




Speech By
Hon. Brent Mickelberg

MEMBER FOR BUDERIM

Record of Proceedings, 18 February 2025

TRANSPORT OPERATIONS (MARINE SAFETY) LEGISLATION AMENDMENT REGULATION

Disallowance of Statutory Instrument

 **Hon. BA MICKELBERG** (Buderim—LNP) (Minister for Transport and Main Roads) (5.23 pm): I rise to address the disallowance motion moved by the member for Hinchinbrook. I know that Queenslanders love boating, with around 280,000 craft registered and more than a million licences issued across Queensland, and many of them are from North Queensland and live in electorates like Hinchinbrook. Nevertheless, with this love for water-based activities comes risk and it is important that we do our best to manage that risk appropriately while enjoying all that our state has to offer. These changes to life jacket wearing will help boaties and their families to have a safe time on the water while still making the most of our waterways.

As we have heard, the Department of Transport and Main Roads briefed the State Development, Infrastructure and Works Committee on 23 January on the regulation that contains the new life jacket wearing requirements. I welcome the committee's report, which did not identify any significant issues with the policy, consistency with fundamental legislative principles, lawfulness or noncompliance with the Human Rights Act. The chair of the committee spoke to that in his contribution.

Wearing life jackets when boating in heightened risk situations will make Queenslanders safer on the water. There is clear evidence to support this. There are clear correlations from boating accident and fatality data in Queensland that show that wearing life jackets saves lives. This is also documented and reflected in Australian and international marine regulatory experience.

Over the last five years, there have been 64 fatalities involving boaties who drowned following a marine incident recorded in Queensland. Of those 64, 59 were not wearing a life jacket. In 2023 alone, 12 of the 16 fatalities that occurred on the state's waterways were from drowning. None of the 12 was known to be wearing a life jacket. The state's maritime regulator, Maritime Safety Queensland—or MSQ—has been unable to confirm the member for Hinchinbrook's quoted 10 per cent increase in fatalities last year or identify any statistically significant correlation between fatalities and the number of boats registered.

The changes to the life jacket rules were refined through statewide consultation that MSQ undertook. MSQ worked diligently to ensure that a broad and representative range of views were sought into these changes. We have heard that MSQ promoted an online survey across TMR's communication channels, and invitations for submissions were sent to the representatives of 12 key external peak bodies and industry stakeholders. Some 1,131 responses were received, showing general support across the community and industry for improved safety practices in situations of heightened risk.

MSQ thoroughly considered the submissions and adjusted the proposals to ensure that the focus on the highest risks was the priority before the regulation was finally made in mid-2024 under the former Labor government. Interestingly, despite the work undertaken by MSQ to consult the public, the former government quietly made these changes to regulations in September last year, creating the sense of distrust that exists within the community now, as we have heard from other speakers.

I understand that the life jacket wearing laws have the broad support of the Boating Industry Association and the Queensland Recreational Boating Council. They also align Queensland with New South Wales, Victoria and South Australia which all have similar rules for boating alone and at night in smaller boats. The new life jacket laws, based on that engagement, came into effect on 1 December 2024 after being tabled by the member for Aspley, the then Labor minister for transport and main roads, on 10 September last year.

The sections of the regulation which the member for Hinchinbrook seeks to disallow are those which require boaties to wear a life jacket during particularly high-risk circumstances, such as: boating alone, or with children under 12 years, on an open boat less than 4.8 metres in length and only while underway; boating at night on an open boat less than 4.8 metres in length and only while underway; crossing a designated coastal bar on an open boat, or an open area of any boat of any length, and on certain craft; and carrying children one year or older and under 12 years on an open boat, or an open area of a boat of any length, and only while underway, with the children also required to wear a life jacket. I just want to clarify some of the misinformation that exists in the community. It is important to note that those regulations prescribe that they apply while underway. If an individual's boat is anchored up, they are not required under this regulation to wear a life jacket. The primary aim of these changes is to keep people safe on the water and reduce the risk of preventable tragedy because, unfortunately, things can turn perilous at any time when out on a boat.

