

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND
MINING**

**Seventy-Fourth Session
March 14, 2007**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Jerry D. Claborn at 1:39 p.m., on Wednesday, March 14, 2007, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Jerry D. Claborn, Chair
Assemblyman Joseph Hogan, Vice Chair
Assemblyman Kelvin Atkinson
Assemblyman David Bobzien
Assemblyman John C. Carpenter
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman John W. Marvel
Assemblyman James Ohrenschall
Assemblywoman Debbie Smith

COMMITTEE MEMBERS ABSENT:

Assemblyman Ruben Kihuen

GUEST LEGISLATORS PRESENT:

Assemblywoman Francis O. Allen, Clark County Assembly District 4



STAFF MEMBERS PRESENT:

Jennifer Ruedy, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Sherrada Fielder, Committee Secretary

OTHERS PRESENT:

Fred Messmann, Deputy Chief, Game Warden, Boating Law
Administrator, Bureau of Law Enforcement, Nevada Department of
Wildlife
Jim Litchfield, President, Truckee River Foundation, Reno, Nevada
Pat Fried, Owner/Operator, Great Basin Sports, Minden, Nevada
Gail Kaiser, Las Vegas Boat Harbor, Inc., Las Vegas, Nevada

Chair Claborn:

[Called meeting to order.] [Opened hearing on Assembly Bill 13.]

**Assembly Bill 13: Increases the age under which a person on a vessel is
required to wear a personal flotation device. (BDR 43-144)**

Assemblywoman Francis O. Allen, Clark County Assembly District 4:

Assembly Bill 13 is a simple bill. It changes the minimum age under which a person on the topside of a noncommercial vessel is required to wear a Personal Flotation Device (PFD) from 12 years of age to 13. We have two amazing lakes here in Nevada. They are recreation destinations where locals and tourists can go with friends, families, and spend time on the water. The problem is we share both of these great places with other states. Lake Mead and Lake Tahoe are lakes that border Arizona and California. The minimum age for a life vest for both states is 13. A uniform standard will give us an extra year to teach these children boater safer and make for a simpler, more convenient experience for recreational users of our natural playgrounds.

**Fred Messmann, Deputy Chief, Game Warden, Boating Law Administrator,
Bureau of Law Enforcement, Nevada Department of Wildlife:**

[Provided handouts: Personal Flotation Device Laws for Children (Exhibit C) and Information from Bill Gossard, National Recreational Boating Safety Coordinator (Exhibit D).]

I serve as the agency's Boating Law Administrator which is a liaison with other states and their boating programs as well as federal agencies that also regulate recreational boating safety. The federal agencies would include the United States Coast Guard, which many of Nevada's laws are modeled after

and they are incorporated into our statutes; the National Transportation Safety Board (NTSB), which actually monitors the U.S. Coast Guard in performance of how they regulate boating and serious issues such as children wearing PFDs. We also work very closely with the U.S. National Park Service regarding the National Park area at Lake Mead. As the Boating Administrator, I am a member of the National Association of State Boating Law Administrators (NASBLA). Their goal is to ensure uniform boating laws.

There was some confusion when this bill was originally passed. It is evident if you look at the Legislative Counsel's Digest where it suggests the age is being raised from 12 to 13. The language that says "less than 12" compared to "less than 13" is confusing. We are actually proposing to only raise the age from "less than 12"—which now means 11—to "less than 13," which would mean 12. That would then be congruent with the state of Arizona where there is year-round boating. Most of the people who are boating on Lake Mead, Lake Mojave, and the Colorado River system already abide by this law because this is the stricter of the two laws. People obey the stricter of the two state laws. If this bill passes it would eliminate the confusion and make our children safer.

The NTSB and the NASBLA and the American Academy of Pediatrics (AAP) all recommend the age of 12, or, as stated in the bill, less than 13.

Chair Claborn:

What you are saying is we have a marginal line down the middle of Lake Mead where one side is Nevada and the other side is Arizona.

