



**THE ATTORNEY GENERAL
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**CRAWFORD C. MARTIN
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December 20, 1971

Honorable James U. Cross
Executive Director
Texas Parks & Wildlife Dept.
John H. Reagan Building
Austin, Texas 78701

Opinion No. M-1016

Re: Construction of Article 1722a, Vernon's Penal Code, as amended by S.B. 331, 62nd Leg., R.S. 1971, particularly Sec. 7, Subsection (f), pertaining to life preservers and other approved devices for purposes of law enforcement.

Dear Mr. Cross:

Your opinion request to this office concerns the construction of Article 1722a, Section 7, Subsection (f), Vernon's Penal Code, as amended by Senate Bill 331 (Acts 62nd Leg., R.S., 1971, ch. 719, p. 2355; but see Footnote 1 below).

Your two questions are as follows:

"Are all approved life preservers and other approved devices to be considered one and the same except life belts and ring buoys for the purpose of enforcement?"

"Can we accept all United States Coast Guard approved life preservers and other approved devices except life belts and ring buoys for passengers 12 years of age or under on Class A and Class 1 motorboats while underway?"

Section 7, Subsection (f) as amended reads in part as follows:

". . . Provided further, that the operator of every Class A and Class 1 motorboat, while underway, shall require every passenger 12 years

[This S.B. 331 states that it amends Subsection (f), as it was last amended by the referenced Act of the 59th Leg. In fact, the 62nd Leg. at its Regular Session, (H.B. 605, ch. 971, p. 2928, 2933) had amended this Subsection shortly prior to the enactment of S.B. 331. See Attorney General Opinion No. M-960 (1971).

of age or under at all times to wear a life preserver of the sort prescribed by the regulations of the Commandant of the Coast Guard; and that only a life preserver, not a life belt or ring buoy, will satisfy this requirement."

This amendment has validly adopted, by reference, as the type of acceptable life preserver, the sort prescribed by the Commandant of the Coast Guard. 53 Tex.Jur.2d 137-139, Statutes, Sec. 92. However, the amendment makes an exception to those regulations in that it provides:

". . . that only a life preserver, not a life belt or ring buoy, will satisfy this requirement."

You have furnished to us copies of the relevant pages of the official Regulations of the United States Coast Guard, and copies of two of the official Manuals issued by the United States Coast Guard, all of which describe and state the specifications for the several classes of lifesaving devices or lifesaving equipment approved by the Commandant of the Coast Guard.² The Regulations and Manuals are complementary and uniform in their classifications and descriptions.

The only type of life preserver authorized by the statute is:

". . . the sort prescribed by the regulations of the Commandant of the Coast Guard; . . ."

²The Regulations are found in the Code of Federal Regulations, Title 46 - Shipping (Rev. Jan. 1, 1971), Chap. 1 - Coast Guard, Dept. of Transportation, Subchapter Q - Specifications, Part 160 - Lifesaving Equipment. These Manuals are described as No. CG-190, entitled Equipment Lists, dated August 1, 1968, and No. CG-340, entitled Recreational Boating Guide, dated June, 1966.

In these regulations, under the heading "Subchapter Q - Specifications, Part 160 - Lifesaving Equipment," are listed several types of equipment applicable to passengers on motorboats. Our opinion is that only two of these types, which are designated life preservers³ and buoyant vests⁴, meet the requisites of the statute. Both of these are attached to the body of the wearer by straps and adjusted to a secure and comfortable fit to his body. Both will hold the head and face of the wearer above the water. The first of these is expressly designated as a life preserver; the second denominated a buoyant vest, is expressly approved by the regulations for motorboats of Class A and Class 1 not carrying passengers for hire. None of the other types of lifesaving equipment listed in this Subchapter Q, in our opinion, meet these requisites of the statute: these are buoys⁵ (including ring buoys), buoyant cushions.⁶ Several special purpose water safety buoyant devices⁷ are listed but are not sufficiently described for us to express an opinion on. Life belts are not listed in the regulations and are expressly prohibited by the statute.

Our answer to both of your questions is that only the types of lifesaving equipment listed in the regulations of the Commandant of the Coast Guard designated as life preservers and buoyant vests meet the requisites of the statute.

S U M M A R Y

Only the types of lifesaving equipment listed in the regulations of the Commandant of the Coast Guard designated as life preservers and buoyant vests meet the requisites of Article 1722a, V.P.C., as amended by S.B. 331, 62nd Leg., R.S., 1971, ch.

³Subparts 160.001, 160.002 and 160.005.

⁴Subparts 160.047, 160.052 and 160.060.

⁵Subparts 160.009 and 160.050.

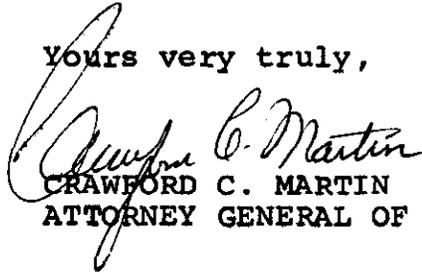
⁶Subparts 160.048 and 160.049.

⁷Subpart 160.064.

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719, p. 2355.

Yours very truly,



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