HOUSE BILL NO. 359

INTRODUCED BY HARPER, O'KEEFE, COBB

IN THE HOUSE					
JANUARY 22, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.				
JANUARY 23, 1991	FIRST READING.				
FEBRUARY 13, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.				
FEBRUARY 14, 1991	PRINTING REPORT.				
FEBRUARY 16, 1991	SECOND READING, DO PASS.				
FEBRUARY 18, 1991	ENGROSSING REPORT.				
FEBRUARY 19, 1991	THIRD READING, PASSED. AYES, 91; NOES, 7.				
	TRANSMITTED TO SENATE.				
	IN THE SENATE				
FEBRUARY 20, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.				
	FIRST READING.				
MARCH 27, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.				
APRIL 1, 1991	SECOND READING, CONCURRED IN.				
APRIL 2, 1991	THIRD READING, CONCURRED IN. AYES, 34; NOES, 16.				
	RETURNED TO HOUSE WITH AMENDMENTS.				
	IN THE HOUSE				
APRIL 8, 1991	RECEIVED FROM SENATE.				
	SECOND READING, AMENDMENTS CONCURRED IN.				

THIRD READING, AMENDMENTS

APRIL 9, 1991

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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House BILL NO. 359 1 INTRODUCED BY 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE 5 OPERATION OF OFF-HIGHWAY VEHICLES BETWEEN THE ORDINARY 6 HIGH-WATER MARKS ON PUBLIC LANDS; AND PROVIDING AN 7 EXCEPTION." 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 NEW SECTION. Section 1. Operation off-highway vehicle between high-water marks on public lands prohibited 11 12 -- exception. (1) Except as provided in subsection (2), a 13 person may not operate an off-highway vehicle, as defined in 14 23-2-801, between the ordinary high-water marks, as defined 15 in 23-2-301, on public lands. (2) An off-highway vehicle may be operated between the 16 17 ordinary high-water marks on public lands on a road that crosses a stream, but the stream crossing must be by the 18 19 shortest route to the road on the opposite bank. NEW SECTION. Section 2. Codification 20 instruction. 21 [Section 1] is intended to be codified as an integral part

-End-

61, chapter 8, part 3, apply to [section 1].

of Title 61, chapter 8, part 3, and the provisions of Title



INTRODUCED BILL HB 359

APPROVED BY COMM. ON FISH AND GAME

1	HOUSE BILL NO. 359
2	INTRÓDUCED BY HARPER, O'KEEFE, COBB
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
5	OPERATION OF MOTOR VEHICLES OR OFF-HIGHWAY VEHICLES BETWEEN
6	BELOW THE ORDINARY HIGH-WATER MARKS MARK ON PUBLIC CERTAIN
7	STATE OR FEDERAL LANDS; AND PROVIDING ANEXCEPPION
8	EXCEPTIONS."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	NEW SECTION. Section 1. Operation of MOTOR VEHICLE OR
12	off-highway vehicle between BELOW high-water marks MARK on
13	public CERTAIN STATE OR FEDERAL lands prohibited
14	exception EXCEPTIONS. (1) Except as provided in subsection
15	SUBSECTIONS (2) AND (3), a person may not operate A MOTOR
16	VEHICLE, AS DEFINED IN 61-1-102, OR an off-highway vehicle,
17	as defined in 23-2-801, between BELOW the ordinary
18	high-water marks MARK, as defined in 23-2-301, OF CLASS I OR
19	CLASS II WATERS, AS DEFINED IN 23-2-301, on public STATE OR
20	FEDERAL lands OR BELOW THE ORDINARY HIGH-WATER MARK OF CLASS
21	I WATERS FLOWING THROUGH PRIVATE LANDS, WITHIN THAT PORTION
22	OF THE STREAMBED THAT IS COVERED WITH WATER.
23	(2) An A MOTOR VEHICLE OR AN off-highway vehicle may be
24	operated between BELOW the ordinary high-water marks MARK on
25	public STATE OR FEDERAL lands on a AN ESTABLISHED road OR

