

CONCURRED IN.

APRIL 12, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 16, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 18, 1991

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 19, 1991

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 20, 1991

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 22, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *833*
 2 INTRODUCED BY *Rep. Bob Brown, Kennedy, Connelly*
 3 *MERCER, Mann, Dowell, Harding*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 LAWS RELATING TO WATERCRAFT; REVISING THE LAWS ON MARINE
 6 NOISE, SAFETY, AND SEWAGE REQUIREMENTS; LIMITING WHO MAY
 7 OPERATE A WATERCRAFT; AUTHORIZING THE DEPARTMENT OF HEALTH
 8 AND ENVIRONMENTAL SCIENCES TO ADOPT RULES ON VESSEL PUMPOUT
 9 STATIONS; AND AMENDING SECTIONS 23-2-502, 23-2-521,
 10 23-2-523, 23-2-526, 23-2-529, AND 23-2-530, MCA."

STATEMENT OF INTENT

11
 12
 13 A statement of intent is required for this bill because
 14 in [section 9] the department of health and environmental
 15 sciences is authorized to adopt rules allowing counties to
 16 provide for the installation, location, and operation of
 17 vessel pumpout stations. The legislature intends that those
 18 rules regulate facilities to transfer and dispose of sewage
 19 from marine sanitation devices, floating restrooms, and
 20 onshore toilets, all of which must be operated in a manner
 21 to prevent the discharge of sewage into the waters of the
 22 state and maintained in good working order and regularly
 23 cleaned. The rules may require a vessel pumpout facility to
 24 be equipped with a meter to measure use of the facility. The
 25 rules must allow a county to designate which vessel

1 terminals must install vessel pumpout facilities and must
 2 require a county to consider the number and type of vessels
 3 that use or are berthed at the vessel terminal and whether
 4 there are other pumpout stations that have a total capacity
 5 sufficient for and convenient and accessible to vessels that
 6 use or are berthed at the vessel terminal.

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

Section 1. Section 23-2-502, MCA, is amended to read:

10 "23-2-502. Definitions. As used in this part, unless
 11 the context clearly requires a different meaning, the
 12 following definitions apply:

13 (1) "Certificate of number" means the certificate
 14 issued annually by the county treasurer to the owner of a
 15 motorboat or by the department of justice to dealers or
 16 manufacturers, assigning such motorboat an identifying
 17 number and containing such information as required.

18 (2) "Certificate of ownership" means a certificate
 19 issued by the department of justice identifying the owner of
 20 a motorboat or sailboat 12 feet in length or longer.

21 (3) "Dealer" means any person who engages in whole or
 22 in part in the business of buying, selling, or exchanging
 23 new and unused vessels or used vessels, or both, either
 24 outright or on conditional sale, bailment, lease, chattel
 25 mortgage, or otherwise, and who has an established place of

1 business for sale, trade, and display of vessels. A yacht
2 broker is a dealer.

3 (4) "Department" means the department of fish,
4 wildlife, and parks of the state of Montana.

5 (5) "Documented vessel" means a vessel which has and is
6 required to have a valid marine document as a vessel of the
7 United States.

8 (6) "Identifying number" means the boat number set
9 forth in the certificate of number and properly displayed on
10 the motorboat.

11 (7) "License decals" means the serially numbered
12 license stickers issued annually by the county treasurer and
13 displayed as required by law.

14 (8) "Lienholder" means a person holding a security
15 interest.

16 (9) "Manufacturer" means any person engaged in the
17 business of manufacturing or importing new and unused
18 vessels or new and unused outboard motors for the purpose of
19 sale or trade.

20 (10) "Motorboat" means any vessel, including a canoe,
21 kayak, personal watercraft, rubber raft, or pontoon,
22 propelled by any machinery, motor, or engine of any
23 description, whether or not such machinery, motor, or engine
24 is the principal source of propulsion. The term includes
25 boats temporarily equipped with detachable motors or engines

1 but does not include a vessel which has a valid marine
2 document issued by the U.S. coast guard of the United States
3 government or any federal agency successor thereto.

4 (11) "Operate" means to navigate or otherwise use a
5 motorboat or a vessel.

6 (12) "Operator" means the person who navigates, drives,
7 or is otherwise in immediate control of a motorboat or
8 vessel.

9 (13) "Owner" means a person, other than a lienholder,
10 having the property in or title to a motorboat or vessel.
11 The term includes a person entitled to the use or possession
12 of a motorboat or vessel subject to an interest in another
13 person, reserved or created by an agreement securing payment
14 or performance of an obligation, but the term excludes a
15 lessee under a lease not intended as security.

16 (14) "Passenger" means every person carried on board a
17 vessel other than:

18 (a) the owner or his representative;

19 (b) the operator;

20 (c) bona fide members of the crew engaged in the
21 business of the vessel who have contributed no consideration
22 for their carriage and who are paid for their services; or

23 (d) any guest on board a vessel which is being used
24 exclusively for pleasure purposes who has not contributed
25 any consideration, directly or indirectly, for his carriage.

1 (15) "Person" means an individual, partnership, firm,
2 corporation, association, or other entity.

3 (16) "Personal watercraft" means ~~any a vessel 12-feet-in~~
4 ~~length--or--less~~ that uses an ~~internal-combustion-engine~~
5 outboard motor or an inboard engine powering a water jet
6 pump as its primary source of propulsion and that is
7 designed to be operated by a person ~~in-a~~ sitting, standing,
8 or kneeling position on or being towed behind the vessel.

9 (17) "Security interest" means an interest that is
10 reserved or created by an agreement that secures payment or
11 performance of an obligation and is valid against third
12 parties generally.

13 (18) "Uniform state waterway marking system" means one
14 of two categories:

15 (a) a system of aids to navigation to supplement the
16 federal system of marking in state waters;

17 (b) a system of regulatory markers to warn a vessel
18 operator of dangers or to provide general information and
19 directions.

20 (19) "Vessel" means every description of watercraft,
21 unless otherwise defined by the department, other than a
22 seaplane on the water, used or capable of being used as a
23 means of transportation on water.

24 (20) "Waters of this state" means any waters within the
25 territorial limits of this state."

1 **Section 2.** Section 23-2-521, MCA, is amended to read:

2 "23-2-521. **Equipment.** (1) Every motorboat or vessel
3 ~~shall~~ must have aboard:

4 (a) one United States coast guard approved personal
5 flotation device in good and serviceable condition for each
6 person on board, provided that ~~any a~~ a person who has not
7 reached his 12th birthday ~~shall~~ must have a United States
8 coast guard approved life preserver properly fastened to his
9 person when occupying a motorboat or vessel under 26 feet in
10 length while ~~such~~ the motorboat or vessel is in motion;

11 (b) if carrying or using ~~any an~~ any an inflammable or toxic
12 fluid in ~~any an~~ any an enclosure for any purpose and if the
13 motorboat or vessel is not an entirely open one, an
14 efficient natural or mechanical ventilation system
15 prescribed by the department ~~which-shall~~ that must be used
16 and be capable of removing resulting gases prior to and
17 during the time the motorboat or vessel is occupied by a
18 person;

19 (c) hand portable fire extinguishers approved by the
20 United States coast guard, the number of which is to be
21 determined by the department, or a United States coast guard
22 approved fixed fire extinguishing system, except that
23 motorboats less than 26 feet in length of entirely open
24 construction, propelled by outboard motors, and not carrying
25 passengers for hire need not carry ~~such~~ the portable fire

1 extinguishers or fire extinguishing systems.

2 (2) Every motorboat or vessel ~~shall~~ must have the
3 carburetor or carburetors of ~~every engine therein~~ each of
4 its engines (except outboard motors) using gasoline as fuel
5 equipped with an efficient flame arrester, backfire trap, or
6 other similar device.

7 (3) (a) Except as provided in subsection (3)(b), the
8 exhaust of ~~every an~~ an internal combustion engine used on a
9 motorboat or vessel must be muffled either by discharge
10 underwater or by a functioning muffler capable of muffling
11 exhaust noise at ~~full--throttle~~ to 86 90 dbA or less when
12 measured at a distance of ~~50-feet~~ 1 meter from the muffler
13 at idle speed in accordance with the stationary sound level
14 measurement procedure for pleasure motorboats (SAE J2005)
15 and a person may not operate a motorboat or vessel in a
16 manner to exceed a sound level of 75 dbA when measured as
17 specified in the shoreline sound level measurement procedure
18 (SAE J1970). The muffler may not be modified or altered,
19 such as by a cutout. The department may require a test at
20 dockside to determine exhaust noise level.

21 (b) The provisions of subsection (3)(a) do not apply to
22 a motorboat:

23 (i) competing in a state-sanctioned regatta or boat
24 race while on trial runs between 9 a.m. and 5 p.m. and
25 during a period not more than 48 hours immediately preceding

1 the regatta or boat race; or

2 (ii) operating under a separate permit issued by the
3 department for the purpose of tuning engines, making test or
4 trial runs, or competing in official trials for speed
5 records other than in connection with regattas or boat
6 races; or

7 (iii) operated by an authorized agent of federal, state,
8 or local government to carry out his duty of enforcement,
9 search and rescue, firefighting, or research.

10 (4) (a) Except as provided in subsection (4)(b), ~~no a~~
11 vessel may not be equipped with a siren, and ~~no a~~ person may
12 not use or install a siren on a vessel.

13 (b) An authorized emergency vessel may be equipped with
14 a siren capable of sound audible under normal conditions
15 from a distance of not less than 500 feet, but the siren may
16 be used only when the vessel is operated in response to an
17 emergency call or in the immediate pursuit of an actual or
18 suspected violator of the law, and the operator of the
19 vessel ~~shall~~ must sound the siren when necessary to warn
20 persons of the vessel's approach.

21 (5) When in operation or at anchor or moored away from
22 a docking facility between sunset and sunrise, all vessels
23 ~~shall~~ must display lights as prescribed by the department.

24 (6) The department may designate waters where and the
25 time of year on these waters when all persons aboard a

1 motorboat or vessel must shall wear approved life preservers
2 at all times.

3 (7) Vessels, including houseboats and floating cabins,
4 equipped with a galley or toilet ~~snait~~ must have a
5 wastewater holding system sealed to prevent the discharge of
6 water-carried waste products, whether treated or untreated,
7 into the surrounding waters.

8 (8) The department may adopt rules modifying the
9 equipment requirements contained in this section to the
10 extent necessary to keep these requirements in conformity
11 with the provisions of the federal navigation and safety
12 laws or with the navigation and safety rules promulgated by
13 the United States coast guard.

14 (9) A person may not operate or give permission for the
15 operation of a vessel which that is not equipped as required
16 by this section."

17 **Section 3.** Section 23-2-523, MCA, is amended to read:

18 "23-2-523. Prohibited operation and mooring --
19 enforcement. (1) No A person may not operate or knowingly
20 permit any a person to operate any a motorboat or vessel or
21 manipulate any water skis, surfboard, or similar device or
22 other contrivance in a reckless or negligent manner so as to
23 endanger the life, limb, or property of any person by:

24 (a) engaging in maneuvers that unreasonably or
25 unnecessarily endanger life, limb, or property, including

1 but not limited to weaving through congested vessel traffic
2 or jumping the wake of another vessel unreasonably or
3 unnecessarily close to the other vessel or when visibility
4 around the other vessel is obstructed and including swerving
5 at the last possible moment to avoid collision, which
6 constitutes reckless operation of a vessel;

7 (b) crossing or jumping the wake of another vessel when
8 within 100 yards of the vessel or within 100 yards of a
9 waterskier being towed by the vessel.

10 (2) No A person may not operate any motorboat,
11 including a sailboat propelled by a motor of any kind, or
12 manipulate any water skis, surfboard, or similar device
13 attached to a motorboat while under the influence of alcohol
14 or drugs.

15 (3) It is unlawful for the owner of any a motorboat or
16 vessel or any a person having such the motorboat or vessel
17 in charge or in control to authorize or knowingly permit the
18 same to be operated by any a person who by reason of
19 physical or mental disability is incapable of operating such
20 the watercraft under the prevailing circumstances.

21 (4) No A person may not operate or knowingly permit any
22 a person to operate any a motorboat or vessel at a rate of
23 speed greater than will permit such the person, in the
24 exercise of reasonable care, to bring the vessel to a stop
25 within the assured clear distance ahead. However, nothing in

1 this part is intended to prevent the operator of a vessel
2 actually competing in a regatta which that is sanctioned by
3 an appropriate governmental unit from attempting to attain
4 high speeds on a marked racing course.

5 (5) No A person may not make a reckless approach to,
6 departure from, or passage by a dock, ramp, diving board, or
7 float.

8 (6) Skiers being pulled by motorboats must have on
9 their person a ~~life-preserver, buoyant vest, or ski belt~~
10 United States coast guard approved personal flotation device
11 in good and serviceable condition.

12 (7) No A person may not moor a vessel to ~~any-of-the~~
13 buoys or beacons placed in any waters of this state by the
14 authority of the United States, an agency of the United
15 States, or the department or in any manner hang on with a
16 vessel to such buoy or beacon, except in the act of
17 maintenance work on such the buoy or beacon, nor may any
18 person deface, remove, or destroy ~~any-such a~~ buoy, beacon,
19 or other authorized navigational marker maintained in the
20 waters of this state.

21 (8) If an officer whose duty it is to enforce the
22 sections of this law observes a vessel being used without
23 sufficient lifesaving or firefighting devices or in an
24 overloaded or other unsafe condition and in his judgment
25 such use creates an especially hazardous condition, he may

1 direct the operator to take whatever immediate and
2 reasonable steps would be necessary for the safety of those
3 aboard the vessel, including directing the operator to
4 return to a mooring or launching site and to remain there
5 until the situation creating the hazard is corrected or
6 ended.

7 (9) A person may not operate a motorboat or personal
8 watercraft in proximity to the shoreline if the noise
9 emitted is greater than 75 dbA measured at the shoreline in
10 accordance with the shoreline sound level measurement
11 procedure (SAE J1970).

12 (10) Unless accompanied by a person 18 years of age or
13 older, a person under 12 years of age may not operate a
14 motorboat or a personal watercraft that is powered by a
15 motor rated at more than 10 horsepower. After December 31,
16 1993, a person under 15 years of age may not operate a
17 vessel or personal watercraft powered by a motor rated at
18 more than 10 horsepower without possessing a valid Montana
19 motorboat operator's safety certificate or evidence of
20 completion of a Montana-approved water safety course.

21 (11) A person who owns or has charge or control of a
22 motorboat or personal watercraft powered by a motor rated at
23 more than 10 horsepower may not authorize or knowingly
24 permit the motorboat or personal watercraft to be operated:

25 (a) by a person under 12 years of age unless

1 accompanied by a person 18 years of age or older; or

2 (b) after December 31, 1993, by a person under 15 years
 3 of age unless the person possesses a valid Montana motorboat
 4 operator's safety certificate or evidence of completion of a
 5 Montana-approved water safety course or is accompanied by a
 6 person 18 years of age or older.

