

HB

447

POSITION PAPER - Department of Public Safety

**BILL NO:** SCS CSHB 447(SA)

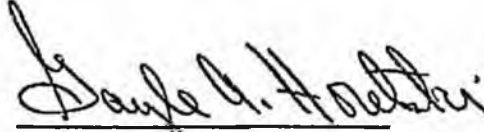
**DATE:** April 9, 1992

**TITLE:** An Act requiring a person under 13 years of age to wear a personal flotation device

**CONTACT:** G: A. Horetski  
Deputy Commissioner  
465-4322

SCS CSHB 447(SA) requires that persons under the age of 13 years wear a United States Coast Guard approved Type I, Type II, or Type III personal flotation device while being transported on the deck of a watercraft or in an open watercraft on the water of the state. "Watercraft" is defined in AS 05.25.100(3), and includes "every description of vessel. . .devoted to recreational pursuits"; commercial vessels thus do not fall under this bill. This legislation also requires that a person under 13 years of age being towed on water skis, a surfboard, or similar device wear an approved personal flotation device.

The Department of Public Safety supports this legislation, as accidental drownings are a very serious problem in Alaska. Although enforcement of this provision would be as scarce trooper resources allow, and would be prioritized with other calls for service, the existence of the law itself is quite likely to increase the numbers of children wearing life jackets while on board recreational boats in Alaska, and thus is likely to help save lives.

  
for Richard L. Burton  
Commissioner

**ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES**

3111 C STREET  
ANCHORAGE, ALASKA 99503  
(907) 561-2034

WHILE IN SESSION  
STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 465-4843



LABOR & COMMERCE

STATE AFFAIRS

**REPRESENTATIVE BETTY BRUCKMAN**

**Sponsor Statement**

**HB 447**

**"Requiring a person under 13 years of age to wear a personal flotation device"**

I have introduced HB 447 to reduce the tragic number of lives lost each year in Alaska to drowning. Last year 37 people drowned in Alaska; this is 28 times the national average. In some Alaskan communities drowning is the leading cause of death. Ironically, Alaska remains one of only a few states left without a personal flotation device wearing requirement.

According to U.S. Coast Guard reports, victims who drown while wearing personal flotation devices are extremely rare. In 1991, 90% of commercial fishermen who drowned in Alaska were not wearing P.F.D.s. However, of those fishermen who were saved, 55% wore personal flotation devices. In areas of the state with high numbers of drowning victims, local councils and assemblies have already passed ordinances mandating personal flotation device use.

HB 447 does not effect an adult's right to make personal safety decisions. However, while persons older than age 13 will still be able to make informed decisions about P.F.D. use, Alaskan children will now be protected from death by drowning. Drowning accounted for 27% of all child injury deaths in Alaska during 1980-1985.

Although HB 447 only targets children, it is my hope that people who wear personal flotation devices when they are young will choose to continue wearing them as adults. Parents of children now required to wear P.F.D.s may also be influenced by HB 447: as they put their children into personal flotation devices they may think twice about going without P.F.D.s themselves.

I urge you to join many Alaskan boating and health and safety organizations in supporting HB 447. We can no longer stand idly by, watching Alaskan children be lost to death by drowning, a death which is easily preventable. We must act now to protect those who are not old enough to understand the risks of not wearing a personal flotation device.

Sponsor Statement

## Answers to questions about HB 447:

- 1. Will HB 447 affect the Alaska State Ferry System?** No, "watercraft" as defined by AS 05.25.100(3) is a vessel "devoted to recreational pursuits".
- 2. Will HB 447 apply to commercial fishing boats?** No, again the definition of "watercraft" specified by HB 447 excludes all commercial vessels.
- 3. What safety requirements for watercraft already exist under State Law?** Under AS 05.25.010(b), "A watercraft operated on inland waters must carry at least one life preserver, or lifebelt, or ring buoy, or other device of the sort approved by the United States Coast Guard for each person on board, so placed as to be readily accessible. A watercraft carrying passengers for hire must carry, so placed as to be readily accessible, at least one life preserver of the sort approved by the United States Coast Guard for passenger-carrying watercraft for each person on board."
- 4. What are the penalties for violating HB 447?** The maximum penalty in place for violations of provisions listed under AS 5.25 is as specified by AS 5.25.090: "a fine of not more than \$500, or by imprisonment of not more than 6 months, or by both, for each violation".
- 5. Will HB 447 affect an adult's right to make personal safety decisions?** No, HB 447 only mandates the use of personal flotation devices by children 13 and under. HB 447 continues to allow adults to make informed decisions about P.F.D. use while protecting children from death by drowning.
- 7. Are Personal Flotation Devices Expensive?** No, Type II flotation devices can be bought for between ten and fifteen dollars. In quantities of fifty or more they can be purchased for as little as eight dollars.

