

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.

APRIL 9, 1991 THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 359
 2 INTRODUCED BY [Signature]
 3 [Signature] Cobb
 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 of off-highway
 11 vehicle between high-water marks on public lands prohibited
 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.

16 (2) An off-highway vehicle may be operated between the
 17 ordinary high-water marks on public lands on a road that
 18 crosses a stream, but the stream crossing must be by the
 19 shortest route to the road on the opposite bank.

20 NEW SECTION. Section 2. Codification instruction.
 21 [Section 1] is intended to be codified as an integral part
 22 of Title 61, chapter 8, part 3, and the provisions of Title
 23 61, chapter 8, part 3, apply to [section 1].

-End-

INTRODUCED BILL
NB 359

APPROVED BY COMM.
ON FISH AND GAME

HOUSE BILL NO. 359

INTRODUCED BY HARPER, O'KEEFE, COBB

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE OPERATION OF MOTOR VEHICLES OR OFF-HIGHWAY VEHICLES BETWEEN BELOW THE ORDINARY HIGH-WATER MARKS MARK ON PUBLIC CERTAIN STATE OR FEDERAL LANDS; AND PROVIDING AN--EXCEPTION EXCEPTIONS."

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

NEW SECTION. Section 1. Operation of MOTOR VEHICLE OR off-highway vehicle between BELOW high-water marks MARK on public CERTAIN STATE OR FEDERAL lands prohibited -- exception EXCEPTIONS. (1) Except as provided in subsection SUBSECTIONS (2) AND (3), a person may not operate A MOTOR VEHICLE, AS DEFINED IN 61-1-102, OR an off-highway vehicle, as defined in 23-2-801, between BELOW the ordinary high-water marks MARK, as defined in 23-2-301, OF CLASS I OR CLASS II WATERS, AS DEFINED IN 23-2-301, on public STATE OR FEDERAL lands OR BELOW THE ORDINARY HIGH-WATER MARK OF CLASS I WATERS FLOWING THROUGH PRIVATE LANDS, WITHIN THAT PORTION OF THE STREAMBED THAT IS COVERED WITH WATER.

(2) An A MOTOR VEHICLE OR AN off-highway vehicle may be operated between BELOW the ordinary high-water marks MARK on public STATE OR FEDERAL lands on a AN ESTABLISHED road OR

TRAIL that ENTERS OR crosses a stream, but the stream 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 TO:

(A) OFF-HIGHWAY OR MOTOR VEHICLE USE THAT OCCURS ON STATE OR FEDERAL LAND THAT IS DESIGNATED FOR OFF-HIGHWAY OR MOTOR VEHICLE USE BELOW THE ORDINARY HIGH-WATER MARK IF THE USE IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE AUTHORIZATION;

(B) OFF-HIGHWAY OR MOTOR VEHICLE USE CONDUCTED ON STATE OR FEDERAL LAND PURSUANT TO AND IN ACCORDANCE WITH A SPECIFIC WRITTEN AUTHORIZATION FROM THE APPROPRIATE LAND MANAGEMENT AGENCY FOR THAT USE BELOW THE ORDINARY HIGH-WATER MARK; AND

(C) OPERATION OF AN OFF-HIGHWAY VEHICLE BY A NONAMBULATORY PERSON WHO IS USING THE VEHICLE FOR RECREATIONAL USE, AS DEFINED IN 23-2-301, AS LONG AS OPERATION OF THE VEHICLE IS PRUDENT AND MINIMIZES DESTRUCTION.

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

SECOND READING

HB 0359/02

1 LAND MANAGEMENT AGENCIES ARE REQUESTED TO APPLY THE SAME
2 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 61, chapter 8, part 3, apply to [section 1].

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(B) OFF-HIGHWAY OR MOTOR VEHICLE USE CONDUCTED ON STATE OR FEDERAL LAND PURSUANT TO AND IN ACCORDANCE WITH A SPECIFIC WRITTEN AUTHORIZATION FROM THE APPROPRIATE LAND MANAGEMENT AGENCY FOR THAT USE BELOW THE ORDINARY HIGH-WATER MARK; AND

(C) OPERATION OF AN OFF-HIGHWAY VEHICLE BY A NONAMBULATORY PERSON WHO IS USING THE VEHICLE FOR RECREATIONAL USE, AS DEFINED IN 23-2-301, AS LONG AS OPERATION OF THE VEHICLE IS PRUDENT AND MINIMIZES DESTRUCTION.

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

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-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

3-27-91
Mg. Coord.

SB 3-27 10:40
Sec. of Senate

SENATE
HB 359

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(2) An A MOTOR VEHICLE OR AN off-highway vehicle may be operated between BELOW the ordinary high-water marks MARK on

public STATE OR FEDERAL lands on a AN ESTABLISHED road OR TRAIL that ENTERS OR crosses a stream, but the stream crossing must be by the shortest PRACTICAL OR DESIGNATED route to the road OR TRAIL on the opposite bank.

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(B) OFF-HIGHWAY OR MOTOR VEHICLE USE CONDUCTED ON STATE OR FEDERAL LAND PURSUANT TO AND IN ACCORDANCE WITH A SPECIFIC WRITTEN AUTHORIZATION FROM THE APPROPRIATE LAND MANAGEMENT AGENCY FOR THAT USE BELOW THE ORDINARY HIGH-WATER MARK; AND

(C) OPERATION OF AN OFF-HIGHWAY VEHICLE BY A NONAMBULATORY PERSON WHO IS USING THE VEHICLE FOR RECREATIONAL USE, AS DEFINED IN 23-2-301, AS LONG AS OPERATION OF THE VEHICLE IS PRUDENT AND MINIMIZES DESTRUCTION.

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