7 (12) A person may not rent a motorboat or a personal
 8 watercraft powered by a motor rated at more than 10
 9 horsepower to a person under 18 years of age."

10 **Section 4.** Section 23-2-526, MCA, is amended to read:

11 **"23-2-526. Overloading -- overpowering -- noise**
 12 **limitations.** (1) No vessel shall be loaded with passengers
 13 or cargo beyond its safe carrying capacity, taking into
 14 consideration weather and other normal operating conditions.

15 (2) No vessel shall be equipped with any motor or other
 16 propulsion machinery beyond its safe power capacity, taking
 17 into consideration the type and construction of such
 18 watercraft and other existing operating conditions.

19 (3) For the purposes of 45-8-101 and 45-8-111, the
 20 operation of a motorboat or personal watercraft that emits
 21 noise in excess of 86 75 dbA when measured at a distance of
 22 50-feet the shoreline in accordance with the shoreline sound
 23 level measurement procedure (SAE J1970) or emits exhaust
 24 noise in excess of 90 dbA measured 1 meter from the muffler
 25 at idle speed in accordance with the stationary sound level

1 measurement procedure for pleasure motorboats (SAE J2005) is
 2 presumed to be a public nuisance and constitute disorderly
 3 conduct, except when otherwise lawfully operated under a
 4 motorboat racing permit issued by a political subdivision of
 5 the state."

6 **Section 5.** Section 23-2-529, MCA, is amended to read:

7 **"23-2-529. Water skis and surfboards.** (1) No A person
 8 may not operate a motorboat or vessel on any waters of this
 9 state for the purpose of towing a person or persons on water
 10 skis, a surfboard, or similar device unless the operator is
 11 at least 12 years of age and there is a second person, at
 12 least 12 years of age, in the vessel to observe the person
 13 being towed. The observer shall continuously observe the
 14 person being towed and shall display a flag immediately
 15 after the towed person falls into the water and during the
 16 entire time the person is in the water preparatory to
 17 towing. The flag must be daylight fluorescent orange in
 18 color, in good and serviceable condition, and no less than
 19 12 inches on each side, mounted on a handle and visible from
 20 every direction.

21 (2) No A person may not operate a motorboat or vessel
 22 towing a person engage engaged in waterskiing, surfboarding,
 23 or similar activity or towing some other contrivances nor
 24 may a person engage in those activities at any time between
 25 the hours from 1-hour-after sunset to 1-hour-before sunrise,

1 except that this subsection does not apply to a performer
2 engaged in a professional exhibition or a person engaged in
3 a regatta or race authorized under this part.

4 (3) All right-of-way rules applying to a towing vessel
5 apply to a person being towed."

6 **Section 6.** Section 23-2-530, MCA, is amended to read:

7 "23-2-530. **Education program.** The department shall
8 coordinate a statewide boat safety education program,
9 including a home study testing program for motorboat
10 operators."

11 NEW SECTION. **Section 7. Personal watercraft operation.**

12 In addition to all other applicable provisions in this part,
13 a person may not operate a personal watercraft:

14 (1) unless each person operating or riding on the
15 vessel is wearing a United States coast guard approved type
16 I, II, III, or V personal flotation device;

17 (2) if the vessel is equipped by the manufacturer with
18 a lanyard type engine cutoff switch unless the lanyard is
19 attached to the operator's person, clothing, or personal
20 flotation device as is appropriate for the specific vessel;
21 or

22 (3) in a reckless or negligent manner. Actions
23 prohibited in 23-2-523 are considered reckless operation.

24 NEW SECTION. **Section 8. Restrictions on manufacture**
25 **and sale.** A motorboat or vessel that fails to comply with

1 the provisions of 23-2-521(3) may not be manufactured in
2 Montana after [the effective date of this act] and may not
3 be sold or offered for sale in Montana after January 1,
4 1994.

5 NEW SECTION. **Section 9. Department of health and**
6 **environmental sciences to adopt rules on vessel pumpout**
7 **facilities.** (1) The department of health and environmental
8 sciences shall adopt rules to enable counties to protect
9 water quality and aquatic ecosystems by establishing
10 guidelines for the installation of vessel pumpout
11 facilities.

12 (2) In adopting the rules, the department shall use
13 these definitions:

14 (a) "Vessel terminal" means a private or public
15 shoreside installation on any waters of Montana that
16 provides mooring, docking, berthing, and other facilities
17 for the use of vessels.

18 (b) "Marine sanitation device" means any equipment on
19 board a vessel that is designed to receive, retain, treat,
20 or discharge sewage, and any process to treat the sewage.

21 (3) The rules must include standards for the
22 construction, operation, and maintenance of vessel pumpout
23 facilities.

24 NEW SECTION. **Section 10. Codification instruction.**
25 [Sections 7, 8, and 9] are intended to be codified as an

LC 1372/01

1 integral part of Title 23, chapter 2, part 5, and the
2 provisions of Title 23, chapter 2, part 5, apply to
3 [sections 7, 8, and 9].

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0833, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the laws related to watercraft; revising the laws on marine noise, safety, and sewage requirements; increasing the fee for a certificate of number from \$2.00 to \$2.50; limiting who may operate a watercraft and authorizing the Department of Health and Environmental Sciences to adopt rules on vessel pump out stations; and authorizing the fish and game commission to adopt rules on the proper observation and safe towing of persons on water skis or similar devices.

ASSUMPTIONS:

Department of Health & Environmental Sciences:

1. Rules (standards) can be compiled from existing rules adopted by other states.
2. Enforcement of these standards will occur only in response to complaints.
3. There will be no individual office review of plans and specifications and no field inspections to assure the systems are constructed as designed.

Fish, Wildlife & Parks:

4. There were 36,752 boats registered in FY90 (Dept. of Justice Registrar's Division).
5. The department would purchase five sound meters and train and certify 13 enforcement officers in the first year.
6. The department would install two pump out facilities per year for two years at a cost of \$10,000 per facility. These facilities would be provided only at Canyon Ferry, Flathead Lake and Fort Peck Reservoir. Operational cost would be \$1,000 per facility.

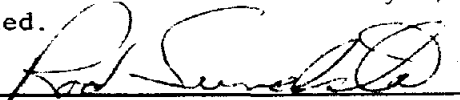
FISCAL IMPACT:

Department of Fish, Wildlife and Parks:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Operating Costs	0	4,100	4,100	0	4,000	4,000
Capital Outlay	0	20,000	20,000	0	10,000	10,000
Total	0	24,100	24,100	0	14,000	14,000
<u>Funding:</u>						
State Special	0	24,100	24,100	0	14,000	14,000
<u>Revenues:</u>						
Boat Registration	73,504	91,880	18,376	73,504	91,880	18,376

TECHNICAL NOTES:

Since the amendments sunset July 1, 1993, there might not be sufficient funds to operate the pump out facilities that were installed.

 3-16-91
 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 3-19-91
 THOMAS N. LEE, PRIMARY SPONSOR DATE

Fiscal Note for HB0833, second reading **HB 833**

APPROVED BY COMM.
ON FISH AND GAME

HOUSE BILL NO. 833

INTRODUCED BY LEE, B. BROWN, KENNEDY, CONNELLY, MERCER,
MEASURE, DOWELL, HARDING, WANZENRIED

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO WATERCRAFT; REVISING THE LAWS ON MARINE NOISE, SAFETY, AND SEWAGE REQUIREMENTS; INCREASING THE FEE FOR A CERTIFICATE OF NUMBER; PROVIDING AN APPROPRIATION; LIMITING WHO MAY OPERATE A WATERCRAFT; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT RULES ON VESSEL PUMPOUT STATIONS; AND AUTHORIZING THE FISH AND GAME COMMISSION TO ADOPT RULES ON THE PROPER OBSERVATION AND SAFE TOWING OF PERSONS ON WATER SKIS OR SIMILAR DEVICES; AMENDING SECTIONS 23-2-502, 23-2-512, 23-2-521, 23-2-523, 23-2-526, 23-2-529, AND 23-2-530, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

STATEMENT OF INTENT

(1) A statement of intent is required for this bill because in [section 9] the department of health and environmental sciences is authorized to adopt rules ~~allowing~~ ~~counties~~ to provide for the installation, location, and operation of vessel pumpout stations. The legislature intends that those rules regulate facilities to transfer and dispose of sewage from marine sanitation devices, floating

~~restrooms, and onshore toilets, all of which must be operated in a manner to prevent the discharge of sewage into the waters of the state and maintained in good working order and regularly cleaned. The rules may require a vessel pumpout facility to be equipped with a meter to measure use of the facility. The rules must allow a county to designate which vessel terminals must install vessel pumpout facilities and must require a county to consider the number and type of vessels that use or are berthed at the vessel terminal and whether there are other pumpout stations that have a total capacity sufficient for and convenient and accessible to vessels that use or are berthed at the vessel terminal.~~

(2) A STATEMENT OF INTENT IS FURTHER REQUIRED BECAUSE 23-2-529 REQUIRES THE FISH AND GAME COMMISSION TO ADOPT RULES REGARDING THE PROPER OBSERVATION AND SAFE TOWING OF PERSONS ON WATER SKIS OR SIMILAR DEVICES. IT IS INTENDED THAT THE COMMISSION'S DETERMINATION OF THE NECESSITY FOR RULES BE BASED ON THE DENSITY OF USE OF A BODY OF WATER. WHERE APPLICABLE, THE RULES SHOULD ADDRESS:

(A) THE PROPER AND CONTINUOUS OBSERVATION OF THE PERSON BEING TOWED; AND

(B) DISPLAY OF A FLAG WHEN THE PERSON BEING TOWED FALLS INTO THE WATER, INCLUDING THE SIZE, COLOR, CONDITION, AND MOUNTING OF THE FLAG AND THE LENGTH OF TIME THE FLAG SHOULD



1 BE DISPLAYED.

2
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4 **Section 1.** Section 23-2-502, MCA, is amended to read:

5 "23-2-502. Definitions. As used in this part, unless
6 the context clearly requires a different meaning, the
7 following definitions apply:

8 (1) "Certificate of number" means the certificate
9 issued annually by the county treasurer to the owner of a
10 motorboat or by the department of justice to dealers or
11 manufacturers, assigning such motorboat an identifying
12 number and containing such information as required.

13 (2) "Certificate of ownership" means a certificate
14 issued by the department of justice identifying the owner of
15 a motorboat or sailboat 12 feet in length or longer.

16 (3) "Dealer" means any person who engages in whole or
17 in part in the business of buying, selling, or exchanging
18 new and unused vessels or used vessels, or both, either
19 outright or on conditional sale, bailment, lease, chattel
20 mortgage, or otherwise, and who has an established place of
21 business for sale, trade, and display of vessels. A yacht
22 broker is a dealer.

23 (4) "Department" means the department of fish,
24 wildlife, and parks of the state of Montana.

25 (5) "Documented vessel" means a vessel which has and is

1 required to have a valid marine document as a vessel of the
2 United States.

3 (6) "Identifying number" means the boat number set
4 forth in the certificate of number and properly displayed on
5 the motorboat.

6 (7) "License decals" means the serially numbered
7 license stickers issued annually by the county treasurer and
8 displayed as required by law.

9 (8) "Lienholder" means a person holding a security
10 interest.

11 (9) "Manufacturer" means any person engaged in the
12 business of manufacturing or importing new and unused
13 vessels or new and unused outboard motors for the purpose of
14 sale or trade.

15 (10) "Motorboat" means any vessel, including a canoe,
16 kayak, personal watercraft, rubber raft, or pontoon,
17 propelled by any machinery, motor, or engine of any
18 description, whether or not such machinery, motor, or engine
19 is the principal source of propulsion. The term includes
20 boats temporarily equipped with detachable motors or engines
21 but does not include a vessel which has a valid marine
22 document issued by the U.S. coast guard of the United States
23 government or any federal agency successor thereto.

24 (11) "Operate" means to navigate or otherwise use a
25 motorboat or a vessel.

1 (12) "Operator" means the person who navigates, drives,
 2 or is otherwise in immediate control of a motorboat or
 3 vessel.

4 (13) "Owner" means a person, other than a lienholder,
 5 having the property in or title to a motorboat or vessel.
 6 The term includes a person entitled to the use or possession
 7 of a motorboat or vessel subject to an interest in another
 8 person, reserved or created by an agreement securing payment
 9 or performance of an obligation, but the term excludes a
 10 lessee under a lease not intended as security.

11 (14) "Passenger" means every person carried on board a
 12 vessel other than:

- 13 (a) the owner or his representative;
- 14 (b) the operator;
- 15 (c) bona fide members of the crew engaged in the
 16 business of the vessel who have contributed no consideration
 17 for their carriage and who are paid for their services; or
- 18 (d) any guest on board a vessel which is being used
 19 exclusively for pleasure purposes who has not contributed
 20 any consideration, directly or indirectly, for his carriage.

21 (15) "Person" means an individual, partnership, firm,
 22 corporation, association, or other entity.

23 (16) "Personal watercraft" means any a vessel 12-feet-in
 24 length-or-less that uses an internal-combustion-engine
 25 outboard motor or an inboard engine powering a water jet

1 pump as its primary source of propulsion and that is
 2 designed to be operated by a person ~~in-a~~ sitting, standing,
 3 or kneeling position on or-being--towed--behind the vessel
 4 RATHER THAN BY THE CONVENTIONAL METHOD OF SITTING OR
 5 STANDING IN THE VESSEL.

6 (17) "Security interest" means an interest that is
 7 reserved or created by an agreement that secures payment or
 8 performance of an obligation and is valid against third
 9 parties generally.

10 (18) "Uniform state waterway marking system" means one
 11 of two categories:

- 12 (a) a system of aids to navigation to supplement the
 13 federal system of marking in state waters;
- 14 (b) a system of regulatory markers to warn a vessel
 15 operator of dangers or to provide general information and
 16 directions.

17 (19) "Vessel" means every description of watercraft,
 18 unless otherwise defined by the department, other than a
 19 seaplane on the water, used or capable of being used as a
 20 means of transportation on water.

21 (20) "Waters of this state" means any waters within the
 22 territorial limits of this state."

23 **Section 2.** Section 23-2-521, MCA, is amended to read:

24 "23-2-521. **Equipment.** (1) Every motorboat or vessel
 25 ~~shall~~ must have aboard:

1 (a) one United States coast guard approved personal
2 flotation device in good and serviceable condition for each
3 person on board, provided that any a person who has not
4 reached his 12th birthday ~~shall~~ must have a United States
5 coast guard approved life preserver properly fastened to his
6 person when occupying a motorboat or vessel under 26 feet in
7 length while such the motorboat or vessel is in motion;

8 (b) if carrying or using any an inflammable or toxic
9 fluid in any an enclosure for any purpose and if the
10 motorboat or vessel is not an entirely open one, an
11 efficient natural or mechanical ventilation system
12 prescribed by the department ~~which-shall~~ that must be used
13 and be capable of removing resulting gases prior to and
14 during the time the motorboat or vessel is occupied by a
15 person;

16 (c) hand portable fire extinguishers approved by the
17 United States coast guard, the number of which is to be
18 determined by the department, or a United States coast guard
19 approved fixed fire extinguishing system, except that
20 motorboats less than 26 feet in length of entirely open
21 construction, propelled by outboard motors, and not carrying
22 passengers for hire need not carry such the portable fire
23 extinguishers or fire extinguishing systems.