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		Legislative	Counc

- 1 TRAIL that ENTERS OR crosses a stream, but the stream crossing must be by the shortest PRACTICAL OR DESIGNATED 2 3 route to the road OR TRAIL on the opposite bank. (3) THE PROHIBITION IN SUBSECTION (1) DOES NOT APPLY 5 TO: 6 (A) OFF-HIGHWAY OR MOTOR VEHICLE USE THAT OCCURS ON 7 STATE OR FEDERAL LAND THAT IS DESIGNATED FOR OFF-HIGHWAY OR 8 MOTOR VEHICLE USE BELOW THE ORDINARY HIGH-WATER MARK IF THE 9 USE IS IN ACCORDANCE WITH THE REQUIREMENTS OF 10 AUTHORIZATION: 11 (B) OFF-HIGHWAY OR MOTOR VEHICLE USE CONDUCTED ON STATE 12 OR FEDERAL LAND PURSUANT TO AND IN ACCORDANCE WITH A 13 SPECIFIC WRITTEN AUTHORIZATION FROM THE APPROPRIATE LAND 14 MANAGEMENT AGENCY FOR THAT USE BELOW THE ORDINARY HIGH-WATER 15 MARK; AND 16 (C) OPERATION OF AN OFF-HIGHWAY VEHICLE BY A 17
- 18 RECREATIONAL USE, AS DEFINED IN 23-2-301, AS LONG AS 19 OPERATION OF THE VEHICLE IS PRUDENT AND MINIMIZES 20 DESTRUCTION. 21 (4) THE STATE MAY AUTHORIZE THE USE OF A MOTOR VEHICLE

USING THE

NONAMBULATORY PERSON WHO IS

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- OR OFF-HIGHWAY VEHICLE ON STATE PROPERTY BELOW THE ORDINARY HIGH-WATER MARK ONLY WHEN THE STATE HAS DETERMINED THAT THE
- 24 USE WILL HAVE A MINIMAL IMPACT ON THE STREAMBED AND ON THE
 - FISH AND WILDLIFE ECOLOGY OF THE STREAM OR RIVER. FEDERAL

SECOND READING

-2-

HB 359

BB 0359/02

- 1 LAND MANAGEMENT AGENCIES ARE REQUESTED TO APPLY THE SAME
- CRITERIA WHEN AUTHORIZING USE OF FEDERAL LAND.
- 3 NEW SECTION. Section 2. Codification instruction.
- 4 [Section 1] is intended to be codified as an integral part
- 5 of Title 61, chapter 8, part 3, and the provisions of Title
- 6 51, chapter 8, part 3, apply to [section 1].

-End-

-	1000 DID NO. 337
2	INTRODUCED BY HARPER, O'KEEFE, COBB
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
5	OPERATION OF MOTOR VEHICLES OR OFF-HIGHWAY VEHICLES BETWEEN
6	BELOW THE ORDINARY HIGH-WATER MARKS MARK ON PUBLIC CERTAIN
7	STATE OR FEDERAL LANDS; AND PROVIDING ANEXCEPTION
8	EXCEPTIONS."
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16	VEHICLE, AS DEFINED IN 61-1-102, OR an off-highway vehicle,
17	as defined in 23-2-801, between BELOW the ordinary
18	high-water marks MARK, as defined in 23-2-301, OF CLASS I OR
19	CLASS II WATERS, AS DEFINED IN 23-2-301, on public STATE OR
20	FEDERAL lands OR BELOW THE ORDINARY HIGH-WATER MARK OF CLASS
21	I WATERS FLOWING THROUGH PRIVATE LANDS, WITHIN THAT PORTION
22	OF THE STREAMBED THAT IS COVERED WITH WATER.
23	(2) An A MOTOR VEHICLE OR AN off-highway vehicle may be
24	operated between BELOW the ordinary high-water marks MARK on
25	public STATE OR FEDERAL lands on a AN ESTABLISHED road OR

HOUSE BILL NO. 359

1 TRAIL that ENTERS OR crosses a stream, but the stream 2 crossing must be by the shortest PRACTICAL OR DESIGNATED route to the road OR TRAIL on the opposite bank. (3) THE PROHIBITION IN SUBSECTION (1) DOES NOT APPLY 4 5 TO: (A) OFF-HIGHWAY OR MOTOR VEHICLE USE THAT OCCURS ON 6 7 STATE OR FEDERAL LAND THAT IS DESIGNATED FOR OFF-HIGHWAY OR 8 MOTOR VEHICLE USE BELOW THE ORDINARY HIGH-WATER MARK IF THE 9 USE IS IN ACCORDANCE WITH THE REQUIREMENTS OF 10 AUTHORIZATION; 11 (B) OFF-HIGHWAY OR MOTOR VEHICLE USE CONDUCTED ON STATE 12 OR FEDERAL LAND PURSUANT TO AND IN ACCORDANCE WITH A 13 SPECIFIC WRITTEN AUTHORIZATION FROM THE APPROPRIATE LAND MANAGEMENT AGENCY FOR THAT USE BELOW THE ORDINARY HIGH-WATER 14

