

**TESTIMONY OF THE  
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE  
BEFORE THE JOINT STANDING COMMITTEE ON INLAND  
FISHERIES AND WILDLIFE  
NEITHER FOR NOR AGAINST L.D. 1042**

**“An Act to Require a Person Operating a Watercraft for Recreational Purposes to  
Ensure All Passengers Under 13 Years of Age Wear Coast Guard Approved  
Personal Flotation Devices”**

Presented by Representative HEPLER of Woolwich.  
Cosponsored by Representatives: DILL of Old Town, SARGENT of York.

**DATE OF HEARING: Monday, April 2, 2025**

Good afternoon, Senator Baldacci, Representative Roberts and members of the Inland Fisheries and Wildlife Committee. I am Game Warden Lt. Jason Luce, speaking on behalf of the Department, as well as on behalf of the Department of Marine Resources, neither for nor against to L.D.1042.

This bill modifies the provisions of law governing operation of a watercraft to prohibit a person from operating unless all passenger children who are under 13 years of age are wearing a personal flotation device (PFD).

The United States Coast Guard (USCG) requires children under the age of 13 wear a life jacket. Code of Federal Regulations (CFR) allows for individual states to adopt their own law related to PFD wear ages. This means each state must have some type of PFD wear requirement for children, but it doesn't prescribe what age they must wear it. Currently, DIFW Rule requires children 10 years of age or younger wear a life jacket. Additionally, DIFW has broad outreach and educational campaigns encouraging people to wear PFDs at all times.

In Maine the Department of Marine Resources Marine Patrol enforces boating law in the territorial waters, and Maine Warden Service enforces boating law in inland waters. The USCG enforces the state's law on mandatory PFD requirements when in state waters because the state law takes precedence.

Federal Regulation provides direction on how the U.S.C.G. will enforce the mandatory age for wearing life jackets as set by that state law. Below our testimony is a portion of the regulation for your reference.

Additionally, the laws are explained more carefully in a letter from the USCG titled: "CHILD WEAR OF PERSONAL FLOTATION DEVICE 2USCG". Please see a portion of this letter provided below our testimony.

We would like to point out that we found portions of the bill as written to be problematic. We questioned if the reference to "passenger children" somehow excludes operators who are children? i.e. How would this apply to a child under 13 years of age who is the operator of the vessel?

Finally, it seems the purpose of this bill is to create consistency with the Code of Federal Regulations (CFR). However, the bill as drafted, is inconsistent in that the CFR requires the vessel to be underway. This bill language does not. The CFR provides an exception to the requirement when children are below deck or inside an enclosed cabin. Our current rule does not. These inconsistencies seem to perpetuate the confusion between State and Federal requirements. For your awareness we have included a portion of DIFW's Rule Chapter 13 on watercraft and a chart that illustrates the type of PFDs required for certain activities and with differing lengths of the vessels.

Thank you for your time and I'm happy to answer your questions here or during the work session.

## **Code of Federal Regulations 33 - 175.25 -- Enforcement of State requirements for children to wear personal flotation devices.**

### ***175.25 Enforcement of State requirements for children to wear personal flotation devices.***

*(a) This section applies to operators of recreational vessels on waters subject to the jurisdiction of any State that has established by statute a requirement for children of a certain age to wear an appropriate PFD approved by the Coast Guard, while aboard a recreational vessel.*

*(b) If the applicable State statute establishes any requirement for children of a certain age to wear an appropriate PFD approved by the Coast Guard, then that requirement applies on the waters subject to the State's jurisdiction instead of the requirement provided in § 175.15(c) of this part.*

*[USCG-2000-8589, 69 FR 45591, July 30, 2004]*

### **LETTER FROM THE USCG TITLED: “CHILD WEAR OF PERSONAL FLOTATION DEVICE 2USCG”**

In part the letter states, “*When a State has established a State requirement for child wear of a PFD, the federal cite 33 CFR 173.15(c) is not applicable.*”

### **Information related to PFD Wear Law**

#### **IFW Chapter 13 Watercraft Rules:**

##### **13.05 Safety Equipment on Motorboats and Other Watercraft**

The operator of any watercraft on the waters of this State shall be responsible to ensure that such watercraft is equipped as specified in this rule. Nothing in this rule shall be construed to permit the operation of any watercraft on the federal waters in this State unless they conform to all applicable federal laws and regulations pertaining thereto.

##### **4. Special Mandatory PFD Requirements**

- A. Persons engaged in watersports shall wear a USCG approved PFD. This PFD may not be an inflatable PFD. No watercraft operator shall tow a watersports participant who is not wearing such a device. Please see Section 13.05 of this rule for exceptions to PFD requirements for persons engaged in watersports.
- B. The operator or owner of any watercraft being used for recreational purposes, other than a watercraft required to have a certificate of inspection issued by the USCG, shall require any child age 10 and under who is aboard such watercraft to wear a PFD while the

watercraft is underway.

- C. All persons on board a personal watercraft, as defined by Title 12 section 13001 – 23 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. No person on board a personal watercraft shall use an inflatable PFD to meet the PFD requirements of this subsection.
- D. Operation or other use of a watercraft by a licensed guide while assisting or accompanying a client on any waters of this State where licensing by the USCG is not required, is considered "recreational" use for the purposes of determining PFD requirements on the following chart.

**Chapter 13 Rules define watersports as:** means activities that involve being towed by, or riding in the wake of, a watercraft such as, but not limited to, water skiing, wake boarding, wake surfing, and tubing.

All watercraft shall carry the following types and numbers of USCG approved PFDs based on the use and length of the watercraft, and the number of occupants of the watercraft, as indicated:

## PERSONAL FLOTATION DEVICES

USE OF BOAT	LENGTH	REQUIRED TYPE OF PERSONAL FLOTATION DEVICE(S)
Recreational: Pleasure or Rental, Lease or Charter for noncommercial uses	Less than 16 feet; and all canoes, kayaks and paddleboards regardless of length	A wearable PFD for each person aboard, readily available.
	16 feet or longer	A wearable PFD for each person plus one throwable life saving device immediately available in watercraft.
Commercial* Carrying a passenger for hire.	Any length	USCG approved wearable PFD with no less than 22 lbs. (100 N) of inherent buoyancy and turning capability, commonly referred to as a Type I device, of suitable size for each person aboard with at least 31 sq. in. of approved retroreflective material attached on all four sides.
Commercial Fishing and Commercial Barges	less than 40 feet	A wearable PFD of suitable size, readily available for each person aboard.
	40 feet or longer	A Type 1 wearable PFD of suitable size, readily available for each person aboard.
*All Commercial Uses	26 feet or longer	In addition to the above, a throwable life saving device in the form of a ring buoy, immediately available.