QUESTIONS / ANSWERS

**6. Why does HB447 specifically target persons age 13 and under? Many other states with P.F.D. wearing requirements target only children. The most common cut-off age for P.F.D. requirements across the country is age 12. Arizona, Delaware, Kansas, Louisiana, Montana, Nebraska, Oklahoma, Texas and Utah all have statutes directed at children 12 and under.**

Children react very differently from adolescents or adults in a panic situation. Even children who have had swimming lessons forget how to swim when they fall in the water. According to the Children's Health Care System "young children are developmentally unable to perform the necessary survival skills in a panic situation. Drownings and near drownings happen quietly and quickly. Young children do not know how to right themselves and will not be able to yell for help, splash or kick."

Adolescents, although not yet legally adults, have much more mature panic responses than children. They are also better able to understand the risks involved with not wearing a personal flotation device.

**8. What are Coast Guard approved Type I, Type II and Type III flotation devices? A Type I P.F.D. or Off-Shore Life Jacket is effective for all waters, especially open, rough or remote waters where rescue may be delayed. It is designed to turn most unconscious wearers in the water to a face-up position. The Type I comes in two sizes. The adult size provides at least 22 pounds buoyancy, the child size, 11 pounds, minimum.**

A Type II P.F.D. or Near-Shore Buoyant Vest is intended for calm, inland water or where there is a good chance of quick rescue. This type will turn some unconscious wearers to a face-up position in the water. The turning action is not as pronounced and it will not turn as many persons under the same conditions as a Type I. An adult size device provides 15 and 1/2 pounds buoyancy, a medium child size provides 11 pounds. Infant and small child sizes each provide at least 7 pounds buoyancy.

A Type III P.F.D. or Flotation Aid is good for calm, inland water, or where there is a good chance of quick rescue. It is designed so wearers can place themselves in a face-up position in the water. The wearer may have to tilt their head back to avoid turning face-down in the water. The Type III has the same minimum buoyancy as a Type II P.F.D. It comes in many styles, colors and sizes and is generally the most comfortable type for continuous wear. Float coats, fishing vests and vests designed with features suitable for various sports activities are examples of this type P.F.D.

**9. Why are inflatable P.F.D.s not mentioned in HB 447?** Inflatable P.F.D.s or "Hybrids" fall into the U.S. Coast Guard Type V classification. These are not recommended for adult use by the U.S. Coast Guard because of the high level of maintenance required to maintain their buoyancy capability and the extra time needed for inflation if an accident occurs and passengers are not actually wearing their P.F.D.s. No companies presently produce Type V flotation devices in child sizes.

**10. Who will enforce HB 447?** On state waters the Department of Public Safety will be responsible for enforcement. In state parks Park Rangers will enforce HB 447.

**11. Why are commercial fishing vessels not included in HB 447?** The federal government explicitly considered requiring personal flotation devices to be worn at all times by persons on board commercial fishing vessels. They chose not to include this stipulation in their new regulations because of the additional hazards presented by P.F.D.s that may snag nets or otherwise interfere with fishing operations when worn. The federal government concluded that the potential harm outweighed possible benefits incurred by a requirement for P.F.D. use, including requirements for children.

Additionally, since November 15, 1991 commercial fishing vessels in Alaska now are required to carry immersion suits for each person on board.

There have been no child drownings from commercial fishing boats in the last five years where P.F.D.s would have saved the child's life. (One child died when trapped in the cabin of a boat which sank.) Statistics are not available for years previous to 1985 but experts in the field agree that child drownings from commercial fishing boats were extremely rare or nonexistent.

**12. How much compliance can we expect after enactment of HB 447?** Experts agree that a P.F.D. wearing requirement compliance rate should run analogous to seat belt laws. Therefore, we can expect an automatic 50% P.F.D. wearing rate almost immediately after enactment. With enforcement and education efforts this figure could be even further increased.

13. What waters will HB 447 have jurisdiction in? In waters of the state; this includes rivers and lakes inland as well as coastal waters up to three miles off shore. There is currently a dispute about state jurisdiction on federal land in Alaska. The state of Alaska asserts that federal lands are ultimately under state jurisdiction, the federal government disagrees. Legal opinion is that this would probably only become an issue on a military base, in which case federal officials could still choose to enforce the state law.