24 (2) Every motorboat or vessel ~~shall~~ must have the
25 carburetor or carburetors of ~~every-engine-therein~~ each of

1 its engines (except outboard motors) using gasoline as fuel
2 equipped with an efficient flame arrester, backfire trap, or
3 other similar device.

4 (3) (a) Except as provided in subsection (3)(b), the
5 exhaust of every an internal combustion engine used on a
6 motorboat or vessel must be muffled either by discharge
7 underwater or by a functioning muffler capable of muffling
8 exhaust noise at ~~full--throttle~~ to 86 90 dbA or less when
9 measured at a distance of ~~50-feet~~ 1 meter from the muffler
10 at idle speed in accordance with the stationary sound level
11 measurement procedure for pleasure motorboats (SAE J2005)
12 and a person may not operate a motorboat or vessel in a
13 manner to exceed a sound level of 75 dbA when measured as
14 specified in the shoreline sound level measurement procedure
15 (SAE J1970). The muffler may not be modified or altered,
16 such as by a cutout. The department may require a test at
17 dockside to determine exhaust noise level.

18 (b) The provisions of subsection (3)(a) do not apply to
19 a motorboat:

20 (i) competing in a state-sanctioned regatta or boat
21 race while on trial runs between 9 a.m. and 5 p.m. and
22 during a period not more than 48 hours immediately preceding
23 the regatta or boat race; or

24 (ii) operating under a separate permit issued by the
25 department for the purpose of tuning engines, making test or

1 trial runs, or competing in official trials for speed
 2 records other than in connection with regattas or boat
 3 races; or

4 (iii) operated by an authorized agent of federal, state,
 5 or local government to carry out his duty of enforcement,
 6 search and rescue, firefighting, or research.

7 (4) (a) Except as provided in subsection (4)(b), no a
 8 vessel may not be equipped with a siren, and no a person may
 9 not use or install a siren on a vessel.

10 (b) An authorized emergency vessel may be equipped with
 11 a siren capable of sound audible under normal conditions
 12 from a distance of not less than 500 feet, but the siren may
 13 be used only when the vessel is operated in response to an
 14 emergency call or in the immediate pursuit of an actual or
 15 suspected violator of the law, and the operator of the
 16 vessel ~~shall~~ must sound the siren when necessary to warn
 17 persons of the vessel's approach.

18 (5) When in operation or at anchor or moored away from
 19 a docking facility between sunset and sunrise, all vessels
 20 ~~shall~~ must display lights as prescribed by the department.

21 (6) The department may designate waters where and the
 22 time of year on these waters when all persons aboard a
 23 motorboat or vessel must shall wear approved life preservers
 24 at all times.

25 (7) Vessels, including houseboats and floating cabins,

1 equipped with a galley or toilet ~~shall~~ must have a
 2 wastewater holding system sealed to prevent the discharge of
 3 water-carried waste products, whether treated or untreated,
 4 into the surrounding waters.

5 (8) The department may adopt rules modifying the
 6 equipment requirements contained in this section to the
 7 extent necessary to keep these requirements in conformity
 8 with the provisions of the federal navigation and safety
 9 laws or with the navigation and safety rules promulgated by
 10 the United States coast guard.

11 (9) A person may not operate or give permission for the
 12 operation of a vessel ~~which~~ that is not equipped as required
 13 by this section."

14 **Section 3.** Section 23-2-523, MCA, is amended to read:

15 "23-2-523. Prohibited operation and mooring --
 16 enforcement. (1) No A person may not operate or knowingly
 17 permit any a person to operate any a motorboat or vessel or
 18 manipulate any water skis, surfboard, or similar device or
 19 other contrivance in a reckless or negligent manner so as to
 20 endanger the life, limb, or property of any person by:

21 (a) engaging in maneuvers that unreasonably or
 22 unnecessarily endanger life, limb, or property, including
 23 but not limited to weaving through congested vessel traffic
 24 or jumping the wake of another vessel unreasonably or
 25 unnecessarily close to the other vessel or when visibility

1 around the other vessel is obstructed and including swerving
 2 at the last possible moment to avoid collision, FOLLOWING
 3 DIRECTLY BEHIND A WATERSKIERS, SPEEDING IN CONFINED OR
 4 RESTRICTED AREAS, AND BUZZING OR WETTING DOWN OTHERS, which
 5 constitutes reckless operation of a vessel;

6 (b) crossing or jumping the wake of another vessel when
 7 within 100 yards of the vessel or within 100 yards of a
 8 waterskier being towed by the vessel.

9 (2) No A person may not operate any motorboat,
 10 including a sailboat propelled by a motor of any kind, or
 11 manipulate any water skis, surfboard, or similar device
 12 attached to a motorboat while under the influence of alcohol
 13 or drugs.

14 (3) It is unlawful for the owner of any a motorboat or
 15 vessel or any a person having such the motorboat or vessel
 16 in charge or in control to authorize or knowingly permit the
 17 same to be operated by any a person who by reason of
 18 physical or mental disability is incapable of operating such
 19 the watercraft under the prevailing circumstances.

20 (4) No A person may not operate or knowingly permit any
 21 a person to operate any a motorboat or vessel at a rate of
 22 speed greater than will permit such the person, in the
 23 exercise of reasonable care, to bring the vessel to a stop
 24 within the assured clear distance ahead. However, nothing in
 25 this part is intended to prevent the operator of a vessel

1 actually competing in a regatta which that is sanctioned by
 2 an appropriate governmental unit from attempting to attain
 3 high speeds on a marked racing course.

4 (5) No A person may not make a reckless approach to,
 5 departure from, or passage by a dock, ramp, diving board, or
 6 float.

7 (6) Skiers being pulled by motorboats must have on
 8 their person a life--preserver, buoyant vest, or ski belt
 9 United States coast guard approved personal flotation device
 10 in good and serviceable condition.

11 (7) No A person may not moor a vessel to any--of--the
 12 buoys or beacons placed in any waters of this state by the
 13 authority of the United States, an agency of the United
 14 States, or the department or in any manner hang on with a
 15 vessel to such buoy or beacon, except in the act of
 16 maintenance work on such the buoy or beacon, nor may any
 17 person deface, remove, or destroy any--such a buoy, beacon,
 18 or other authorized navigational marker maintained in the
 19 waters of this state.

20 (8) If an officer whose duty it is to enforce the
 21 sections of this law observes a vessel being used without
 22 sufficient lifesaving or firefighting devices or in an
 23 overloaded or other unsafe condition and in his judgment
 24 such use creates an especially hazardous condition, he may
 25 direct the operator to take whatever immediate and

1 reasonable steps would be necessary for the safety of those
2 aboard the vessel, including directing the operator to
3 return to a mooring or launching site and to remain there
4 until the situation creating the hazard is corrected or
5 ended.

6 (9) A person may not operate a motorboat or personal
7 watercraft in proximity to the shoreline if the noise
8 emitted is greater than 75 dbA measured at the shoreline in
9 accordance with the shoreline sound level measurement
10 procedure (SAE J1970).

11 (10) Unless accompanied by a person 18 years of age or
12 older, a person under 12 years of age OR YOUNGER may not
13 operate a motorboat or a personal watercraft that is powered
14 by a motor rated at more than 10 horsepower. After December
15 31, 1993, a person under 15 years of age may not operate a
16 vessel or personal watercraft powered by a motor rated at
17 more than 10 horsepower without possessing a valid Montana
18 motorboat operator's safety certificate or evidence of
19 completion of a Montana-approved water safety course.

20 (11) A person who owns or has charge or control of a
21 motorboat or personal watercraft powered by a motor rated at
22 more than 10 horsepower may not authorize or knowingly
23 permit the motorboat or personal watercraft to be operated:

24 (a) by a person under 12 years of age OR YOUNGER unless
25 accompanied by a person 18 years of age or older; or

1 (b) after December 31, 1993, by a person under 15 years
2 of age unless the person possesses a valid Montana motorboat
3 operator's safety certificate or evidence of completion of a
4 Montana-approved water safety course or is accompanied by a
5 person 18 years of age or older.

6 (12) A person may not rent a motorboat or a personal
7 watercraft powered by a motor rated at more than 10
8 horsepower to a person under 18 years of age."

9 **Section 4.** Section 23-2-526, MCA, is amended to read:

10 **"23-2-526. Overloading -- overpowering -- noise**
11 **limitations. (1) No vessel shall be loaded with passengers**
12 **or cargo beyond its safe carrying capacity, taking into**
13 **consideration weather and other normal operating conditions.**

14 **(2) No vessel shall be equipped with any motor or other**
15 **propulsion machinery beyond its safe power capacity, taking**
16 **into consideration the type and construction of such**
17 **watercraft and other existing operating conditions.**

18 **(3) For the purposes of 45-8-101 and 45-8-111, the**
19 **operation of a motorboat or personal watercraft that emits**
20 **noise in excess of 86 75 dbA when measured at a distance--of**
21 **50-feet the shoreline in accordance with the shoreline sound**
22 **level measurement procedure (SAE J1970) or emits exhaust**
23 **noise in excess of 90 dbA measured 1 meter from the muffler**
24 **at idle speed in accordance with the stationary sound level**
25 **measurement procedure for pleasure motorboats (SAE J2005) is**

1 presumed to be a public nuisance and constitute disorderly
 2 conduct, except when otherwise lawfully operated under a
 3 motorboat racing permit issued by a political subdivision of
 4 the state."

5 **Section 5.** Section 23-2-529, MCA, is amended to read:

6 "23-2-529. **Water skis and surfboards.** (1) No A person
 7 may not operate a motorboat or vessel on any waters of this
 8 state for the purpose of towing a person or persons on water
 9 skis, a surfboard, or similar device unless the operator is
 10 at--least--12--years--of--age--and--there--is ACCOMPANIED BY AN
 11 OBSERVER. IF THE OPERATOR IS 12 YEARS OF AGE OR YOUNGER,
 12 THERE MUST BE a second person, at least 12 18 years of age,
 13 in the vessel to observe the person being towed. The
 14 observer--shall--continuously--observe--the--person--being--towed
 15 and--shall--display--a--flag--immediately--after--the--towed--person
 16 falls--into--the--water--and--during--the--entire--time--the--person
 17 is--in--the--water--preparatory--to--towing--The--flag--must--be
 18 daylight--fluorescent--orange--in--color,--in--good--and
 19 serviceable--condition,--and--no--less--than--12--inches--on--each
 20 side,--mounted--on--a--handle--and--visible--from--every--direction;
 21 THE FISH AND GAME COMMISSION SHALL ADOPT RULES REGARDING THE
 22 PROPER OBSERVATION AND SAFE TOWING OF PERSONS ON WATER SKIS
 23 OR SIMILAR DEVICES, BASED ON DENSITY OF USE OF A BODY OF
 24 WATER.

25 (2) No A person may not operate a motorboat or vessel

1 towing a person engage engaged in waterskiing, surfboarding,
 2 or similar activity or towing some other contrivances nor
 3 may a person engage in those activities at any time between
 4 the hours from 1-hour-after sunset to 1-hour-before sunrise,
 5 except that this subsection does not apply to a performer
 6 engaged in a professional exhibition or a person engaged in
 7 a regatta or race authorized under this part.

8 (3) All right-of-way rules applying to a towing vessel
 9 apply to a person being towed."

10 **Section 6.** Section 23-2-530, MCA, is amended to read:

11 "23-2-530. **Education program.** The department shall
 12 coordinate a statewide boat safety education program,
 13 including a home study testing program for motorboat
 14 operators."

15 NEW SECTION. **Section 7. Personal watercraft operation.**

16 In addition to all other applicable provisions in this part,
 17 a person may not operate a personal watercraft:

18 (1) unless each person operating or riding on the
 19 vessel is wearing a United States coast guard approved type
 20 I, II, III, or V personal flotation device;

21 (2) if the vessel is equipped by the manufacturer with
 22 a lanyard type engine cutoff switch unless the lanyard is
 23 attached to the operator's person, clothing, or personal
 24 flotation device as is appropriate for the specific vessel;
 25 or

1 (3) in a reckless or negligent manner. Actions
2 prohibited in 23-2-523 are considered reckless operation.

3 NEW SECTION. Section 8. Restrictions on manufacture
4 and sale. A motorboat or vessel that fails to comply with
5 the provisions of 23-2-521(3) may not be manufactured in
6 Montana after [the effective date of this act] and may not
7 be sold or offered for sale in Montana after January 1,
8 1994.

9 NEW SECTION. Section 9. Department of health and
10 environmental sciences to adopt rules on vessel pumpout
11 facilities. (1) The department of health and environmental
12 sciences shall adopt rules to ~~enable-counties-to~~ protect
13 water quality and aquatic ecosystems by establishing
14 guidelines for the installation of vessel pumpout
15 facilities.

16 (2) In adopting the rules, the department shall use
17 these definitions:

18 (a) "Vessel terminal" means a private or public
19 shoreside installation on any waters of Montana that
20 provides mooring, docking, berthing, and other facilities
21 for the use of vessels.

22 (b) "Marine sanitation device" means any equipment on
23 board a vessel that is designed to receive, retain, treat,
24 or discharge sewage, and any process to treat the sewage.

25 (3) The rules must include standards for the

1 construction, operation, and maintenance of vessel pumpout
2 facilities.

3 (4) NOTHING IN THIS SECTION MAY BE CONSTRUED TO REQUIRE
4 THE DEPARTMENT TO INSTALL PUMPOUT FACILITIES WITHOUT PRIOR
5 LEGISLATIVE APPROVAL AND AN APPROPRIATION.

6 SECTION 10. SECTION 23-2-512, MCA, IS AMENDED TO READ:

7 *23-2-512. Identification number. (1) The owner of each
8 motorboat, sailboat, or personal watercraft requiring
9 numbering by this state shall file an application for number
10 in the office of the county treasurer where the motorboat,
11 sailboat, or personal watercraft is owned, on forms prepared
12 and furnished by the department of justice. The application
13 must be signed by the owner of the motorboat, sailboat, or
14 personal watercraft and be accompanied by a fee of \$2 \$2.50.
15 Any alteration, change, or false statement contained in the
16 application will render the certificate of number void. Upon
17 receipt of the application in approved form, the county
18 treasurer shall issue to the applicant a certificate of
19 number prepared and furnished by the department of justice,
20 stating the number assigned to the motorboat, sailboat, or
21 personal watercraft and the name and address of the owner.