This bill today makes it uniform to split both sides, so if I were 11 years old on the Arizona side, I would be legal, but if I swam over to the Nevada side, I would be illegal. I think this bill brings everything to uniformity where it would be less than 13. Is that correct?

Fred Messmann:

Yes, it would be less than 13.

Chair Claborn:

Do you want to continue your testimony?

Fred Messmann:

No, I have provided copies of the NTSB's recommendation on this ([Exhibit D](#)). They do compliment the Legislature for passing the original bill in 2001 which was introduced by former Speaker Richard Perkins. Schoolchildren actually proposed the legislation so it was very well received.

Chair Claborn:

It looks to me to be a very simple bill. Any questions? [There were none.]

Assemblywoman Allen:

We have one more member in the audience who would like to give testimony.

Jim Litchfield, President, Truckee River Foundation:

When I originally saw this legislation proposed, I approached Assemblywoman Allen to consider the amendment which is before you today ([Exhibit E](#)). The intention of the amendment is to resolve the growing enthusiasm and proliferation of recreation on our State waters and the private businesses which do business on State waters as regards renting and leasing equipment for recreational pursuits. The intent of the amendment is to require concessions or liveries to provide life-vests to anyone renting equipment to be used on State waters. We wanted to expand the definitions which are now limited to watercraft and motorboats.

Here in northern Nevada, we recognize that Lake Tahoe and Lake Mead are important water recreational resources. Also, in northern Nevada, we have functional rivers that are used by the kids and adults in our community. The intention here is to address that enthusiasm and popularity. When a private business leases or rents equipment, it should provide PFDs to allow the safe use of the State's waters.

We would like to expand the definition water vessel or watercraft to include kayaks, rafts, canoes, and, most importantly, inner-tubes. In downtown Reno we have constructed a white-water park that is heavily used in the summer by children and adults in our community. As you see in these pictures [referring to PowerPoint Presentation] a number of children are enjoying the river in the summer months. A vast majority of them have come down to the park in downtown Reno and have rented equipment. However, not one of them has been provided a simple PFD.

With me today is Pat Fried, a private business owner from Great Basin Sports. She will address how this legislation might impact private business. In my communication with several concessionaires and liveries in our area, I find they are in support of this measure and of possibly reducing their liability with this requirement and of possibly reducing their insurance costs, as well. Other concessionaires who do not provide PFDs now would then be required to provide them.

We have an event on the Truckee River where we give out over 200 life vests and helmets to children every summer. It is our intention to introduce to the general community that you can have fun, you can recreate in our State's waters while still being safe, using the appropriate equipment. We are requesting support of this amendment as presented and I can answer any questions or comments you might have.

Chair Claborn:

Any questions?

Assemblyman Goicoechea:

Could you explain what 13 foot rafts are? Does this mean if it is over 13 feet you would not be required to have a PFD? Most of these rafts we see are significantly longer than 13 feet. Am I correct in this?

Jim Litchfield:

The definition of watercraft that require PFDs now are limited to "over 13 feet." We wanted to expand the definition of watercraft and vessel to things under 13 feet and unconventional watercraft as well, including inner tubes, boogie boards, inflatable kayaks, and such.

Assemblyman Goicoechea:

If I understand, anything over 13 feet is covered to hunting age?

Jim Litchfield:

Correct. That is my understanding.

Randy Stephenson, Committee Counsel:

I helped Mr. Litchfield put the amendment together. What might help here is the idea that we excluded personal watercraft from the amendment. The reason is personal watercraft are, basically, jet skis and jet skis have their own provisions in statute. There is a section which states people have to wear PFDs when on a jet ski, so we left it out of the amendment language. We wanted to get to the canoes and rafts and the people who lease these devices. In the definition of personal watercraft, that is a device that is less than 13 feet. That is where the 13 feet limit came from because that is what a jet ski is under.

Assemblyman Goicoechea:

If it is 13 or more feet, then everybody, under existing law, has to have a flotation device?

Randy Stephenson:

No, when I refer to the personal watercraft provision, that one is less than 13 feet.