As on the roads, there are a fatal five on the waterways that MSQ educates people on. They are: keeping a proper lookout; carrying safety equipment, including life jackets; speeding; using alcohol and drugs; and planning according to the weather. Infringing any one of those five can have significant consequences. They can contribute to an accident quickly, which reinforces the way that the new rules apply. They are not applied at all times; only in situations of the highest risk.

Situations can occur so quickly and it may be too late to reach for a life jacket after an incident has occurred. Practically, if a person is boating alone, or goes overboard while underway, their boat may continue onwards, potentially leaving them stranded in open water. Even a spot-locked boat, which the member for Hinchinbrook spoke about, can drift away if the technology fails for any reason, such as a flat battery or loss of GPS signal. A person may be injured or even unconscious during an overboard incident. In this scenario their chances of climbing back into the boat are reduced, and they are more likely to survive if wearing a life jacket.

Similarly, going overboard at night while underway presents challenges where, in the dark, it might not be clear where someone went overboard. Reflective tape and whistles, which are required on level 100 and 150 life jackets and optional on level 50 life jackets, can make it easier to find someone. Some are also fitted with lights. This will not help search-and-rescue efforts if the life jacket is on the boat while the person is in the water. That is the key difference. In such high-risk situations we want boaties to be wearing the life jacket rather than simply having it on board. That is because wearing a life jacket in those cases will increase the chances of survival for a person in the water.

I note the member for Hinchinbrook's comments that there is currently nothing stopping a boatie from making this safety choice themselves. That is true, but that does not account for all of those circumstances where things can go wrong. Those same people who may choose not to wear a life jacket in those high-risk circumstances are the same ones who expect Volunteer Marine Rescue to come to their aid when issues arise.

The member for Hinchinbrook supports personal choice about safety, as do I. However, the reality is that government frequently makes decisions to regulate behaviours on matters of safety because they are in the interests of either the individual or our community as a whole. Seatbelts, illicit drug use and speed limits are all examples where personal choice is limited in favour of individual or collective safety.

In the Brisbane region, 26 people are reported to have drowned or are presumed to have drowned in the last five years. Only four were known to be wearing a life jacket. The need to get more boaties to wear a life jacket is not confined to South-East Queensland. Across the Cairns, Townsville, Mackay and Gladstone regions, 38 people are recorded as having drowned or are presumed to have drowned in the same period. Just one of them is known to have been wearing a life jacket. That goes to show the importance of putting safety first.

Marine incidents can happen at any time, anywhere. I was surprised to learn that in the electorate of Hill in the last five financial years, starting 2019-20, there have been five drownings or presumed drownings involving people not wearing a life jacket. The electorates of Hinchinbrook and Traeger have been fortunate enough to avoid boating related drownings in the last five years. However, there are multiple reported incidents where people have survived while wearing life jackets across those electorates and throughout Central and North Queensland.

As the member for Hinchinbrook has rightly pointed out, the Great Barrier Reef does protect North Queenslanders from the hazards of crossing coastal bars. That is why the regulation designates the coastal bars where the rules apply, and they are all south of Hinchinbrook. This rule does not affect the more northern parts of Queensland. To be clear, the member for Hinchinbrook's motion seeks to disallow the requirement for people to wear life jackets crossing coastal bars in the southern parts of Queensland.

Life jacket education and messaging is not unique amongst regulated sectors. It is one of the few areas where there is a unified message all over Australia, and that message is to wear them. With the new laws, we are catching up with other states in reflecting that in legislation and regulation. This is helping bring consistency for boaties from not just Queensland but also many parts of the nation. This helps promote safety, again, as more people know and understand the rules.