22 (2) The applicant, upon the filing of the application,
23 shall pay to the county treasurer the fee in lieu of tax
24 required for a motorboat 10 feet in length or longer, a
25 sailboat 12 feet in length or longer, or a personal

1 watercraft for the current year of certification before the
2 application for certification or recertification may be
3 accepted by the county treasurer.

4 (3) Should the ownership of a motorboat, sailboat, or
5 personal watercraft change, a new application form with the
6 certification fee must be filed within a reasonable time
7 with the county treasurer and a new certificate of number
8 assigned in the same manner as provided for in an original
9 assignment of number.

10 (4) If an agency of the United States government has in
11 force a comprehensive system of identification numbering for
12 motorboats in the United States, the numbering system
13 employed pursuant to this part by the department of justice
14 must be in conformity.

15 (5) Every certificate of number and the license decals
16 assigned under this part continues in effect for a period
17 not to exceed 1 year unless terminated or discontinued in
18 accordance with the provisions of this part. Certificates of
19 number and license decals must show the date of expiration
20 and may be renewed by the owner in the same manner provided
21 for in the initial securing of the certificate.

22 (6) Certificates of number expire on December 31 of
23 each year and may not be in effect unless renewed under this
24 part.

25 (7) In event of transfer of ownership, the purchaser

1 shall furnish the county treasurer notice within a
2 reasonable time of the acquisition of all or any part of his
3 interest, other than the creation of a security interest, in
4 a motorboat, sailboat, or personal watercraft numbered in
5 this state or of the loss, theft, destruction, or
6 abandonment of the motorboat, sailboat, or personal
7 watercraft. The transfer, loss, theft, destruction, or
8 abandonment terminates the certificate of number for the
9 motorboat, sailboat, or personal watercraft. Recovery from
10 theft or transfer of a part interest that does not affect
11 the owner's right to operate the motorboat, sailboat, or
12 personal watercraft does not terminate the certificate of
13 number.

14 (8) A holder of a certificate of number shall notify
15 the county treasurer within reasonable time if his address
16 no longer conforms to the address appearing on the
17 certificate and furnish the county treasurer with his new
18 address. The department of justice may provide by rule for
19 the surrender of the certificate bearing the former address
20 and its replacement with a certificate bearing the new
21 address or the alteration of an outstanding certificate to
22 show the new address of the holder.

23 (9) (a) The number assigned must be painted on or
24 attached to each outboard side of the forward half of the
25 motorboat, sailboat, or personal watercraft or, if there are

1 no such sides, at a corresponding location on both outboard
 2 sides of the foredeck of the motorboat, sailboat, or
 3 personal watercraft. The number assigned must read from left
 4 to right in Arabic numerals and block characters of good
 5 proportion at least 3 inches tall excluding border or trim
 6 of a color that contrasts with the color of the background
 7 and be so maintained as to be clearly visible and legible.
 8 The number may not be placed on the obscured underside of
 9 the flared bow where it cannot be easily seen from another
 10 vessel or ashore. No numerals, letters, or devices other
 11 than those used in connection with the identifying number
 12 issued may be placed in the proximity of the identifying
 13 number. No numerals, letters, or devices that might
 14 interfere with the ready identification of the motorboat,
 15 sailboat, or personal watercraft by its identifying number
 16 may be carried as to interfere with the motorboat's,
 17 sailboat's, or personal watercraft's identification. No
 18 number other than the number and license decal assigned to a
 19 motorboat, sailboat, or personal watercraft or granted
 20 reciprocity under this part may be painted, attached, or
 21 otherwise displayed on either side of the forward half of
 22 the motorboat, sailboat, or personal watercraft.

23 (b) The certificate of number shall be pocket size and
 24 available to federal, state, or local law enforcement
 25 officers at all reasonable times for inspection on the

1 motorboat, sailboat, or personal watercraft whenever the
 2 motorboat, sailboat, or personal watercraft is on waters of
 3 this state.

4 (c) Boat liveries are not required to have the
 5 certificate of number on board each motorboat, sailboat, or
 6 personal watercraft, but a rental agreement must be carried
 7 on board livery motorboats, sailboats, or personal
 8 watercraft in place of the certificate of number.

9 (10) Fees (a) Except as provided in subsection (10)(b),
 10 fees, other than the fee in lieu of tax, collected under
 11 this section shall be transmitted to the state treasurer,
 12 who shall deposit the fees in the motorboat or sailboat
 13 certificate identification account of the state special
 14 revenue fund. These fees shall be used only for the
 15 administration and enforcement of this part, as amended.

16 (b) Of the fee collected under the provisions of
 17 subsection (1), 20% must be deposited by the state treasurer
 18 in an account in the state special revenue fund to the
 19 credit of the department to be used to provide necessary
 20 education for boat owners and acquire decibel meters, as
 21 required to implement the provisions of 23-2-523(9) and
 22 23-2-526(3), and to acquire marine sewage pumpout equipment.

23 (11) An owner of a motorboat, sailboat, or personal
 24 watercraft must within a reasonable time notify the
 25 department of justice, giving the motorboat's, sailboat's,

1 or personal watercraft's identifying number and the owner's
 2 name when the motorboat, sailboat, or personal watercraft is
 3 transferred, lost, destroyed, abandoned, or frauded or
 4 within 60 days after change of state of principal use or if
 5 a motorboat becomes documented as a vessel of the United
 6 States."

7 NEW SECTION. SECTION 11. APPROPRIATION. ALL THE MONEY
 8 IN THE ACCOUNT ESTABLISHED IN 23-2-512(10)(B) IS
 9 APPROPRIATED TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS
 10 FOR USE DURING THE BIENNIUM ENDING JUNE 30, 1993, TO PROVIDE
 11 NECESSARY EDUCATION FOR BOAT OWNERS AND ACQUIRE DECIBEL
 12 METERS, AS REQUIRED TO IMPLEMENT THE PROVISIONS OF
 13 23-2-523(9) AND 23-2-526(3), AND TO ACQUIRE MARINE SEWAGE
 14 PUMPOUT EQUIPMENT.

15 NEW SECTION. Section 12. Codification instruction.
 16 [Sections 7, 8, and 9] are intended to be codified as an
 17 integral part of Title 23, chapter 2, part 5, and the
 18 provisions of Title 23, chapter 2, part 5, apply to
 19 [sections 7, 8, and 9].

20 NEW SECTION. SECTION 13. TERMINATION DATE. THE
 21 AMENDMENTS TO SECTION 23-2-512 PROVIDED IN [SECTION 10]
 22 TERMINATE JULY 1, 1993.

23 NEW SECTION. SECTION 14. EFFECTIVE DATES. (1)
 24 [SECTIONS 1 THROUGH 10, 12, 13, AND THIS SECTION] ARE
 25 EFFECTIVE ON PASSAGE AND APPROVAL.

1 (2) [SECTION 11] IS EFFECTIVE JULY 1, 1991.

-End-

1 HOUSE BILL NO. 833

2 INTRODUCED BY LEE, B. BROWN, KENNEDY, CONNELLY, MERCER,
3 MEASURE, DOWELL, HARDING, WANZENRIED, BOHARSKI

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO WATERCRAFT; REVISING THE LAWS ON MARINE
7 NOISE, SAFETY, AND SEWAGE REQUIREMENTS; INCREASING THE FEE
8 FOR A CERTIFICATE OF NUMBER; PROVIDING AN APPROPRIATION;
9 LIMITING WHO MAY OPERATE A WATERCRAFT; AUTHORIZING THE
10 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT
11 RULES ON VESSEL PUMPOUT STATIONS; AND AUTHORIZING THE FISH
12 AND GAME COMMISSION TO ADOPT RULES ON THE PROPER OBSERVATION
13 AND SAFE TOWING OF PERSONS ON WATER SKIS OR SIMILAR DEVICES
14 AND RULES REGARDING NOISE RESTRICTIONS APPLICABLE TO
15 MOTORBOATS OPERATED ON CERTAIN RIVERS AND STREAMS; AMENDING
16 SECTIONS 23-2-502, 23-2-512, 23-2-521, 23-2-523, 23-2-526,
17 23-2-529, AND 23-2-530, MCA; AND PROVIDING EFFECTIVE DATES
18 AND A TERMINATION DATE."

19 STATEMENT OF INTENT

20
21 (1) A statement of intent is required for this bill
22 because in [section 9] the department of health and
23 environmental sciences is authorized to adopt rules ~~allowing~~
24 ~~counties~~ to provide for the installation, location, and
25 operation of vessel pumpout stations. The legislature

1 intends that those rules regulate facilities to transfer and
2 dispose of sewage from marine sanitation devices, floating
3 restrooms, and onshore toilets, all of which must be
4 operated in a manner to prevent the discharge of sewage into
5 the waters of the state and maintained in good working order
6 and regularly cleaned. The rules may require a vessel
7 pumpout facility to be equipped with a meter to measure use
8 of the facility. ~~The rules must allow a county to designate~~
9 ~~which vessel terminal must install vessel pumpout~~
10 ~~facilities and must require a county to consider the number~~
11 ~~and type of vessels that use or are berthed at the vessel~~
12 ~~terminal and whether there are other pumpout stations that~~
13 ~~have a total capacity sufficient for and convenient and~~
14 ~~accessible to vessels that use or are berthed at the vessel~~
15 ~~terminal.~~

16 (2) A STATEMENT OF INTENT IS FURTHER REQUIRED BECAUSE
17 23-2-529 REQUIRES THE FISH AND GAME COMMISSION TO ADOPT
18 RULES REGARDING THE PROPER OBSERVATION AND SAFE TOWING OF
19 PERSONS ON WATER SKIS OR SIMILAR DEVICES. IT IS INTENDED
20 THAT THE COMMISSION'S DETERMINATION OF THE NECESSITY FOR
21 RULES BE BASED ON THE DENSITY OF USE OF A BODY OF WATER.
22 WHERE APPLICABLE, THE RULES SHOULD ADDRESS:

23 (A) THE PROPER AND CONTINUOUS OBSERVATION OF THE PERSON
24 BEING TOWED; AND

25 (B) DISPLAY OF A FLAG WHEN THE PERSON BEING TOWED FALLS

1 INTO THE WATER, INCLUDING THE SIZE, COLOR, CONDITION, AND
 2 MOUNTING OF THE FLAG AND THE LENGTH OF TIME THE FLAG SHOULD
 3 BE DISPLAYED.

4 (3) A STATEMENT OF INTENT IS FURTHER REQUIRED BECAUSE
 5 23-2-521(9) REQUIRES THE FISH AND GAME COMMISSION TO ADOPT
 6 RULES REGARDING NOISE RESTRICTIONS APPLICABLE TO MOTORBOATS
 7 OPERATED ON RIVERS OR STREAMS. THE LEGISLATURE RECOGNIZES
 8 THAT DECIBEL LEVELS ESTABLISHED IN THIS BILL FOR MOTORBOATS
 9 OPERATED ON OTHER WATERS OF THIS STATE MAY NOT BE
 10 APPROPRIATE WHEN APPLIED TO NARROW RIVERS OR STREAMS.
 11 THEREFORE, IT IS INTENDED THAT THE FISH AND GAME COMMISSION
 12 ADOPT RULES PROVIDING FOR:

13 (A) DESIGNATION OF RIVERS OR STREAMS 300 FEET WIDE OR
 14 LESS THAT ARE SUBJECT TO MOTORBOAT NOISE RESTRICTIONS; AND

15 (B) SETTING OF APPROPRIATE DECIBEL LEVELS, WHICH MAY BE
 16 MORE OR LESS STRICT THAN THE LEVELS ESTABLISHED IN 23-2-521,
 17 23-2-523, AND 23-2-526, FOR MOTORBOATS OPERATED ON
 18 DESIGNATED RIVERS OR STREAMS, BASED ON DENSITY OF USE OF THE
 19 RIVER OR STREAM AND THE PROXIMITY OF RESIDENCES ADJACENT TO
 20 THE DESIGNATED RIVER OR STREAM.

21
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 **Section 1.** Section 23-2-502, MCA, is amended to read:

24 **"23-2-502. Definitions.** As used in this part, unless
 25 the context clearly requires a different meaning, the

1 following definitions apply:

2 (1) "Certificate of number" means the certificate
 3 issued annually by the county treasurer to the owner of a
 4 motorboat or by the department of justice to dealers or
 5 manufacturers, assigning such motorboat an identifying
 6 number and containing such information as required.

7 (2) "Certificate of ownership" means a certificate
 8 issued by the department of justice identifying the owner of
 9 a motorboat or sailboat 12 feet in length or longer.

10 (3) "Dealer" means any person who engages in whole or
 11 in part in the business of buying, selling, or exchanging
 12 new and unused vessels or used vessels, or both, either
 13 outright or on conditional sale, bailment, lease, chattel
 14 mortgage, or otherwise, and who has an established place of
 15 business for sale, trade, and display of vessels. A yacht
 16 broker is a dealer.

17 (4) "Department" means the department of fish,
 18 wildlife, and parks of the state of Montana.

19 (5) "Documented vessel" means a vessel which has and is
 20 required to have a valid marine document as a vessel of the
 21 United States.

22 (6) "Identifying number" means the boat number set
 23 forth in the certificate of number and properly displayed on
 24 the motorboat.

25 (7) "License decals" means the serially numbered

1 license stickers issued annually by the county treasurer and
2 displayed as required by law.

3 (8) "Lienholder" means a person holding a security
4 interest.

5 (9) "Manufacturer" means any person engaged in the
6 business of manufacturing or importing new and unused
7 vessels or new and unused outboard motors for the purpose of
8 sale or trade.

9 (10) "Motorboat" means any vessel, including a canoe,
10 kayak, personal watercraft, rubber raft, or pontoon,
11 propelled by any machinery, motor, or engine of any
12 description, whether or not such machinery, motor, or engine
13 is the principal source of propulsion. The term includes
14 boats temporarily equipped with detachable motors or engines
15 but does not include a vessel which has a valid marine
16 document issued by the U.S. coast guard of the United States
17 government or any federal agency successor thereto.

18 (11) "Operate" means to navigate or otherwise use a
19 motorboat or a vessel.

20 (12) "Operator" means the person who navigates, drives,
21 or is otherwise in immediate control of a motorboat or
22 vessel.

23 (13) "Owner" means a person, other than a lienholder,
24 having the property in or title to a motorboat or vessel.
25 The term includes a person entitled to the use or possession

1 of a motorboat or vessel subject to an interest in another
2 person, reserved or created by an agreement securing payment
3 or performance of an obligation, but the term excludes a
4 lessee under a lease not intended as security.