Assemblyman Goicoechea:

I just wanted to clarify. When we are talking over 13 feet, another statute applies and everyone has to have a PFD?

Randy Stephenson:

Yes, with watercrafts over 13 feet this amendment would not apply.

Assemblyman Goicoechea:

And the law presently says that if you are 13 years old, you will have a flotation device on, and if you are over 18 years old in a craft over 13 feet long, you will have to wear one.

Randy Stephenson:

Yes, to the under 13 years of age it is a different section.

Assemblyman Goicoechea:

I want to make sure this applies to everyone. If you are 12 and under, then it applies?

Randy Stephenson:

Yes, it does apply to everyone.

Assemblyman Goicoechea:

The other section is for personal watercraft and kayaks. Any person under 13 years of age in a craft designed under 13 feet or in an inner tube would be required to have a PFD. Correct?

Randy Stephenson:

Yes, you have to be provided with a PFD, but whether you wear it is up to you.

Assemblyman Goicoechea:

That kind of clarifies it. I think it covers everything. You will impact everything from a paddle board to an inner tube, and rafts less than 13 feet.

Chair Claborn:

Now you have me confused. Do you have to be provided one or do you have to have one on your person?

Assemblyman Goicoechea:

This amendment says you will be provided one. Who enforces the law is up to someone else.

Chair Claborn:

It seems this contradicts the bill and the whole thing. This did not turn out to be an easy bill.

Assemblyman Grady:

Would we be better off if we referred to the section Assemblyman Goicoechea was using? That the provisions of *Nevada Revised Statutes* (NRS) also apply or do not apply or whatever the language would be? If you put the 13 feet in there, you confuse the issue.

Randy Stephenson:

The question is that as far as the requirements for a person under 13 years of age, this amendment does not affect them at all. The law is still going to be as it reads now. It does not change it at all. The under 13 years of age requirement stays the same. If you are on a vessel, or on topside, you have to have a PFD. This is a different issue, it gets into the renters providing the life jackets to a child.

Assemblyman Hogan:

To clear one thing, this is not a helmet law?

Jim Litchfield:

Correct.

Assemblyman Hogan:

Do I understand correctly that under the current law a child under 12 is required to be furnished with a PFD? Or they have to wear a PFD?

Randy Stephenson:

Yes, they are required to wear one.

Assemblyman Hogan:

When we move the age to "under 13," that simply relates to their being required to wear one. How do we get crossways to the requirement to have a PFD provided? Is it in the amendment?

Randy Stephenson:

Correct.

Assemblyman Hogan:

The bill itself would not provide that, only the amendment.

Chair Claborn:

If this would come to a vote without the amendment, you would have to wear one if you are under 13 years of age. The amendment puts some drastic measures on this and it has confused the issue.

Assemblyman Goicoechea:

We have it clarified now. The amendment states that renters of these recreation devices would have PFDs available or provided to them. It is not the outfitter or concessionaire's jurisdiction, however, to ensure the renters are wearing them. The law, as it exists now, would require users, if they are less than 13 years of age, to wear a PFD.

Pat Fried, Owner/Operator, Great Basin Sports:

I run concessions. I do white-water and flat-water kayaking. This amendment will reduce the liability of the outfitter. Requiring them to provide these devices will save lives. If you are educating the public about PFD use, which is something that as an outfitter we do, then require it of every outfitter. As you can see from the pictures, the outfitters on the Truckee River that are renting inner tubes are not renting PFDs to the children. This could be a liability issue and could also cause fatalities. The fact is, PFD use would drastically reduce water fatalities. To require outfitters to provide these is an excellent idea, and I am fully in support of it.

Assemblyman Ohrenschall:

Do you currently offer them to anyone who rents one of the vessels and do most of your competitors?

Pat Fried:

I always do. I never rent any craft without giving a PFD as part of the package. As I look on the slide, the kids are using inner tubes and are not wearing PFDs. They should be wearing PFDs as this is moving water. It should be required of the concessionaires to provide PFDs.

Assemblyman Ohrenschall:

Do you give the renters the option? Do you tell them it comes with the package and whether you use it is up to you?

