impact is anticipated and is estimated in the table below

Revenues	FY 2011-12 Source/Amount/FTE	FY 2012-13 Source/Amount/FTE	FY 2013-14 Source/Amount/FTE
1. Recurring			
2. Non-recurring			
Expenditures			
1. Recurring			
2. Non-recurring			

FWC fiscal comments or explanation:

B. On Other State Agencies

No

D. On Private Sector

No – the proposed change will allow life jackets with the current label designating its “type” to still be used legally.

E. On Local Governments

No

F. Tax/Fee Issues

No