5 (14) "Passenger" means every person carried on board a
6 vessel other than:

7 (a) the owner or his representative;

8 (b) the operator;

9 (c) bona fide members of the crew engaged in the
10 business of the vessel who have contributed no consideration
11 for their carriage and who are paid for their services; or

12 (d) any guest on board a vessel which is being used
13 exclusively for pleasure purposes who has not contributed
14 any consideration, directly or indirectly, for his carriage.

15 (15) "Person" means an individual, partnership, firm,
16 corporation, association, or other entity.

17 (16) "Personal watercraft" means any a vessel 12-feet-in
18 length--or--less that uses an internal-combustion-engine
19 outboard motor or an inboard engine powering a water jet
20 pump as its primary source of propulsion and that is
21 designed to be operated by a person in-a sitting, standing,
22 or kneeling position on or-being-towed-behind the vessel
23 RATHER THAN BY THE CONVENTIONAL METHOD OF SITTING OR
24 STANDING IN THE VESSEL.

25 (17) "Security interest" means an interest that is

1 reserved or created by an agreement that secures payment or
2 performance of an obligation and is valid against third
3 parties generally.

4 (18) "Uniform state waterway marking system" means one
5 of two categories:

6 (a) a system of aids to navigation to supplement the
7 federal system of marking in state waters;

8 (b) a system of regulatory markers to warn a vessel
9 operator of dangers or to provide general information and
10 directions.

11 (19) "Vessel" means every description of watercraft,
12 unless otherwise defined by the department, other than a
13 seaplane on the water, used or capable of being used as a
14 means of transportation on water.

15 (20) "Waters of this state" means any waters within the
16 territorial limits of this state."

17 **Section 2.** Section 23-2-521, MCA, is amended to read:

18 "23-2-521. **Equipment.** (1) Every motorboat or vessel
19 ~~shall~~ must have aboard:

20 (a) one United States coast guard approved personal
21 flotation device in good and serviceable condition for each
22 person on board, provided that any a person who has not
23 reached his 12th birthday ~~shall~~ must have a United States
24 coast guard approved life preserver properly fastened to his
25 person when occupying a motorboat or vessel under 26 feet in

1 length while such ~~the~~ motorboat or vessel is in motion;

2 (b) if carrying or using any ~~an~~ inflammable or toxic
3 fluid in any ~~an~~ enclosure for any purpose and if the
4 motorboat or vessel is not an entirely open one, an
5 efficient natural or mechanical ventilation system
6 prescribed by the department ~~which shall~~ that must be used
7 and be capable of removing resulting gases prior to and
8 during the time the motorboat or vessel is occupied by a
9 person;

10 (c) hand portable fire extinguishers approved by the
11 United States coast guard, the number of which is to be
12 determined by the department, or a United States coast guard
13 approved fixed fire extinguishing system, except that
14 motorboats less than 26 feet in length of entirely open
15 construction, propelled by outboard motors, and not carrying
16 passengers for hire need not carry such ~~the~~ portable fire
17 extinguishers or fire extinguishing systems.

18 (2) Every motorboat or vessel ~~shall~~ must have the
19 carburetor or carburetors of ~~every engine--therein~~ each of
20 its engines (except outboard motors) using gasoline as fuel
21 equipped with an efficient flame arrester, backfire trap, or
22 other similar device.

23 (3) (a) Except as provided in subsection (3)(b), the
24 exhaust of every ~~an~~ internal combustion engine used on a
25 motorboat or vessel must be muffled either by discharge

1 underwater or by a functioning muffler capable of muffling
 2 exhaust noise at full-throttle to ~~86~~ 90 dbA or less when
 3 measured at a distance of ~~50-feet~~ 1 meter from the muffler
 4 at idle speed in accordance with the stationary sound level
 5 measurement procedure for pleasure motorboats (SAE J2005)
 6 and a person may not operate a motorboat or vessel in a
 7 manner to exceed a sound level of 75 dbA when measured as
 8 specified in the shoreline sound level measurement procedure
 9 (SAE J1970). The muffler may not be modified or altered,
 10 such as by a cutout. The department may require a test at
 11 dockside to determine exhaust noise level.

12 (b) The provisions of subsection (3)(a) do not apply to
 13 a motorboat:

14 (i) competing in a state-sanctioned regatta or boat
 15 race while on trial runs between 9 a.m. and 5 p.m. and
 16 during a period not more than 48 hours immediately preceding
 17 the regatta or boat race; or

18 (ii) operating under a separate permit issued by the
 19 department for the purpose of tuning engines, making test or
 20 trial runs, or competing in official trials for speed
 21 records other than in connection with regattas or boat
 22 races; or

23 (iii) operated by an authorized agent of federal, state,
 24 or local government to carry out his duty of enforcement,
 25 search and rescue, firefighting, or research; OR

1 (IV) OPERATED ON A RIVER OR STREAM 300 FEET WIDE OR LESS
 2 AND SUBJECT TO FISH AND GAME COMMISSION RULE.

3 (4) (a) Except as provided in subsection (4)(b), no a
 4 vessel may not be equipped with a siren, and no a person may
 5 not use or install a siren on a vessel.

6 (b) An authorized emergency vessel may be equipped with
 7 a siren capable of sound audible under normal conditions
 8 from a distance of not less than 500 feet, but the siren may
 9 be used only when the vessel is operated in response to an
 10 emergency call or in the immediate pursuit of an actual or
 11 suspected violator of the law, and the operator of the
 12 vessel ~~shall~~ must sound the siren when necessary to warn
 13 persons of the vessel's approach.

14 (5) When in operation or at anchor or moored away from
 15 a docking facility between sunset and sunrise, all vessels
 16 ~~shall~~ must display lights as prescribed by the department.

17 (6) The department may designate waters where and the
 18 time of year on these waters when all persons aboard a
 19 motorboat or vessel must ~~shall~~ wear approved life preservers
 20 at all times.

21 (7) Vessels, including houseboats and floating cabins,
 22 equipped with a galley or toilet ~~shall~~ must have a
 23 wastewater holding system sealed to prevent the discharge of
 24 water-carried waste products, whether treated or untreated,
 25 into the surrounding waters.

1 (8) The department may adopt rules modifying the
2 equipment requirements contained in this section to the
3 extent necessary to keep these requirements in conformity
4 with the provisions of the federal navigation and safety
5 laws or with the navigation and safety rules promulgated by
6 the United States coast guard.

7 (9) THE FISH AND GAME COMMISSION SHALL ADOPT RULES
8 DESIGNATING RIVERS OR STREAMS 300 FEET WIDE OR LESS WHERE
9 MOTORBOAT NOISE REGULATIONS APPLY AND SET APPROPRIATE
10 DECIBEL LIMITS APPLICABLE TO THE OPERATION OF MOTORBOATS ON
11 THOSE DESIGNATED RIVERS OR STREAMS.

12 (10) A person may not operate or give permission for
13 the operation of a vessel which that is not equipped as
14 required by this section."

15 Section 3. Section 23-2-523, MCA, is amended to read:

16 "23-2-523. Prohibited operation and mooring --
17 enforcement. (1) No A person may not operate or knowingly
18 permit any a person to operate any a motorboat or vessel or
19 manipulate any water skis, surfboard, or similar device or
20 other contrivance in a reckless or negligent manner so as to
21 endanger the life, limb, or property of any person by:

22 (a) engaging in maneuvers that unreasonably or
23 unnecessarily endanger life, limb, or property, including
24 but not limited to weaving through congested vessel traffic
25 or jumping the wake of another vessel unreasonably or

1 unnecessarily close to the other vessel or when visibility
2 around the other vessel is obstructed and including swerving
3 at the last possible moment to avoid collision, FOLLOWING
4 DIRECTLY BEHIND A WATERSKIER, SPEEDING IN CONFINED OR
5 RESTRICTED AREAS, AND BUZZING OR WETTING DOWN OTHERS, which
6 constitutes reckless operation of a vessel;

7 (b) crossing or jumping the wake of another vessel when
8 within 100 yards of the vessel or within 100 yards of a
9 waterskier being towed by the vessel.

10 (2) No A person may not operate any motorboat,
11 including a sailboat propelled by a motor of any kind, or
12 manipulate any water skis, surfboard, or similar device
13 attached to a motorboat while under the influence of alcohol
14 or drugs.

15 (3) It is unlawful for the owner of any a motorboat or
16 vessel or any a person having such the motorboat or vessel
17 in charge or in control to authorize or knowingly permit the
18 same to be operated by any a person who by reason of
19 physical or mental disability is incapable of operating such
20 the watercraft under the prevailing circumstances.

21 (4) No A person may not operate or knowingly permit any
22 a person to operate any a motorboat or vessel at a rate of
23 speed greater than will permit such the person, in the
24 exercise of reasonable care, to bring the vessel to a stop
25 within the assured clear distance ahead. However, nothing in

1 this part is intended to prevent the operator of a vessel
2 actually competing in a regatta which that is sanctioned by
3 an appropriate governmental unit from attempting to attain
4 high speeds on a marked racing course.

5 (5) No A person may not make a reckless approach to,
6 departure from, or passage by a dock, ramp, diving board, or
7 float.

8 (6) Skiers being pulled by motorboats must have on
9 their person a ~~life-preserver, buoyant vest, or ski belt~~
10 United States coast guard approved personal flotation device
11 in good and serviceable condition.

12 (7) No A person may not moor a vessel to ~~any of the~~
13 buoys or beacons placed in any waters of this state by the
14 authority of the United States, an agency of the United
15 States, or the department or in any manner hang on with a
16 vessel to such buoy or beacon, except in the act of
17 maintenance work on such the buoy or beacon, nor may any
18 person deface, remove, or destroy ~~any such a~~ buoy, beacon,
19 or other authorized navigational marker maintained in the
20 waters of this state.

21 (8) If an officer whose duty it is to enforce the
22 sections of this law observes a vessel being used without
23 sufficient lifesaving or firefighting devices or in an
24 overloaded or other unsafe condition and in his judgment
25 such use creates an especially hazardous condition, he may

1 direct the operator to take whatever immediate and
2 reasonable steps would be necessary for the safety of those
3 aboard the vessel, including directing the operator to
4 return to a mooring or launching site and to remain there
5 until the situation creating the hazard is corrected or
6 ended.

7 (9) A UNLESS OPERATED ON A RIVER OR STREAM IN
8 COMPLIANCE WITH A COMMISSION RULE ADOPTED UNDER 23-2-521(9),
9 A person may not operate a motorboat or personal watercraft
10 in proximity to the shoreline if the noise emitted is
11 greater than 75 dbA measured at the shoreline in accordance
12 with the shoreline sound level measurement procedure (SAE
13 J1970).

14 (10) Unless accompanied by a person 18 years of age or
15 older, a person under 12 years of age OR YOUNGER may not
16 operate a motorboat or a personal watercraft that is powered
17 by a motor rated at more than 10 horsepower. After December
18 31, 1993, a person under 15 years of age may not operate a
19 vessel or personal watercraft powered by a motor rated at
20 more than 10 horsepower without possessing a valid Montana
21 motorboat operator's safety certificate or evidence of
22 completion of a Montana-approved water safety course.

23 (11) A person who owns or has charge or control of a
24 motorboat or personal watercraft powered by a motor rated at
25 more than 10 horsepower may not authorize or knowingly

1 permit the motorboat or personal watercraft to be operated:

2 (a) by a person under 12 years of age OR YOUNGER unless
3 accompanied by a person 18 years of age or older; or

4 (b) after December 31, 1993, by a person under 15 years
5 of age unless the person possesses a valid Montana motorboat
6 operator's safety certificate or evidence of completion of a
7 Montana-approved water safety course or is accompanied by a
8 person 18 years of age or older.

9 (12) A person may not rent a motorboat or a personal
10 watercraft powered by a motor rated at more than 10
11 horsepower to a person under 18 years of age."

12 **Section 4.** Section 23-2-526, MCA, is amended to read:

13 **"23-2-526. Overloading -- overpowering -- noise**
14 **limitations.** (1) No vessel shall be loaded with passengers
15 or cargo beyond its safe carrying capacity, taking into
16 consideration weather and other normal operating conditions.

17 (2) No vessel shall be equipped with any motor or other
18 propulsion machinery beyond its safe power capacity, taking
19 into consideration the type and construction of such
20 watercraft and other existing operating conditions.

21 (3) For the purposes of 45-8-101 and 45-8-111, the
22 operation of a motorboat or personal watercraft that emits
23 noise in excess of 86 75 dbA when measured at a distance--of
24 50-feet the shoreline in accordance with the shoreline sound
25 level measurement procedure (SAE J1970) or emits exhaust

1 noise in excess of 90 dbA measured 1 meter from the muffler
2 at idle speed in accordance with the stationary sound level
3 measurement procedure for pleasure motorboats (SAE J2005) is
4 presumed to be a public nuisance and constitute disorderly
5 conduct, except when otherwise lawfully operated under a
6 motorboat racing permit issued by a political subdivision of
7 the state OR WHEN OPERATED ON A RIVER OR STREAM IN
8 COMPLIANCE WITH A COMMISSION RULE ADOPTED UNDER
9 23-2-521(9)."

10 **Section 5.** Section 23-2-529, MCA, is amended to read:

11 **"23-2-529. Water skis and surfboards.** (1) No A person
12 may not operate a motorboat or vessel on any waters of this
13 state for the purpose of towing a person or persons on water
14 skis, a surfboard, or similar device unless the operator is
15 at-least-12-years-of-age-and--there--is ACCOMPANIED BY AN
16 OBSERVER. IF THE OPERATOR IS 12 YEARS OF AGE OR YOUNGER,
17 THERE MUST BE a second person, at least 12 18 years of age,
18 in the vessel to observe the person being towed. ~~The~~
19 ~~observer shall continuously observe the person being towed~~
20 ~~and shall display a flag immediately after the towed person~~
21 ~~falls into the water and during the entire time the person~~
22 ~~is in the water preparatory to towing. The flag must be~~
23 ~~daylight fluorescent orange in color, in good and~~
24 ~~serviceable condition and no less than 12 inches on each~~
25 ~~side, mounted on a handle and visible from every direction.~~

1 THE FISH AND GAME COMMISSION SHALL ADOPT RULES REGARDING THE
 2 PROPER OBSERVATION AND SAFE TOWING OF PERSONS ON WATER SKIS
 3 OR SIMILAR DEVICES, BASED ON DENSITY OF USE OF A BODY OF
 4 WATER.

5 (2) No A person may not operate a motorboat or vessel
 6 towing a person engage engaged in waterskiing, surfboarding,
 7 or similar activity or towing some other contrivances nor
 8 may a person engage in those activities at any time between
 9 the hours from 1-hour-after sunset to 1-hour-before sunrise,
 10 except that this subsection does not apply to a performer
 11 engaged in a professional exhibition or a person engaged in
 12 a regatta or race authorized under this part.

13 (3) All right-of-way rules applying to a towing vessel
 14 apply to a person being towed."

