

OPINION
55-59

January 14, 1955 (OPINION)

GAME AND FISH COMMISSIONER

RE: Regulations - Private Watercraft

You have asked this office for an official opinion as to the interpretation of section 20-0126 of the 1953 Supplement to the North Dakota Revised of 1943 as it purports to regulate the construction and equipment of private boats in this state. Your specific question is as to whether or not under subsection 3 thereof the game and fish commissioner has the authority to regulate the equipment used by the occupant of private boats, such as life preservers.

It will be noted that section 20-0126 specifically states, "Any person who shall operate any watercraft upon any of the waters of this state,". This is all embracive and is not limited to boats used for commercial purposes, but includes all watercrafts whether operated by an individual for his own personal use or for use for transporting persons generally. Then it will be noted that subsection 3 of said section gives to the game and fish commissioner the right to prescribe standards dealing particularly with the question as to the boat being seaworthy and if it has adequate equipment, etc.

In connection with this subsection, the commissioner did on July first 1953 promulgate certain rules and regulations and we find that in one of these regulations the commissioner has specified the equipment that is necessary and this standard is set forth as follows:

"Any and every boat operated on any waters of the State of North Dakota shall carry, at all times, one life preserver, life preserver cushion, life jacket or ring buoy for each and every passenger of that boat."

It will, therefore, be noted that the game and fish commissioner has authority under the statute to make rules and regulations prescribing standards necessary. As to whether or not the commissioner has used the discretion necessary or has legally adopted said rules and regulations, we are not passing upon at the present time for the reason that those are questions of fact that would have to be gone into separately, but it is the opinion of this office that the game and fish commissioner does have the power and authority to prescribe standards for all watercrafts either operated by an individual for his own pleasure or for commercial purposes.

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Attorney General