Pat Fried:

They have to sign a release of liability with me. In the release it states they will wear the PFDs when they are in the water.

Assemblyman Ohrenschall:

Most of your competitors do not offer the PFDs?

Pat Fried:

Some do and some do not. It certainly is an issue. It is disturbing that a craft would be rented without the renter requiring children to wear PFDs and without educating the children. I do not know how they get away with that.

Assemblyman Ohrenschall:

Have many children drowned at Wingfield Park because of not using PFDs?

Jim Litchfield:

There have not been any fatalities of children at Wingfield Park but there have been three fatalities at constructed white-water parks in Colorado. Three were children under age 14, all of whom did not have life vests. With the construction of a whitewater park in a dense urban environment like we have in downtown Reno, we have businesses that pop up opportunistically to rent inner tubes, strictly as street vendors. The vast majority of them do not provide PFDs as a part of their rental.

Assemblyman Bobzien:

To echo some of the concerns Mr. Litchfield stated, I am a former Recreation and Parks Commissioner with Reno. The creation of the whitewater park was one of our best achievements. There has been a proliferation of businesses, some we welcome and some that provide "heartburn." We are waiting for the first fatality. Quietly, we are very concerned that at some point, if we are not doing everything we can for safety, we will have some sort of tragic occurrence. I think Mr. Litchfield's organization has done wonders. It is wonderful, also, to hear that we do have outfitters who are concerned about this and do want to promote safe use of the river.

Assemblywoman Smith:

I echo those comments. While we have not seen fatalities, we see people stranded all the time. It puts our first responders at risk when they are called to rescue people. I think we need to do everything we can do to minimize the danger to the people who are on the water and the danger to the first responders, as well.

Assemblyman Ohrenschall:

This question is for Legal. Under the current statute, are children under 12 required to wear a PFD on boogie boards, kayaks and larger vessels?

Randy Stephenson:

My understanding is that is the whole point of this legislation. If they are on a vessel as defined in the NRS, then yes, children under the age of 12 do have to have PFDs. There is some question whether an inner tube and other similar devices qualify for that. I would say that is a legitimate question. But probably not.

Assemblyman Ohrenschall:

The amendment would make them cover the inner tubes and boogie boards?

Randy Stephenson:

Yes, to the extent that the renters would have to provide PFDs to them.

Assemblyman Ohrenschall:

But the children would not have to be required? A policeman going around Wingfield Park could not cite a child who is not wearing a PFD?

Randy Stephenson:

This amendment would not do that.

Chair Claborn:

We have a witness in Las Vegas who wants to testify.

Gail Kaiser, Las Vegas Boat Harbor, Inc.:

We rent boats. As far as the children 12 and under wearing life jackets, I believe it is mandatory, and it is that way with my business. We do not rent rafts, we only sell them. They do not go out to white water on Lake Mead. These rafts are for towable devices, and when used for that purpose, children are required to wear life jackets. I believe changing the age to 12 and under is a good idea.

Chair Claborn:

Any questions of Ms. Kaiser? [There were none.]

Jim Litchfield:

We want to make it as clear, concise, and as effective as possible. Our intention is to provide a safe, enjoyable experience for the kids in and around the State's waters, which is important. I just hope we can look to this committee for support of the amendments and A.B. 13 and we can move along with providing this opportunity for the State.

Chair Claborn:

Any more questions?

Assemblywoman Smith:

I am just curious, having been here and listened to the testimony from the last session. It was unforgettable when we had that hearing. How did we not catch it at that time? That our law was not commensurate with the other states, on those lakes? Would we not normally look at that?

Fred Messmann:

Yes, we would. As I am doing in this hearing, in the interest of making sure we had something, we did not want to muddy the waters, so we decided to see how it would work and try to educate the public. The state of Arizona had their law passed at the age of 12 and we felt it was time for us to do the same.

Assemblyman Carpenter:

As I understand it, if you rent an inner tube to someone, you have to provide the device to them. If I own the inner tube, then I do not have to have one? Is that correct?