15 **Section 6.** Section 23-2-530, MCA, is amended to read:

16 "23-2-530. Education program. The department shall
 17 coordinate a statewide boat safety education program,
 18 including a home study testing program for motorboat
 19 operators."

20 **NEW SECTION. Section 7. Personal watercraft operation.**

21 In addition to all other applicable provisions in this part,
 22 a person may not operate a personal watercraft:

23 (1) unless each person operating or riding on the
 24 vessel is wearing a United States coast guard approved type
 25 I, II, III, or V personal flotation device;

1 (2) if the vessel is equipped by the manufacturer with
 2 a lanyard type engine cutoff switch unless the lanyard is
 3 attached to the operator's person, clothing, or personal
 4 flotation device as is appropriate for the specific vessel;
 5 or

6 (3) in a reckless or negligent manner. Actions
 7 prohibited in 23-2-523 are considered reckless operation.

8 **NEW SECTION. Section 8. Restrictions on manufacture**
 9 **and sale.** A motorboat or vessel that fails to comply with
 10 the provisions of 23-2-521(3) may not be manufactured in
 11 Montana after [the effective date of this act] and may not
 12 be sold or offered for sale in Montana after January 1,
 13 1994.

14 **NEW SECTION. Section 9. Department of health and**
 15 **environmental sciences to adopt rules on vessel pumpout**
 16 **facilities.** (1) The department of health and environmental
 17 sciences shall adopt rules to ~~enable--counties--to~~ protect
 18 water quality and aquatic ecosystems by establishing
 19 guidelines for the installation of vessel pumpout
 20 facilities.

21 (2) In adopting the rules, the department shall use
 22 these definitions:

23 (a) "Vessel terminal" means a private or public
 24 shoreside installation on any waters of Montana that
 25 provides mooring, docking, berthing, and other facilities

1 for the use of vessels.

2 (b) "Marine sanitation device" means any equipment on
3 board a vessel that is designed to receive, retain, treat,
4 or discharge sewage, and any process to treat the sewage.

5 (3) The rules must include standards for the
6 construction, operation, and maintenance of vessel pumpout
7 facilities.

8 (4) NOTHING IN THIS SECTION MAY BE CONSTRUED TO REQUIRE
9 THE DEPARTMENT TO INSTALL PUMPOUT FACILITIES WITHOUT PRIOR
10 LEGISLATIVE APPROVAL AND AN APPROPRIATION.

11 **SECTION 10.** SECTION 23-2-512, MCA, IS AMENDED TO READ:

12 *23-2-512. Identification number. (1) The owner of each
13 motorboat, sailboat, or personal watercraft requiring
14 numbering by this state shall file an application for number
15 in the office of the county treasurer where the motorboat,
16 sailboat, or personal watercraft is owned, on forms prepared
17 and furnished by the department of justice. The application
18 must be signed by the owner of the motorboat, sailboat, or
19 personal watercraft and be accompanied by a fee of ~~\$\$~~ \$2.50.
20 Any alteration, change, or false statement contained in the
21 application will render the certificate of number void. Upon
22 receipt of the application in approved form, the county
23 treasurer shall issue to the applicant a certificate of
24 number prepared and furnished by the department of justice,
25 stating the number assigned to the motorboat, sailboat, or

1 personal watercraft and the name and address of the owner.

2 (2) The applicant, upon the filing of the application,
3 shall pay to the county treasurer the fee in lieu of tax
4 required for a motorboat 10 feet in length or longer, a
5 sailboat 12 feet in length or longer, or a personal
6 watercraft for the current year of certification before the
7 application for certification or recertification may be
8 accepted by the county treasurer.

9 (3) Should the ownership of a motorboat, sailboat, or
10 personal watercraft change, a new application form with the
11 certification fee must be filed within a reasonable time
12 with the county treasurer and a new certificate of number
13 assigned in the same manner as provided for in an original
14 assignment of number.

15 (4) If an agency of the United States government has in
16 force a comprehensive system of identification numbering for
17 motorboats in the United States, the numbering system
18 employed pursuant to this part by the department of justice
19 must be in conformity.

20 (5) Every certificate of number and the license decals
21 assigned under this part continues in effect for a period
22 not to exceed 1 year unless terminated or discontinued in
23 accordance with the provisions of this part. Certificates of
24 number and license decals must show the date of expiration
25 and may be renewed by the owner in the same manner provided

1 for in the initial securing of the certificate.

2 (6) Certificates of number expire on December 31 of
 3 each year and may not be in effect unless renewed under this
 4 part.

5 (7) In event of transfer of ownership, the purchaser
 6 shall furnish the county treasurer notice within a
 7 reasonable time of the acquisition of all or any part of his
 8 interest, other than the creation of a security interest, in
 9 a motorboat, sailboat, or personal watercraft numbered in
 10 this state or of the loss, theft, destruction, or
 11 abandonment of the motorboat, sailboat, or personal
 12 watercraft. The transfer, loss, theft, destruction, or
 13 abandonment terminates the certificate of number for the
 14 motorboat, sailboat, or personal watercraft. Recovery from
 15 theft or transfer of a part interest that does not affect
 16 the owner's right to operate the motorboat, sailboat, or
 17 personal watercraft does not terminate the certificate of
 18 number.

19 (8) A holder of a certificate of number shall notify
 20 the county treasurer within reasonable time if his address
 21 no longer conforms to the address appearing on the
 22 certificate and furnish the county treasurer with his new
 23 address. The department of justice may provide by rule for
 24 the surrender of the certificate bearing the former address
 25 and its replacement with a certificate bearing the new

1 address or the alteration of an outstanding certificate to
 2 show the new address of the holder.

3 (9) (a) The number assigned must be painted on or
 4 attached to each outboard side of the forward half of the
 5 motorboat, sailboat, or personal watercraft or, if there are
 6 no such sides, at a corresponding location on both outboard
 7 sides of the foredeck of the motorboat, sailboat, or
 8 personal watercraft. The number assigned must read from left
 9 to right in Arabic numerals and block characters of good
 10 proportion at least 3 inches tall excluding border or trim
 11 of a color that contrasts with the color of the background
 12 and be so maintained as to be clearly visible and legible.
 13 The number may not be placed on the obscured underside of
 14 the flared bow where it cannot be easily seen from another
 15 vessel or ashore. No numerals, letters, or devices other
 16 than those used in connection with the identifying number
 17 issued may be placed in the proximity of the identifying
 18 number. No numerals, letters, or devices that might
 19 interfere with the ready identification of the motorboat,
 20 sailboat, or personal watercraft by its identifying number
 21 may be carried as to interfere with the motorboat's,
 22 sailboat's, or personal watercraft's identification. No
 23 number other than the number and license decal assigned to a
 24 motorboat, sailboat, or personal watercraft or granted
 25 reciprocity under this part may be painted, attached, or

1 otherwise displayed on either side of the forward half of
2 the motorboat, sailboat, or personal watercraft.

3 (b) The certificate of number shall be pocket size and
4 available to federal, state, or local law enforcement
5 officers at all reasonable times for inspection on the
6 motorboat, sailboat, or personal watercraft whenever the
7 motorboat, sailboat, or personal watercraft is on waters of
8 this state.

9 (c) Boat liveries are not required to have the
10 certificate of number on board each motorboat, sailboat, or
11 personal watercraft, but a rental agreement must be carried
12 on board livery motorboats, sailboats, or personal
13 watercraft in place of the certificate of number.

14 (10) Fees (a) Except as provided in subsection (10)(b),
15 fees, other than the fee in lieu of tax, collected under
16 this section shall be transmitted to the state treasurer,
17 who shall deposit the fees in the motorboat or sailboat
18 certificate identification account of the state special
19 revenue fund. These fees shall be used only for the
20 administration and enforcement of this part, as amended.

21 (b) Of the fee collected under the provisions of
22 subsection (1), 20% must be deposited by the state treasurer
23 in an account in the state special revenue fund to the
24 credit of the department to be used to provide necessary
25 education for boat owners and acquire decibel meters, as

1 required to implement the provisions of 23-2-523(9) and
2 23-2-526(3), and to acquire marine sewage pumpout equipment.

3 (11) An owner of a motorboat, sailboat, or personal
4 watercraft must within a reasonable time notify the
5 department of justice, giving the motorboat's, sailboat's,
6 or personal watercraft's identifying number and the owner's
7 name when the motorboat, sailboat, or personal watercraft is
8 transferred, lost, destroyed, abandoned, or frauded or
9 within 60 days after change of state of principal use or if
10 a motorboat becomes documented as a vessel of the United
11 States."

12 NEW SECTION. SECTION 11. APPROPRIATION. ALL THE MONEY
13 IN THE ACCOUNT ESTABLISHED IN 23-2-512(10)(B) IS
14 APPROPRIATED TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS
15 FOR USE DURING THE BIENNIUM ENDING JUNE 30, 1993, TO PROVIDE
16 NECESSARY EDUCATION FOR BOAT OWNERS AND ACQUIRE DECIBEL
17 METERS, AS REQUIRED TO IMPLEMENT THE PROVISIONS OF
18 23-2-523(9) AND 23-2-526(3), AND TO ACQUIRE MARINE SEWAGE
19 PUMPOUT EQUIPMENT.

20 NEW SECTION. Section 12. Codification instruction.
21 [Sections 7, 8, and 9] are intended to be codified as an
22 integral part of Title 23, chapter 2, part 5, and the
23 provisions of Title 23, chapter 2, part 5, apply to
24 [sections 7, 8, and 9].

25 NEW SECTION. SECTION 13. TERMINATION DATE. THE

1 AMENDMENTS TO SECTION 23-2-512 PROVIDED IN [SECTION 10]
2 TERMINATE JULY 1, 1993.

3 NEW SECTION. SECTION 14. EFFECTIVE DATES. (1)
4 [SECTIONS 1 THROUGH 10, 12, 13, AND THIS SECTION] ARE
5 EFFECTIVE ON PASSAGE AND APPROVAL.

6 (2) [SECTION 11] IS EFFECTIVE JULY 1, 1991.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 27, 1991

Page 2 of 2
March 27, 1991

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 833 (third reading copy -- blue), respectfully report that House Bill No. 833 be amended and as so amended be concurred in:

1. Page 1, lines 14 and 15.
Strike: "AND RULES" on line 14 through "STREAMS" on line 15
2. Page 3, lines 4 through 20.
Strike: subsection (3) of the Statement of Intent in its entirety
Insert: "(3) It is the intent of the legislature that the department of fish, wildlife, and parks evaluate and report to the 53rd legislature on the effect of 23-2-523(9)."
3. Page 9, lines 6 through 9.
Strike: "and a" on line 6 through "(SAE J1970)" on line 9
4. Page 9, line 22.
Following: "or"
Insert: "or"
5. Page 9, line 25 through page 10, line 2.
Strike: "; OR" on page 9, line 25 through "RULE" on page 10, line 2
6. Page 11, lines 7 through 11.
Strike: subsection (9) in its entirety
Renumber: subsequent subsection
7. Page 12, line 9.
Following: "vessel"
Insert: ", except when directly entering or leaving a public or private marina, waterski facility, or other watercraft docking or loading area"
8. Page 14, line 9.
Following: "watercraft"
Insert: "on Flathead Lake, situated in Lake and Flathead Counties, Echo Lake, situated in Flathead County, or Seeley Lake, situated in Missoula County,"

9. Page 15, line 21.
Strike: "For"
Insert: "Except as provided in 23-2-523(9), for"

10. Page 15, line 23.
Strike: "75"
Insert: "86"

11. Page 15, lines 24 and 25.
Strike: "the shoreline" on line 24 through "(SAE J1970)" on line 25
Insert: "a distance of 50 feet"

12. Page 16, lines 7 through 9.
Strike: "OR" on line 7 through "23-2-521(9)" on line 9

Signed: 
Bob Williams, Chairman

Jan 3-27-91
And. Coord.
SB 3-27 10:40
Sec. of Senate

HOUSE BILL NO. 833

INTRODUCED BY LEE, B. BROWN, KENNEDY, CONNELLY, MERCER,
MEASURE, DOWELL, HARDING, WANZENRIED, BOHARSKI

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO WATERCRAFT; REVISING THE LAWS ON MARINE NOISE, SAFETY, AND SEWAGE REQUIREMENTS; INCREASING THE FEE FOR A CERTIFICATE OF NUMBER; PROVIDING AN APPROPRIATION; LIMITING WHO MAY OPERATE A WATERCRAFT; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT RULES ON VESSEL PUMPOUT STATIONS; AND AUTHORIZING THE FISH AND GAME COMMISSION TO ADOPT RULES ON THE PROPER OBSERVATION AND SAFE TOWING OF PERSONS ON WATER SKIS OR SIMILAR DEVICES AND---RULES---REGARDING---NOISE---RESTRICTIONS---APPLICABLE---TO MOTORBOATS OPERATED ON CERTAIN RIVERS AND STREAMS; AMENDING SECTIONS 23-2-502, 23-2-512, 23-2-521, 23-2-523, 23-2-526, 23-2-529, AND 23-2-530, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

STATEMENT OF INTENT

(1) A statement of intent is required for this bill because in [section 9] the department of health and environmental sciences is authorized to adopt rules allowing counties to provide for the installation, location, and operation of vessel pumpout stations. The legislature

intends that those rules regulate facilities to transfer and dispose of sewage from marine sanitation devices, floating restrooms, and onshore toilets, all of which must be operated in a manner to prevent the discharge of sewage into the waters of the state and maintained in good working order and regularly cleaned. The rules may require a vessel pumpout facility to be equipped with a meter to measure use of the facility. ~~The rules must allow a county to designate which vessel terminals must install vessel pumpout facilities and must require a county to consider the number and type of vessels that use or are berthed at the vessel terminal and whether there are other pumpout stations that have a total capacity sufficient for and convenient and accessible to vessels that use or are berthed at the vessel terminal.~~

(2) A STATEMENT OF INTENT IS FURTHER REQUIRED BECAUSE 23-2-529 REQUIRES THE FISH AND GAME COMMISSION TO ADOPT RULES REGARDING THE PROPER OBSERVATION AND SAFE TOWING OF PERSONS ON WATER SKIS OR SIMILAR DEVICES. IT IS INTENDED THAT THE COMMISSION'S DETERMINATION OF THE NECESSITY FOR RULES BE BASED ON THE DENSITY OF USE OF A BODY OF WATER. WHERE APPLICABLE, THE RULES SHOULD ADDRESS:

(A) THE PROPER AND CONTINUOUS OBSERVATION OF THE PERSON BEING TOWED; AND

(B) DISPLAY OF A FLAG WHEN THE PERSON BEING TOWED FALLS



1 INTO THE WATER, INCLUDING THE SIZE, COLOR, CONDITION, AND
2 MOUNTING OF THE FLAG AND THE LENGTH OF TIME THE FLAG SHOULD
3 BE DISPLAYED.