20 <u>DESTRUCTION.</u>

21 <u>(4) THE STATE MAY AUTHORIZE THE USE OF A MOTOR VEHICLE</u>

22 OR OFF-HIGHWAY VEHICLE ON STATE PROPERTY BELOW THE ORDINARY

NONAMBULATORY PERSON WHO IS USING THE

(C) OPERATION OF AN OFF-HIGHWAY VEHICLE

RECREATIONAL USE, AS DEFINED IN 23-2-301, AS LONG AS

- 23 HIGH-WATER MARK ONLY WHEN THE STATE HAS DETERMINED THAT THE
- 24 USE WILL HAVE A MINIMAL IMPACT ON THE STREAMBED AND ON THE
- 25 FISH AND WILDLIFE ECOLOGY OF THE STREAM OR RIVER. FEDERAL

THIRD READING

VEHICLE

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MARK; AND

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- 4 [Section 1] is intended to be codified as an integral part
- of Title 61, chapter 8, part 3, and the provisions of Title
- 6 61, chapter 8, part 3, apply to [section 1].

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1 March 27, 1991

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 359 (third reading copy -- blue), respectfully report that House Bill No. 359 be amended and as so amended be concurred in:

1. Page 1, line 19. Following: "23-2-301," Insert: "that occur"

Signed:

Bob Williams, Chairman

3-27-9/ May. Coord.

5B 3-27 10:40 Sec. of Senate

1	HOUSE BILL NO. 359	1	public STATE OR FEDERAL lands on a AN ESTABLISHED road OR
2	INTRODUCED BY HARPER, O'KEEFE, COBB	2	TRAIL that ENTERS OR crosses a stream, but the stream
3		3	crossing must be by the shortest PRACTICAL OR DESIGNATED
4	A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE	4	route to the road OR TRAIL on the opposite bank.
5	OPERATION OF MOTOR VEHICLES OR OFF-HIGHWAY VEHICLES BETWEEN	5	(3) THE PROHIBITION IN SUBSECTION (1) DOES NOT APPLY
6	BELOW THE ORDINARY HIGH-WATER MARKS MARK ON PUBLIC CERTAIN	6	TO:
7	STATE OR FEDERAL LANDS; AND PROVIDING ANEXCEPTION	7	(A) OFF-HIGHWAY OR MOTOR VEHICLE USE THAT OCCURS ON
8	EXCEPTIONS."	8	STATE OR FEDERAL LAND THAT IS DESIGNATED FOR OFF-HIGHWAY OR
9		9	MOTOR VEHICLE USE BELOW THE ORDINARY HIGH-WATER MARK IF THE
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	10	USE IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE
11	NEW SECTION. Section 1. Operation of MOTOR VEHICLE OR	11	AUTHORIZATION;
12	off-highway vehicle between BELOW high-water marks MARK on	12	(B) OFF-HIGHWAY OR MOTOR VEHICLE USE CONDUCTED ON STATE
13	public CERTAIN STATE OR FEDERAL lands prohibited	13	OR FEDERAL LAND PURSUANT TO AND IN ACCORDANCE WITH A
14	exception EXCEPTIONS. (1) Except as provided in subsection	14	SPECIFIC WRITTEN AUTHORIZATION FROM THE APPROPRIATE LAND
15	SUBSECTIONS (2) AND (3), a person may not operate A MOTOR	15	MANAGEMENT AGENCY FOR THAT USE BELOW THE ORDINARY HIGH-WATER
16	VEHICLE, AS DEFINED IN 61-1-102, OR an off-highway vehicle,	16	MARK; AND
17	as defined in 23-2-801, between BELOW the ordinary	17	(C) OPERATION OF AN OFF-HIGHWAY VEHICLE BY A
18	high-water marks MARK, as defined in 23-2-301, OF CLASS I OR	18	NONAMBULATORY PERSON WHO IS USING THE VEHICLE FOR
19	CLASS II WATERS, AS DEFINED IN 23-2-301, THAT OCCUR on	19	RECREATIONAL USE, AS DEFINED IN 23-2-301, AS LONG AS
20	public STATE OR FEDERAL lands OR BELOW THE ORDINARY	20	OPERATION OF THE VEHICLE IS PRUDENT AND MINIMIZES
21	HIGH-WATER MARK OF CLASS I WATERS FLOWING THROUGH PRIVATE	21	DESTRUCTION.
22	LANDS, WITHIN THAT PORTION OF THE STREAMBED THAT IS COVERED	22	(4) THE STATE MAY AUTHORIZE THE USE OF A MOTOR VEHICLE
23	WITH WATER.	23	OR OFF-HIGHWAY VEHICLE ON STATE PROPERTY BELOW THE ORDINARY
24	(2) An A MOTOR VEHICLE OR AN off-highway vehicle may be	24	HIGH-WATER MARK ONLY WHEN THE STATE HAS DETERMINED THAT THE
25	operated between BELOW the ordinary high-water marks MARK on	25	USE WILL HAVE A MINIMAL IMPACT ON THE STREAMBED AND ON THE



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-End-