The government is also catching up in phasing out older style life jackets that have not complied with the Australian Standards since 2008. I am advised that life jackets generally have a serviceable life of around 10 years. The government has allowed those older life jackets to remain in service for longer than that, but it is now time to finally phase them out. Over time, life jackets can lose their buoyancy, zippers and clips can break, and colours and reflective tape can fade, making them less visible to rescuers. A new life jacket can be purchased for as little as \$20. Under the regulation, this is required to be done by 1 September 2025. I note we are in the middle of a cost-of-living crisis, but this is a limited cost to protect someone's life.

While it is acknowledged that some life jackets may not be comfortable in high heat, modern life jackets are available that are not bulky and do not hinder the user. Some are designed to be compact until inflated by the user. I speak from personal experience of wearing an inflatable life jacket for weeks at a time in the Torres Strait and Cape York during operations while I was in the military. They were not perfect and far from ideal, but they were certainly workable to wear for weeks at a time when required, which, I would suggest, is a far longer period than many boaties will be required to wear a life jacket under these regulations.

The member for Hinchinbrook referred to boaties being croc bait. Absolutely, there are other dangers in areas of Queensland when out on the water—including crocodiles and sharks—should someone end up in the water unexpectedly. That said, the life jacket will reduce the risk of drowning when it is not possible to get back into the boat or if the person is unconscious or injured.

I want this House to know that my department and Maritime Safety Queensland will prioritise education and awareness of the new regulations. This is being done with people's safety at the front of mind. We want to give Queenslanders the opportunity to understand the changes and what it means to them and their boating activities so that we can work together to ensure everyone's safety.

This is being done because our government values working with the communities it serves rather than sliding through regulatory change without appropriately informing the public in the way it was done in September last year. As is the approach with all MSQ initiatives, the aim is to get appropriate educational material to people so they are aware of the risks and the steps they can take to stay as safe as possible. This approach is extended to MSQ's enforcement partners in the Queensland Police Service—the Water Police—and the Fisheries boating patrols. MSQ and its partners cannot be everywhere all of the time so education will give people the tools to give themselves the best opportunity to survive if the worst should happen out on the water. In those instances where education is not enough, MSQ's risk-based responsive enforcement model allows for adaptability and a considered approach to maintaining the safety of Queenslanders out on the water.

We know that the vast majority of people want to do the right thing and look after their loved ones when boating, but there must be consequences for those repeat offenders who put their lives and the lives of others at risk. There are penalties for noncompliance with the new life jacket rules. In most cases where it is deemed necessary to fine a person for not wearing a life jacket when required, an infringement notice would be issued under the State Penalties Enforcement Regulation 2014. This is two penalty points, which currently amounts to \$322.60. As is always the case, if an individual thinks they have been given an unreasonable fine by an overzealous inspector then, like all enforced regulations in Queensland, there is the right to appeal that fine.

The member for Hinchinbrook has indicated that he believes the maximum penalty of two years imprisonment is excessive. Let me state clearly that the figures quoted by the member for Hinchinbrook are the maximum penalty for breaching the safety equipment obligation under the act. Life jackets are only one part of the required safety equipment so failing to wear a life jacket is very unlikely to earn someone the maximum penalty.

I would like to finish with some more positive figures. Between 2015 and June 2024, MSQ has reported a total of 26 people in Townsville and Cairns alone who were known to have been wearing a life jacket and survived a maritime incident as a result.

While I acknowledge the member for Hinchinbrook's personal experience as a boatie, which is far greater than mine, it has been demonstrated that increased life jacket use will save lives. As Kell Dillon from MSQ has described them, they are akin to the 'seatbelts of the sea' and will help ensure boaties, their passengers and loved ones get home safely. Like the member for Hinchinbrook, I too want to see less government regulation, but ultimately the decision here is whether the regulation delivers a community benefit in a way that does not excessively limit freedoms. My view is that the benefit delivered under this regulation in making a meaningful reduction in deaths at sea justifies the limited impost requiring boaties to wear life jackets in high-risk situations. For that reason, and noting the widespread support for these reforms, the government will not be supporting the disallowance motion before the House tonight.