4 (3)--A--STATEMENT--OF--INTENT--IS--FURTHER--REQUIRED--BECAUSE
5 23-2-521(9)--REQUIRES--THE--FISH--AND--GAME--COMMISSION--TO--ADOPT
6 RULES--REGARDING--NOISE--RESTRICTIONS--APPLICABLE--TO--MOTORBOATS
7 OPERATED--ON--RIVERS--OR--STREAMS,--THE--LEGISLATURE--RECOGNIZES
8 THAT--DECIBEL--LEVELS--ESTABLISHED--IN--THIS--BILL--FOR--MOTORBOATS
9 OPERATED--ON--OTHER--WATERS--OF--THIS--STATE--MAY--NOT--BE
10 APPROPRIATE--WHEN--APPLIED--TO--NARROW--RIVERS--OR--STREAMS.
11 THEREFORE,--IT--IS--INTENDED--THAT--THE--FISH--AND--GAME--COMMISSION
12 ADOPT--RULES--PROVIDING--FOR:

13 (A)--DESIGNATION--OF--RIVERS--OR--STREAMS--300--FEET--WIDE--OR
14 LESS--THAT--ARE--SUBJECT--TO--MOTORBOAT--NOISE--RESTRICTIONS,--AND

15 (B)--SETTING--OF--APPROPRIATE--DECIBEL--LEVELS,--WHICH--MAY--BE
16 MORE--OR--LESS--STRICT--THAN--THE--LEVELS--ESTABLISHED--IN--23-2-521,
17 23-2-523,--AND--23-2-526,--FOR--MOTORBOATS--OPERATED--ON
18 DESIGNATED--RIVERS--OR--STREAMS,--BASED--ON--DENSITY--OF--USE--OF--THE
19 RIVER--OR--STREAM--AND--THE--PROXIMITY--OF--RESIDENCES--ADJACENT--TO
20 THE--DESIGNATED--RIVER--OR--STREAM.

21 (3) IT IS THE INTENT OF THE LEGISLATURE THAT THE
22 DEPARTMENT OF FISH, WILDLIFE, AND PARKS EVALUATE AND REPORT
23 TO THE 53RD LEGISLATURE ON THE EFFECT OF 23-2-523(9).

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 **Section 1.** Section 23-2-502, MCA, is amended to read:

2 **"23-2-502. Definitions.** As used in this part, unless
3 the context clearly requires a different meaning, the
4 following definitions apply:

5 (1) "Certificate of number" means the certificate
6 issued annually by the county treasurer to the owner of a
7 motorboat or by the department of justice to dealers or
8 manufacturers, assigning such motorboat an identifying
9 number and containing such information as required.

10 (2) "Certificate of ownership" means a certificate
11 issued by the department of justice identifying the owner of
12 a motorboat or sailboat 12 feet in length or longer.

13 (3) "Dealer" means any person who engages in whole or
14 in part in the business of buying, selling, or exchanging
15 new and unused vessels or used vessels, or both, either
16 outright or on conditional sale, bailment, lease, chattel
17 mortgage, or otherwise, and who has an established place of
18 business for sale, trade, and display of vessels. A yacht
19 broker is a dealer.

20 (4) "Department" means the department of fish,
21 wildlife, and parks of the state of Montana.

22 (5) "Documented vessel" means a vessel which has and is
23 required to have a valid marine document as a vessel of the
24 United States.

25 (6) "Identifying number" means the boat number set

1 forth in the certificate of number and properly displayed on
2 the motorboat.

3 (7) "License decals" means the serially numbered
4 license stickers issued annually by the county treasurer and
5 displayed as required by law.

6 (8) "Lienholder" means a person holding a security
7 interest.

8 (9) "Manufacturer" means any person engaged in the
9 business of manufacturing or importing new and unused
10 vessels or new and unused outboard motors for the purpose of
11 sale or trade.

12 (10) "Motorboat" means any vessel, including a canoe,
13 kayak, personal watercraft, rubber raft, or pontoon,
14 propelled by any machinery, motor, or engine of any
15 description, whether or not such machinery, motor, or engine
16 is the principal source of propulsion. The term includes
17 boats temporarily equipped with detachable motors or engines
18 but does not include a vessel which has a valid marine
19 document issued by the U.S. coast guard of the United States
20 government or any federal agency successor thereto.

21 (11) "Operate" means to navigate or otherwise use a
22 motorboat or a vessel.

23 (12) "Operator" means the person who navigates, drives,
24 or is otherwise in immediate control of a motorboat or
25 vessel.

1 (13) "Owner" means a person, other than a lienholder,
2 having the property in or title to a motorboat or vessel.
3 The term includes a person entitled to the use or possession
4 of a motorboat or vessel subject to an interest in another
5 person, reserved or created by an agreement securing payment
6 or performance of an obligation, but the term excludes a
7 lessee under a lease not intended as security.

8 (14) "Passenger" means every person carried on board a
9 vessel other than:

10 (a) the owner or his representative;

11 (b) the operator;

12 (c) bona fide members of the crew engaged in the
13 business of the vessel who have contributed no consideration
14 for their carriage and who are paid for their services; or

15 (d) any guest on board a vessel which is being used
16 exclusively for pleasure purposes who has not contributed
17 any consideration, directly or indirectly, for his carriage.

18 (15) "Person" means an individual, partnership, firm,
19 corporation, association, or other entity.

20 (16) "Personal watercraft" means any a vessel 12-feet-in
21 length--or--less that uses an internal-combustion-engine
22 outboard motor or an inboard engine powering a water jet
23 pump as its primary source of propulsion and that is
24 designed to be operated by a person ~~in-a~~ sitting, standing,
25 or kneeling position on or-being-towed-behind the vessel

1 RATHER THAN BY THE CONVENTIONAL METHOD OF SITTING OR
 2 STANDING IN THE VESSEL.

3 (17) "Security interest" means an interest that is
 4 reserved or created by an agreement that secures payment or
 5 performance of an obligation and is valid against third
 6 parties generally.

7 (18) "Uniform state waterway marking system" means one
 8 of two categories:

9 (a) a system of aids to navigation to supplement the
 10 federal system of marking in state waters;

11 (b) a system of regulatory markers to warn a vessel
 12 operator of dangers or to provide general information and
 13 directions.

14 (19) "Vessel" means every description of watercraft,
 15 unless otherwise defined by the department, other than a
 16 seaplane on the water, used or capable of being used as a
 17 means of transportation on water.

18 (20) "Waters of this state" means any waters within the
 19 territorial limits of this state."

20 **Section 2.** Section 23-2-521, MCA, is amended to read:

21 "23-2-521. **Equipment.** (1) Every motorboat or vessel
 22 shall must have aboard:

23 (a) one United States coast guard approved personal
 24 flotation device in good and serviceable condition for each
 25 person on board, provided that any a person who has not

1 reached his 12th birthday shall must have a United States
 2 coast guard approved life preserver properly fastened to his
 3 person when occupying a motorboat or vessel under 26 feet in
 4 length while such the motorboat or vessel is in motion;

5 (b) if carrying or using any an inflammable or toxic
 6 fluid in any an enclosure for any purpose and if the
 7 motorboat or vessel is not an entirely open one, an
 8 efficient natural or mechanical ventilation system
 9 prescribed by the department ~~which shall~~ that must be used
 10 and be capable of removing resulting gases prior to and
 11 during the time the motorboat or vessel is occupied by a
 12 person;

13 (c) hand portable fire extinguishers approved by the
 14 United States coast guard, the number of which is to be
 15 determined by the department, or a United States coast guard
 16 approved fixed fire extinguishing system, except that
 17 motorboats less than 26 feet in length of entirely open
 18 construction, propelled by outboard motors, and not carrying
 19 passengers for hire need not carry such the portable fire
 20 extinguishers or fire extinguishing systems.

21 (2) Every motorboat or vessel shall must have the
 22 carburetor or carburetors of ~~every-engine--therein~~ each of
 23 its engines (except outboard motors) using gasoline as fuel
 24 equipped with an efficient flame arrester, backfire trap, or
 25 other similar device.

1 (3) (a) Except as provided in subsection (3)(b), the
 2 exhaust of every an internal combustion engine used on a
 3 motorboat or vessel must be muffled either by discharge
 4 underwater or by a functioning muffler capable of muffling
 5 exhaust noise at full-throttle to 86 90 dbA or less when
 6 measured at a distance of 50-feet 1 meter from the muffler
 7 at idle speed in accordance with the stationary sound level
 8 measurement procedure for pleasure motorboats (SAE J2005)
 9 and a person may not operate a motorboat or vessel in a
 10 manner to exceed a sound level of 75 dbA when measured as
 11 specified in the shoreline sound level measurement procedure
 12 (SAE J1978). The muffler may not be modified or altered,
 13 such as by a cutout. The department may require a test at
 14 dockside to determine exhaust noise level.

15 (b) The provisions of subsection (3)(a) do not apply to
 16 a motorboat:

17 (i) competing in a state-sanctioned regatta or boat
 18 race while on trial runs between 9 a.m. and 5 p.m. and
 19 during a period not more than 48 hours immediately preceding
 20 the regatta or boat race; or

21 (ii) operating under a separate permit issued by the
 22 department for the purpose of tuning engines, making test or
 23 trial runs, or competing in official trials for speed
 24 records other than in connection with regattas or boat
 25 races; or OR

1 (iii) operated by an authorized agent of federal, state,
 2 or local government to carry out his duty of enforcement,
 3 search and rescue, firefighting, or research; OR

4 (iv) OPERATED ON A RIVER OR STREAM 300 FEET WIDE OR LESS
 5 AND SUBJECT TO FISH AND GAME COMMISSION RULES.

6 (4) (a) Except as provided in subsection (4)(b), no a
 7 vessel may not be equipped with a siren, and no a person may
 8 not use or install a siren on a vessel.

9 (b) An authorized emergency vessel may be equipped with
 10 a siren capable of sound audible under normal conditions
 11 from a distance of not less than 500 feet, but the siren may
 12 be used only when the vessel is operated in response to an
 13 emergency call or in the immediate pursuit of an actual or
 14 suspected violator of the law, and the operator of the
 15 vessel shall must sound the siren when necessary to warn
 16 persons of the vessel's approach.

17 (5) When in operation or at anchor or moored away from
 18 a docking facility between sunset and sunrise, all vessels
 19 shall must display lights as prescribed by the department.

20 (6) The department may designate waters where and the
 21 time of year on these waters when all persons aboard a
 22 motorboat or vessel must shall wear approved life preservers
 23 at all times.

24 (7) Vessels, including houseboats and floating cabins,
 25 equipped with a galley or toilet shall must have a

1 wastewater holding system sealed to prevent the discharge of
 2 water-carried waste products, whether treated or untreated,
 3 into the surrounding waters.

4 (8) The department may adopt rules modifying the
 5 equipment requirements contained in this section to the
 6 extent necessary to keep these requirements in conformity
 7 with the provisions of the federal navigation and safety
 8 laws or with the navigation and safety rules promulgated by
 9 the United States coast guard.

10 ~~(9) THE FISH AND GAME COMMISSION SHALL ADOPT RULES~~
 11 ~~DESIGNATING RIVERS OR STREAMS 300 FEET WIDE OR LESS WHERE~~
 12 ~~MOTORBOAT NOISE REGULATIONS APPLY AND SET APPROPRIATE~~
 13 ~~DECIBEL LIMITS APPLICABLE TO THE OPERATION OF MOTORBOATS ON~~
 14 ~~THOSE DESIGNATED RIVERS OR STREAMS.~~

15 (9)(9) A person may not operate or give permission
 16 for the operation of a vessel which that is not equipped as
 17 required by this section."

18 **Section 3.** Section 23-2-523, MCA, is amended to read:

19 "23-2-523. Prohibited operation and mooring --
 20 enforcement. (1) No A person may not operate or knowingly
 21 permit any a person to operate any a motorboat or vessel or
 22 manipulate any water skis, surfboard, or similar device or
 23 other contrivance in a reckless or negligent manner so as to
 24 endanger the life, limb, or property of any person by:

25 (a) engaging in maneuvers that unreasonably or

1 unnecessarily endanger life, limb, or property, including
 2 but not limited to weaving through congested vessel traffic
 3 or jumping the wake of another vessel unreasonably or
 4 unnecessarily close to the other vessel or when visibility
 5 around the other vessel is obstructed and including swerving
 6 at the last possible moment to avoid collision, FOLLOWING
 7 DIRECTLY BEHIND A WATERSKIERS, SPEEDING IN CONFINED OR
 8 RESTRICTED AREAS, AND BUZZING OR WETTING DOWN OTHERS, which
 9 constitutes reckless operation of a vessel;

10 (b) crossing or jumping the wake of another vessel when
 11 within 100 yards of the vessel or within 100 yards of a
 12 waterskiier being towed by the vessel, EXCEPT WHEN DIRECTLY
 13 ENTERING OR LEAVING A PUBLIC OR PRIVATE MARINA, WATERSKI
 14 FACILITY, OR OTHER WATERCRAFT DOCKING OR LOADING AREA.

15 (2) No A person may not operate any motorboat,
 16 including a sailboat propelled by a motor of any kind, or
 17 manipulate any water skis, surfboard, or similar device
 18 attached to a motorboat while under the influence of alcohol
 19 or drugs.

20 (3) It is unlawful for the owner of any a motorboat or
 21 vessel or any a person having such the motorboat or vessel
 22 in charge or in control to authorize or knowingly permit the
 23 same to be operated by any a person who by reason of
 24 physical or mental disability is incapable of operating such
 25 the watercraft under the prevailing circumstances.

1 (4) No A person may not operate or knowingly permit any
 2 a person to operate any a motorboat or vessel at a rate of
 3 speed greater than will permit such the person, in the
 4 exercise of reasonable care, to bring the vessel to a stop
 5 within the assured clear distance ahead. However, nothing in
 6 this part is intended to prevent the operator of a vessel
 7 actually competing in a regatta which that is sanctioned by
 8 an appropriate governmental unit from attempting to attain
 9 high speeds on a marked racing course.

10 (5) No A person may not make a reckless approach to,
 11 departure from, or passage by a dock, ramp, diving board, or
 12 float.

13 (6) Skiers being pulled by motorboats must have on
 14 their person a ~~life-preserver,--buoyant--vest,--or--ski--belt~~
 15 United States coast guard approved personal flotation device
 16 in good and serviceable condition.

17 (7) No A person may not moor a vessel to ~~any-of-the~~
 18 buoys or beacons placed in any waters of this state by the
 19 authority of the United States, an agency of the United
 20 States, or the department or in any manner hang on with a
 21 vessel to such buoy or beacon, except in the act of
 22 maintenance work on such the buoy or beacon, nor may any
 23 person deface, remove, or destroy ~~any-such~~ a buoy, beacon,
 24 or other authorized navigational marker maintained in the
 25 waters of this state.

