

HOUSE BILL 81

Introduced by Cobb

1/03	Introduced
1/03	Referred to Fish & Game
1/07	First Reading
1/17	Hearing
1/22	Tabled in Committee

HOUSE BILL NO. 81

INTRODUCED BY COBB

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT OVERNIGHT CAMPING AND CAMPFIRE ARE NOT PERMISSIBLE RECREATIONAL USES OF SURFACE WATERS; AND AMENDING SECTION 23-2-302, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-2-302, MCA, is amended to read:

"23-2-302. Recreational use permitted -- limitations -- exceptions. (1) Except as provided in subsections (2) through (5), all surface waters that are capable of recreational use may be so used by the public without regard to the ownership of the land underlying the waters.

(2) The right of the public to make recreational use of surface waters does not include, without permission or contractual arrangement with the landowner:

(a) the operation of all-terrain vehicles or other motorized vehicles not primarily designed for operation upon the water;

(b) the recreational use of surface waters in a stock pond or other private impoundment fed by an intermittently flowing natural watercourse;

(c) the recreational use of waters while diverted away

from a natural water body for beneficial use pursuant to Title 85, chapter 2, part 2 or 3, except for impoundments or diverted waters to which the owner has provided public access;

(d) big game hunting except by long bow or shotgun when specifically authorized by the commission;

(e) overnight camping ~~within--sight--of--any--occupied dwelling--or--within--500--yards--of--any--occupied-dwelling,~~ whichever-is-less or campfires;

(f) the placement or creation of any permanent duck blind, boat moorage, or any seasonal or other objects within sight of or within 500 yards of an occupied dwelling, whichever is less; or

(g) use of a streambed as a right-of-way for any purpose when water is not flowing therein.

(3) The right of the public to make recreational use of class 11 waters does not include, without permission of the landowner:

(a) big game hunting;

(b) overnight camping or campfires;

(c) the placement or creation of any seasonal object;

or

(d) other activities which are not primarily water-related pleasure activities as defined in 23-2-301(10).

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1 (4) The right of the public to make recreational use of  
2 surface waters does not grant any easement or right to the  
3 public to enter onto or cross private property in order to  
4 use such waters for recreational purposes.

5 (5) The commission shall adopt rules pursuant to  
6 87-1-303, in the interest of public health, public safety,  
7 or the protection of public and private property, governing  
8 recreational use of class I and class II waters. These rules  
9 must include the following:

10 (a) the establishment of procedures by which any person  
11 may request an order from the commission:

12 (i) limiting, restricting, or prohibiting the type,  
13 incidence, or extent of recreational use of a surface water;  
14 or

15 (ii) altering limitations, restrictions, or prohibitions  
16 on recreational use of a surface water imposed by the  
17 commission;

18 (b) provisions requiring the issuance of written  
19 findings and a decision whenever a request is made pursuant  
20 to the rules adopted under subsection (5)(a); and

21 (c) a procedure for the identification of streams  
22 within class II waters which are not capable of recreational  
23 use or are capable of limited recreational use, and a  
24 procedure to restrict the recreational use to the actual  
25 capacity of the water.

1 (6) The provisions of this section do not affect any  
2 rights of the public with respect to state-owned lands that  
3 are school trust lands or any rights of lessees of such the  
4 lands."

-End-

## 1 SENATE BILL NO. 81

2 INTRODUCED BY GROSFIELD, GILBERT, HALLIGAN

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE  
6 DEPARTMENT OF REVENUE'S AUTHORITY TO ISSUE REVISED  
7 ASSESSMENTS FOR CENTRALLY ASSESSED PROPERTY TO THE PERSON OR  
8 ENTITY THAT OWNED THE PROPERTY AT THE TIME IT ESCAPED  
9 ASSESSMENT, WAS ERRONEOUSLY ASSESSED, OR WAS OMITTED FROM  
10 TAXATION; AND AMENDING SECTION 15-8-601, MCA; AND PROVIDING  
11 AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY  
12 DATE."

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 15-8-601, MCA, is amended to read:

16 "15-8-601. Assessment revision -- conference for  
17 review. (1) (a) Whenever Except as provided in subsection  
18 (1)(b), whenever the department of revenue discovers that  
19 any taxable property of any person has in any year escaped  
20 assessment, been erroneously assessed, or been omitted from  
21 taxation, the department may assess the same provided the  
22 property is under the ownership or control of the same  
23 person who owned or controlled it at the time it escaped  
24 assessment, was erroneously assessed, or was omitted from  
25 taxation. All such revised assessments must be made within

1 10 years after the end of the calendar year in which the  
2 original assessment was or should have been made.

3 (b) Within the time limits set by 15-23-116, whenever  
4 the department discovers property subject to assessment  
5 under Title 15, chapter 23, that has escaped assessment,  
6 been erroneously assessed, or been omitted from taxation,  
7 the department may issue a revised assessment to the person,  
8 firm, or corporation who owned the property at the time it  
9 escaped assessment, was erroneously assessed, or was omitted  
10 from taxation, regardless of the ownership of the property  
11 at the time of the department's revised assessment.

12 (2) Whenever the department or its agent proposes to  
13 increase the valuation of locally assessed property above  
14 the value reported by the taxpayer under 15-8-301, the  
15 action of the department is subject to the notice and  
16 conference provisions of this section.

17 (3) (a) Notice of revised assessment pursuant to this  
18 section shall be made by the department or its agent by  
19 postpaid letter addressed to the person interested within 10  
20 days after the revised assessment has been made. The notice  
21 shall include opportunity for a conference on the matter, at  
22 the request of the person interested, not less than 15 or  
23 more than 30 days after notice is given.

24 (b) An assessment revision review conference is not a  
25 contested case as defined in the Montana Administrative

REFERENCE BILL

1 Procedure Act. The department shall keep minutes in writing  
2 of each assessment review conference, which are public  
3 records.

4 (c) Following an assessment review conference or  
5 expiration of opportunity therefor, the department shall  
6 order such assessment as it considers proper. Any party to  
7 the conference aggrieved by the action of the department may  
8 appeal directly to the state tax appeal board within 30 days  
9 or, if the property is locally assessed, may appeal to the  
10 county tax appeal board at its next meeting.

11 (4) The department must record in a book to be kept for  
12 that purpose all changes, corrections, and orders made by it  
13 and must direct its agent to enter upon the assessment book  
14 all changes and corrections made by it.

15 (5) Immediately upon receipt of a revised assessment,  
16 the county official possessing the assessment roll book  
17 shall enter the revised assessment. If the revised  
18 assessment corrects an original assessment, the previous  
19 entry shall be canceled upon order of the department."

20 NEW SECTION. SECTION 2. EFFECTIVE DATE -- RETROACTIVE  
21 APPLICABILITY. [THIS ACT] IS EFFECTIVE ON PASSAGE AND  
22 APPROVAL AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF  
23 1-2-109, TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1990.

-End-