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

**MEMORANDUM**

February 20, 1992

**SUBJECT:** HB 447: Definition of watercraft

**TO:** Representative Betty Bruckman  
ATTN: Heather Hulseman

**FROM:** George Utermohle *GU*  
Legislative Counsel

This memorandum is in response to your enquiry as to the definition of "watercraft" for purposes of HB 447.

HB 447 adds two subsections to provisions of AS 05.25, relating to use of personal flotation devices (PFD) by persons under 13 years of age. In particular, the bill prohibits the operation of a watercraft unless a person under 13 years of age who is on the watercraft or being towed by the watercraft is wearing a PFD.

For the purposes of HB 447, the applicable definition of "watercraft" can be found at AS 05.25.100(3) which states

"watercraft" means every description of vessel, other than a seaplane on the water, used or capable of being used as a means of transportation on water and devoted to recreational pursuits unless otherwise expressly provided in this chapter; and excepting vessels having a valid marine document issued by the United States or foreign governments;

If I may be of further assistance, please advise.

GU:gc  
92-143.glc

Definition:  
"WATERCRAFT"

HB 447 has the backing of...

Department of Natural Resources  
Department of Public Safety  
Municipality of Anchorage, Dept. of Health and  
Human Services  
American Red Cross  
Providence Hospital, Alaska Safe Kids Program  
Humana Hospital, Anchorage  
Alaska Academy of Family Physicians  
Alaska Federal Safety and Health Council  
Alaskan Marine Dealers Association  
Alaska Boating Association  
Knik Canoers & Kyakers  
South East Alaska Regional Health Corporation  
Southern Region Emergency Medical Service Council  
Alaska Marine Safety Education Association  
Norton Sound Health Corporation  
Alaska Federation of Natives  
Rural Alaska Health Education Center  
Maniilaq Medical Center, Kotzebue  
Alaska Area Native Health Service  
Interior Region E.M.S. Council  
Valdez Community Hospital  
Tanana Valley Clinic  
Seattle Children's Hospital  
Mr. Sam Demientieff of the Fairbanks Native  
Association is introducing a resolution in support of  
HB 447 at the Tanana Chiefs Conference.

... as well as many other individuals and  
organizations.

*SUPPORT ROSTER*

CS FOR HOUSE BILL NO. 447 (STATE AFFAIRS)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 3/18/92  
Referred: Rules

Sponsor(s): REPRESENTATIVES BRUCKMAN, Gruenberg, Mackie, Ivan, Navarre, C.Davis, Ellis, Jacko, Hudson, Donley, Leman, B.Davis, Brown, Ulmer

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the use of a personal flotation device by a person under 13 years  
2 of age."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 05.25.010 is amended by adding a new subsection to read:

5 (d) The operator of a watercraft on the water of the state may not transport a person  
6 under 13 years of age onboard ~~the~~ <sup>the operator must open</sup> watercraft unless the person is wearing a United States Coast  
7 Guard approved Type I, Type II, or Type III flotation device. In this subsection, "personal  
8 flotation device" does not include a life belt or life ring.

9 \* Sec. 2. AS 05.25.020 is amended by adding a new subsection to read:

10 (b) A person may not operate a watercraft on the water of the state to tow a person under  
11 13 years of age on water skis, a surfboard, or similar device unless the person being towed is  
12 wearing a United States Coast Guard approved Type I, Type II, or Type III personal flotation  
13 device. In this subsection, "personal flotation device" does not include a life belt or life ring.

14 \* Sec. 3. AS 05.25.090 is amended to read:

1           Sec. 05.25.090. PENALTIES. Except as provided in (b) of this section. a [A] person  
2 who violates a [ANY] provision of this chapter is guilty of a misdemeanor and is punishable by  
3 a fine of not more than \$500, or by imprisonment of not more than six months, or by both, for  
4 each violation unless that person is convicted of a violation of AS 28.35.030, in which case the  
5 sentence shall be in accordance with AS 28.35.030.

6 \* Sec. 4. AS 05.25.090 is amended by adding a new subsection to read:

7           (b) A person who violates AS 05.25.010(d) or 05.25.020(b) is guilty of a violation, as  
8 defined in AS 11.81.900, and may be fined up to \$50.