Jim Litchfield:

Yes, that is correct. We wanted to initially affect businesses conducting business on State waters. This does not necessarily have direct impact to someone giving it to a child or grandchild. It would not have any effect on that occurrence.

Assemblyman Carpenter:

If my grandchild does not have one of these and he drowns, how would you extend this to everyone? Do any states do that?

Jim Litchfield:

Some states have tried. It is hard to legislate common sense and personal responsibility. Even though we would like to try, this is simply to make an impact on businesses. It is important that visitors and citizens of the state have some sense of confidence when they are doing business with a private entity, and that the experience is safe. You do not necessarily have an understanding when your grandchild rents an inner tube that the inner tube is fully functional. If it does pop or leak or becomes separated from the child, a PFD on the child vastly increases the child's ability to save themselves and possibly avoid death.

Assemblyman Ohrenschall:

Do you think this goes far enough, or do we need to authorize a citation to the family if the child does not have a PFD on?

Jim Litchfield:

I think that is too much. It would make things sticky. There are personal rights. I do not agree with that, because I believe all children should wear vests to swim in a natural water body; but that is not the issue and regulating that would not be appropriate at this time.

Gail Kaiser:

There are people outside of the park at Lake Mead who rent canoes to people to use on Lake Mead, but no life jacket is provided with those canoes. On Lake Mead, it is absolutely silly to be in a canoe or a similar vessel without a lifejacket for an adult, much less a child.

Chair Claborn:

Any questions?

Fred Messmann:

In the interests of trying to make this perfectly clear and articulating clearly so we can all understand what is happening here I would like to say that what Mr. Litchfield has proposed is wonderful and there is no opposition from the Department of Wildlife. Where we are getting confused is the carriage requirements versus the wear requirements. Carriage requirements do require canoes, kayaks, and those kinds of vessels to carry life jackets in them. When a child is on board, that child has to wear a vest. The confusion is on the kinds of crafts, such as inner tubes, because they are not designed to be watercraft or vessels. I am willing to work with Mr. Litchfield and Legislative Counsel Bureau staff to get this clarified. There is a bit of confusion about watercraft and the 13-foot requirements. That goes out the window because that is covered under motor boats and not the kind of craft we are talking about here. I have some ways to make this perfectly clear.

Chair Claborn:

The bill is from Ms. Allen and the amendment was added to it. She is nodding that she is willing to work this out. She can work with Mr. Stephenson and Mr. Litchfield. We want to make sure everyone knows what we are doing and to make sure our children are safe. That is what we are all concerned with here.

Is there any more testimony on A.B. 13? [There was none.]

[Closes hearing on A.B. 13.]

Chair Claborn:

We passed out a tour survey and received eight on the mine tours and seven on the dairy tour. We will work for a consensus. It would be best if we can all go together.

Another thing is that Mike Hillerby would like to provide a tour for all legislators to Coyote Springs in April.

[Meeting adjourned [at 2:23 p.m.]

RESPECTFULLY SUBMITTED:

Sherrada Fielder
Committee Secretary

Matthew Baker
Transcribing Secretary

APPROVED BY:

Assemblyman Jerry D. Claborn, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Natural Resources, Agriculture, and Mining

Date: March 14, 2007

Time of Meeting: 1:30 p.m.

| Bill | Exhibit | Witness / Agency | Description |
|---------|---------|---|---|
| | A | | Agenda |
| | B | | Sign-In Sheet |
| A.B. 13 | C | Fred Messmann, Deputy Chief, Game Warden, Boating Law Administrator, Bureau of Law Enforcement, Nevada Department of Wildlife | Personal Flotation Device Laws for Children |
| A.B. 13 | D | Fred Messmann, Deputy Chief, Game Warden, Boating Law Administrator, Bureau of Law Enforcement, Nevada Department of Wildlife | Information from Bill Gossard, National Recreational Boating Safety Coordinator, National Transportation Safety Board |
| A.B. 13 | E | Jim Litchfield, President, Truckee River Foundation | Amendment |