

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE

House Bill 140 (Delegate Pugh, *et al.*)
 Environmental Matters

Public Safety - Personal Flotation Devices - Mandatory Use

This bill requires an individual operating a recreational vessel to wear a personal flotation device (PFD) that is securely and properly attached. The bill prohibits an individual from operating or allowing the operation of a vessel while there is present in the vessel an individual not wearing a PFD that is securely and properly attached. The prohibitions apply regardless of age or size of the vessel. The mandatory PFD provisions would not apply to a vessel moored or anchored or to an individual below deck or in an enclosed cabin.

Fiscal Summary

State Effect: General fund expenditures could increase by \$260,000 in FY 2007 only for the Department of Natural Resources (DNR) to advertise the bill's changes and to update publications. Enforcement could be handled with existing resources. Potential increase in general fund revenues related to any increase in citations issued for violations.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
GF Revenue	-	-	-	-	-
GF Expenditure	260,000	0	0	0	0
Net Effect	(\$260,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill would not materially affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Except under specified conditions, a person is prohibited from operating or permitting the operation of a vessel under 21 feet in length while there is present in the vessel a child not wearing a PFD which is securely and properly attached to the child. “Child” means an individual who is under the age of seven years, regardless of the individual’s weight, or weighs 50 pounds or less, regardless of the individual’s age. Beginning April 1, 2006, additional safety features will be required on PFDs worn by children under the age of four years. The mandatory PFD provisions do not apply to a vessel that is moored or anchored or to a child who is below deck or in an enclosed cabin.

Current State regulations require the use of PFDs while on a commercial whitewater trip; while on white water portions of designated streams; while waterskiing; and while using a personal watercraft. Current regulations also require the use of a PFD during the winter months on the Upper Potomac River and its tributaries.

The U.S. Coast Guard (USCG) sets minimum safety standards for vessels and associated equipment. Federal regulations require that there be one USCG-approved PFD for each person on board the boat or being towed. All PFDs must be readily available, in serviceable condition, and of proper size.

Background: Several states require that children wear PFDs. The USCG recommends and several states require the use of PFDs for towed activities such as water skiing and other activities such as white-water boating, sailboarding, and operating personal watercraft. The National Association of State Boating Law Administrators (NASBLA) has developed model legislation relating to PFDs; it includes language mandating the use of PFDs by children, by persons engaged in watersports, and by persons on board a personal watercraft. Based on information provided by NASBLA, only a handful of states or territories (West Virginia, Mississippi, and American Samoa) have more broad mandatory PFD requirements.

State Expenditures: DNR estimates that the bill could result in an increase in general fund expenditures of nearly \$5.1 million in fiscal 2007. DNR’s estimate reflects the cost of hiring 40 Natural Resources Police (NRP) officers to enforce the bill’s requirements and two administrative officers and one administrative aide to manage and log data, provide educational training for the boating public and NRP officers, and prepare educational materials. It includes salaries, fringe benefits, one-time start-up costs (including the purchase of 20 vessels and 40 vehicles), and ongoing operating costs, including education and advertising costs as well as contractual services for towing noncompliant vessels. DNR’s estimate is based primarily on the assumption that, under the bill, NRP contacts with boats would quadruple; DNR advises that it anticipates

enormous resistance to the bill's requirements by the boating public. According to DNR, current NRP officers would not be able to enforce the bill's requirements and still respond to other incidents in a timely manner. DNR's out-year estimates average approximately \$3.7 million annually between fiscal 2008 and 2011.

Legislative Services disagrees. First, without any actual experience under the bill, it is impossible to predict noncompliance. Second, given that federal law already requires a properly-sized PFD for each person on board, the bill's changes could conceivably make it *easier* for NRP to enforce the PFD requirements. Under current law, PFDs are only required to be *worn* by children under specified ages, but there must be a PFD on board for each additional person on the boat. Presumably, this makes it difficult for NRP to gauge compliance unless the boat is stopped and checked. Under the bill, because everyone above deck must be wearing a PFD, NRP would be able to verify compliance from a distance. Accordingly, Legislative Services advises that DNR could enforce the bill using existing budgeted resources.

General fund expenditures could increase by an estimated \$260,000 in fiscal 2007 only for DNR to advertise the new requirements and to update various publications to reflect the bill's changes. Costs would be less to the extent that DNR is required to update affected publications in the absence of the bill; DNR advises that it updates its publications with every major change in recreational boating law (State and federal) and when a new Governor takes office.

State Revenues: Any person who violates any provision of Title 8 – Waters, of the National Resources Article is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500. A person found guilty of a second or subsequent violation is subject to a fine not exceeding \$1,000 or imprisonment not exceeding one year, or both. The prepayable fine amount for failure of a child to wear an approved PFD is \$85.

DNR estimates that the number of citations issued will quadruple under the bill, resulting in an increase in general fund revenues of almost \$700,000 in fiscal 2007, decreasing to approximately \$220,000 in fiscal 2011 as the boating public becomes more aware of the bill's changes. DNR's estimate is based on recreational boating citation data from 2005 and assumes massive noncompliance.

Legislative Services disagrees. Without any actual experience under the bill's changes, it is impossible to predict noncompliance. Accordingly, any increase in general fund revenues due to the issuance of additional citations cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, National Association of Boating Laws Administrators, U.S. Coast Guard, Department of Legislative Services

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