9 \* Sec. 5. AS 22.15.120 is amended to read:

10           Sec. 22.15.120. LIMITATIONS ON PROCEEDINGS WHICH MAGISTRATE MAY  
11 HEAR. A magistrate shall preside only in cases and proceedings under AS 22.15.040, 22.15.100,  
12 and 22.15.110, and as follows:

13           (1) for the recovery of money or damages only when the amount claimed,  
14 exclusive of costs, interest, and attorney fees, does not exceed \$5,000;

15           (2) for the recovery of specific personal property when the value of the property  
16 claimed and the damages for the detention do not exceed \$5,000;

17           (3) for the recovery of a penalty or forfeiture, whether given by statute or arising  
18 out of contract, not exceeding \$5,000;

19           (4) to give judgment without action upon the confession of the defendant for any  
20 of the cases specified in this section, except for a penalty or forfeiture imposed by statute;

21           (5) to give judgment of conviction upon a plea of guilty by the defendant in a  
22 criminal proceeding within the jurisdiction of the district court,

23           (6) to hear, try, and enter judgments in all cases involving misdemeanors, if the  
24 defendant consents in writing that the magistrate may try the case;

25           (7) to hear, try, and enter judgments in all cases involving infractions under  
26 AS 28, violations under AS 05.25 and AS 11, and violations of ordinances of political  
27 subdivisions;

28           (8) for the extradition of fugitives as authorized under AS 12.70.

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

No. 1  
Bill Version: HB 447  
(H) Publish Date: 3-6-92

Revision Date: February 27, 1992 Department Affected: Natural Resources  
Title: Personal Floatation Device BRU: Park & Recreation Management  
Wearing Requirement for Children Components: Park Management  
Sponsor: Representative Bruckman  
Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 452

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND&STRUCTURES						
GRANTS.CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
Funding Source:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
Funding Source:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact: N/A

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Peter J. Panarese Phone: 762-2603  
Division: Parks & Outdoor Recreation Date: 02-27-92  
Approved by Commissioner: Harold C. Heinze Date: \_\_\_\_\_  
Agency: Department of Natural Resources

Distribution (by prep):

REV 10/91

*FISCAL NOTE*  
*DNR*  
*2/27/92*  
*HB*

COPY 1 of 1

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400  
FACSIMILE: (907) 586-2754

February 27, 1992

The Honorable Betty Bruckman  
Alaska State House of Representatives  
State Capitol, Room 116  
Juneau, AK 99801-1182

Re: HB 447


Dear Representative Bruckman:

Drowning is one of the leading causes of death in Alaska. Nationally, drownings have decreased 36% over the last ten years. Yet, Alaskans drown at a very high rate: for 1990 it was 28 times the national average. For these reasons, the Department of Natural Resources supports HB 447, requiring that children under 13 wear floatation devices (PFD's) approved by the U.S. Coast Guard.

This legislation will provide motivation for adults to comply with the common sense of insuring their children are wearing approved PFD's.

Thank you for the opportunity to comment.

Sincerely,



Harold C. Heinze  
Commissioner

Attachments

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

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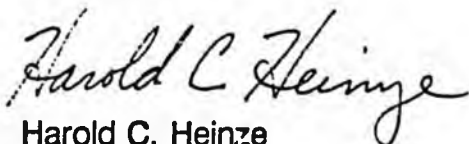
Dear Representative Bruckman:

Drowning is one of the leading causes of death in Alaska. Nationally, drownings have decreased 36% over the last ten years. Yet, Alaskans drown at a very high rate: for 1990 it was 28 times the national average. For these reasons, the Department of Natural Resources supports HB 447, requiring that children under 13 wear floatation devices (PFD's) approved by the U.S. Coast Guard.

This legislation will provide motivation for adults to comply with the common sense of insuring their children are wearing approved PFD's.

Thank you for the opportunity to comment.

Sincerely,



Harold C. Heinze  
Commissioner

Attachments

## Fiscal Note Attachment

This legislation is needed to promote public recreation safety throughout Alaska by requiring adults to have floatation devices, approved by the U.S. Coast Guard, on children under the age of 13. Park Rangers will enforce the provisions of this bill while attending to their normal duties on patrol in state parks. No additional funds to do so are anticipated.

FISCAL NOTE

No. 2

Bill Version: HB 447

Publish Date: 3-6-92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Public Safety  
 Title: An Act requiring a person under 13 BRU: Alaska State Troopers  
to wear a personal flotation device Component: Detachments  
 Sponsor: Representative Bruckman  
 Requestor: House Transportation COMPONENT SERIAL NO. 

	7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Enforcement of this legislation would be provided through the normal course of duties, and would be prioritized with other requests for service. Thus, no significant fiscal impact is anticipated.

Prepared By: Lt. Robert L. Clontz Phone: 465-4322  
 Division: Alaska State Troopers Date: 2/28/92  
 Approved by Commissioner: *Richard L. Burton* Richard L. Burton  
 Agency: Department of Public Safety Date: 2/28/92

*Fiscal Note  
DPS*