1 (8) If an officer whose duty it is to enforce the
 2 sections of this law observes a vessel being used without
 3 sufficient lifesaving or firefighting devices or in an
 4 overloaded or other unsafe condition and in his judgment
 5 such use creates an especially hazardous condition, he may
 6 direct the operator to take whatever immediate and
 7 reasonable steps would be necessary for the safety of those
 8 aboard the vessel, including directing the operator to
 9 return to a mooring or launching site and to remain there
 10 until the situation creating the hazard is corrected or
 11 ended.

12 (9) A UNLESS OPERATED ON A RIVER OR STREAM IN
 13 COMPLIANCE WITH A COMMISSION RULE ADOPTED UNDER 23-2-521(9),
 14 A person may not operate a motorboat or personal watercraft
 15 ON FLATHEAD LAKE, SITUATED IN LAKE AND FLATHEAD COUNTIES,
 16 ECHO LAKE, SITUATED IN FLATHEAD COUNTY, OR SEELEY LAKE,
 17 SITUATED IN MISSOULA COUNTY, in proximity to the shoreline
 18 if the noise emitted is greater than 75 dbA measured at the
 19 shoreline in accordance with the shoreline sound level
 20 measurement procedure (SAE J1970).

21 (10) Unless accompanied by a person 18 years of age or
 22 older, a person under 12 years of age OR YOUNGER may not
 23 operate a motorboat or a personal watercraft that is powered
 24 by a motor rated at more than 10 horsepower. After December
 25 31, 1993, a person under 15 years of age may not operate a

1 vessel or personal watercraft powered by a motor rated at
 2 more than 10 horsepower without possessing a valid Montana
 3 motorboat operator's safety certificate or evidence of
 4 completion of a Montana-approved water safety course.

5 (11) A person who owns or has charge or control of a
 6 motorboat or personal watercraft powered by a motor rated at
 7 more than 10 horsepower may not authorize or knowingly
 8 permit the motorboat or personal watercraft to be operated:

9 (a) by a person under 12 years of age OR YOUNGER unless
 10 accompanied by a person 18 years of age or older; or

11 (b) after December 31, 1993, by a person under 15 years
 12 of age unless the person possesses a valid Montana motorboat
 13 operator's safety certificate or evidence of completion of a
 14 Montana-approved water safety course or is accompanied by a
 15 person 18 years of age or older.

16 (12) A person may not rent a motorboat or a personal
 17 watercraft powered by a motor rated at more than 10
 18 horsepower to a person under 18 years of age."

19 **Section 4.** Section 23-2-526, MCA, is amended to read:

20 "23-2-526. Overloading -- overpowering -- noise
 21 limitations. (1) No vessel shall be loaded with passengers
 22 or cargo beyond its safe carrying capacity, taking into
 23 consideration weather and other normal operating conditions.

24 (2) No vessel shall be equipped with any motor or other
 25 propulsion machinery beyond its safe power capacity, taking

1 into consideration the type and construction of such
 2 watercraft and other existing operating conditions.

3 (3) For EXCEPT AS PROVIDED IN 23-2-523(9), FOR the
 4 purposes of 45-8-101 and 45-8-111, the operation of a
 5 motorboat or personal watercraft that emits noise in excess
 6 of ~~86~~ 75 ~~86~~ dbA when measured at a ~~distance of 50 feet~~ the
 7 shoreline in accordance with the shoreline sound level
 8 measurement procedure (SAE J1970) A DISTANCE OF 50 FEET or
 9 emits exhaust noise in excess of 90 dbA measured 1 meter
 10 from the muffler at idle speed in accordance with the
 11 stationary sound level measurement procedure for pleasure
 12 motorboats (SAE J2005) is presumed to be a public nuisance
 13 and constitute disorderly conduct, except when otherwise
 14 lawfully operated under a motorboat racing permit issued by
 15 a political subdivision of the state ~~OR WHEN OPERATED ON A~~
 16 ~~RIVER OR STREAM IN COMPLIANCE WITH A COMMISSION RULE ADOPTED~~
 17 ~~NUMBER 23-2-521(9)."~~

18 **Section 5.** Section 23-2-529, MCA, is amended to read:

19 "23-2-529. Water skis and surfboards. (1) No A person
 20 may not operate a motorboat or vessel on any waters of this
 21 state for the purpose of towing a person or persons on water
 22 skis, a surfboard, or similar device unless the operator is
 23 ~~at least 12 years of age and there is~~ ACCOMPANIED BY AN
 24 OBSERVER. IF THE OPERATOR IS 12 YEARS OF AGE OR YOUNGER,
 25 THERE MUST BE a second person, at least 12 18 years of age,

1 in the vessel to observe the person being towed. ~~The~~
 2 ~~observer shall continuously observe the person being towed~~
 3 ~~and shall display a flag immediately after the towed person~~
 4 ~~falls into the water and during the entire time the person~~
 5 ~~is in the water preparatory to towing. The flag must be~~
 6 ~~daylight fluorescent orange in color in good and~~
 7 ~~serviceable condition and no less than 12 inches on each~~
 8 ~~side mounted on a handle and visible from every direction.~~
 9 THE FISH AND GAME COMMISSION SHALL ADOPT RULES REGARDING THE
 10 PROPER OBSERVATION AND SAFE TOWING OF PERSONS ON WATER SKIS
 11 OR SIMILAR DEVICES, BASED ON DENSITY OF USE OF A BODY OF
 12 WATER.

13 (2) No A person may not operate a motorboat or vessel
 14 towing a person engage engaged in waterskiing, surfboarding,
 15 or similar activity or towing some other contrivances nor
 16 may a person engage in those activities at any time between
 17 the hours from 1-hour-after sunset to 1-hour-before sunrise,
 18 except that this subsection does not apply to a performer
 19 engaged in a professional exhibition or a person engaged in
 20 a regatta or race authorized under this part.

21 (3) All right-of-way rules applying to a towing vessel
 22 apply to a person being towed."

23 **Section 6.** Section 23-2-530, MCA, is amended to read:

24 "23-2-530. Education program. The department shall
 25 coordinate a statewide boat safety education program,

1 including a home study testing program for motorboat
 2 operators."

3 **NEW SECTION. Section 7.** Personal watercraft operation.

4 In addition to all other applicable provisions in this part,
 5 a person may not operate a personal watercraft:

6 (1) unless each person operating or riding on the
 7 vessel is wearing a United States coast guard approved type
 8 I, II, III, or V personal flotation device;

9 (2) if the vessel is equipped by the manufacturer with
 10 a lanyard type engine cutoff switch unless the lanyard is
 11 attached to the operator's person, clothing, or personal
 12 flotation device as is appropriate for the specific vessel;
 13 or

14 (3) in a reckless or negligent manner. Actions
 15 prohibited in 23-2-523 are considered reckless operation.

16 **NEW SECTION. Section 8.** Restrictions on manufacture
 17 and sale. A motorboat or vessel that fails to comply with
 18 the provisions of 23-2-521(3) may not be manufactured in
 19 Montana after {the effective date of this act} and may not
 20 be sold or offered for sale in Montana after January 1,
 21 1994.

22 **NEW SECTION. Section 9.** Department of health and
 23 environmental sciences to adopt rules on vessel pumpout
 24 facilities. (1) The department of health and environmental
 25 sciences shall adopt rules to ~~enable counties to~~ protect

1 water quality and aquatic ecosystems by establishing
2 guidelines for the installation of vessel pumpout
3 facilities.

4 (2) In adopting the rules, the department shall use
5 these definitions:

6 (a) "Vessel terminal" means a private or public
7 shoreside installation on any waters of Montana that
8 provides mooring, docking, berthing, and other facilities
9 for the use of vessels.

10 (b) "Marine sanitation device" means any equipment on
11 board a vessel that is designed to receive, retain, treat,
12 or discharge sewage, and any process to treat the sewage.

13 (3) The rules must include standards for the
14 construction, operation, and maintenance of vessel pumpout
15 facilities.

16 (4) NOTHING IN THIS SECTION MAY BE CONSTRUED TO REQUIRE
17 THE DEPARTMENT TO INSTALL PUMPOUT FACILITIES WITHOUT PRIOR
18 LEGISLATIVE APPROVAL AND AN APPROPRIATION.

19 SECTION 10. SECTION 23-2-512, MCA, IS AMENDED TO READ:

20 "23-2-512. Identification number. (1) The owner of each
21 motorboat, sailboat, or personal watercraft requiring
22 numbering by this state shall file an application for number
23 in the office of the county treasurer where the motorboat,
24 sailboat, or personal watercraft is owned, on forms prepared
25 and furnished by the department of justice. The application

1 must be signed by the owner of the motorboat, sailboat, or
2 personal watercraft and be accompanied by a fee of \$2 ~~\$2.50~~.
3 Any alteration, change, or false statement contained in the
4 application will render the certificate of number void. Upon
5 receipt of the application in approved form, the county
6 treasurer shall issue to the applicant a certificate of
7 number prepared and furnished by the department of justice,
8 stating the number assigned to the motorboat, sailboat, or
9 personal watercraft and the name and address of the owner.

10 (2) The applicant, upon the filing of the application,
11 shall pay to the county treasurer the fee in lieu of tax
12 required for a motorboat 10 feet in length or longer, a
13 sailboat 12 feet in length or longer, or a personal
14 watercraft for the current year of certification before the
15 application for certification or recertification may be
16 accepted by the county treasurer.

17 (3) Should the ownership of a motorboat, sailboat, or
18 personal watercraft change, a new application form with the
19 certification fee must be filed within a reasonable time
20 with the county treasurer and a new certificate of number
21 assigned in the same manner as provided for in an original
22 assignment of number.

23 (4) If an agency of the United States government has in
24 force a comprehensive system of identification numbering for
25 motorboats in the United States, the numbering system

1 employed pursuant to this part by the department of justice
2 must be in conformity.

3 (5) Every certificate of number and the license decals
4 assigned under this part continues in effect for a period
5 not to exceed 1 year unless terminated or discontinued in
6 accordance with the provisions of this part. Certificates of
7 number and license decals must show the date of expiration
8 and may be renewed by the owner in the same manner provided
9 for in the initial securing of the certificate.

10 (6) Certificates of number expire on December 31 of
11 each year and may not be in effect unless renewed under this
12 part.

13 (7) In event of transfer of ownership, the purchaser
14 shall furnish the county treasurer notice within a
15 reasonable time of the acquisition of all or any part of his
16 interest, other than the creation of a security interest, in
17 a motorboat, sailboat, or personal watercraft numbered in
18 this state or of the loss, theft, destruction, or
19 abandonment of the motorboat, sailboat, or personal
20 watercraft. The transfer, loss, theft, destruction, or
21 abandonment terminates the certificate of number for the
22 motorboat, sailboat, or personal watercraft. Recovery from
23 theft or transfer of a part interest that does not affect
24 the owner's right to operate the motorboat, sailboat, or
25 personal watercraft does not terminate the certificate of

1 number.

2 (8) A holder of a certificate of number shall notify
3 the county treasurer within reasonable time if his address
4 no longer conforms to the address appearing on the
5 certificate and furnish the county treasurer with his new
6 address. The department of justice may provide by rule for
7 the surrender of the certificate bearing the former address
8 and its replacement with a certificate bearing the new
9 address or the alteration of an outstanding certificate to
10 show the new address of the holder.

11 (9) (a) The number assigned must be painted on or
12 attached to each outboard side of the forward half of the
13 motorboat, sailboat, or personal watercraft or, if there are
14 no such sides, at a corresponding location on both outboard
15 sides of the foredeck of the motorboat, sailboat, or
16 personal watercraft. The number assigned must read from left
17 to right in Arabic numerals and block characters of good
18 proportion at least 3 inches tall excluding border or trim
19 of a color that contrasts with the color of the background
20 and be so maintained as to be clearly visible and legible.
21 The number may not be placed on the obscured underside of
22 the flared bow where it cannot be easily seen from another
23 vessel or ashore. No numerals, letters, or devices other
24 than those used in connection with the identifying number
25 issued may be placed in the proximity of the identifying

1 number. No numerals, letters, or devices that might
 2 interfere with the ready identification of the motorboat,
 3 sailboat, or personal watercraft by its identifying number
 4 may be carried as to interfere with the motorboat's,
 5 sailboat's, or personal watercraft's identification. No
 6 number other than the number and license decal assigned to a
 7 motorboat, sailboat, or personal watercraft or granted
 8 reciprocity under this part may be painted, attached, or
 9 otherwise displayed on either side of the forward half of
 10 the motorboat, sailboat, or personal watercraft.

11 (b) The certificate of number shall be pocket size and
 12 available to federal, state, or local law enforcement
 13 officers at all reasonable times for inspection on the
 14 motorboat, sailboat, or personal watercraft whenever the
 15 motorboat, sailboat, or personal watercraft is on waters of
 16 this state.

17 (c) Boat liveries are not required to have the
 18 certificate of number on board each motorboat, sailboat, or
 19 personal watercraft, but a rental agreement must be carried
 20 on board livery motorboats, sailboats, or personal
 21 watercraft in place of the certificate of number.

22 (10) Fees (a) Except as provided in subsection (10)(b),
 23 fees, other than the fee in lieu of tax, collected under
 24 this section shall be transmitted to the state treasurer,
 25 who shall deposit the fees in the motorboat or sailboat

1 certificate identification account of the state special
 2 revenue fund. These fees shall be used only for the
 3 administration and enforcement of this part, as amended.

4 (b) Of the fee collected under the provisions of
 5 subsection (1), 20% must be deposited by the state treasurer
 6 in an account in the state special revenue fund to the
 7 credit of the department to be used to provide necessary
 8 education for boat owners and acquire decibel meters, as
 9 required to implement the provisions of 23-2-523(9) and
 10 23-2-526(3), and to acquire marine sewage pumpout equipment.

11 (11) An owner of a motorboat, sailboat, or personal
 12 watercraft must within a reasonable time notify the
 13 department of justice, giving the motorboat's, sailboat's,
 14 or personal watercraft's identifying number and the owner's
 15 name when the motorboat, sailboat, or personal watercraft is
 16 transferred, lost, destroyed, abandoned, or frauded or
 17 within 60 days after change of state of principal use or if
 18 a motorboat becomes documented as a vessel of the United
 19 States."

20 NEW SECTION. SECTION 11. APPROPRIATION. ALL THE MONEY
 21 IN THE ACCOUNT ESTABLISHED IN 23-2-512(10)(B) IS
 22 APPROPRIATED TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS
 23 FOR USE DURING THE BIENNIUM ENDING JUNE 30, 1993, TO PROVIDE
 24 NECESSARY EDUCATION FOR BOAT OWNERS AND ACQUIRE DECIBEL
 25 METERS, AS REQUIRED TO IMPLEMENT THE PROVISIONS OF

1 23-2-523(9) AND 23-2-526(3), AND TO ACQUIRE MARINE SEWAGE
2 PUMPOUT EQUIPMENT.

3 NEW SECTION. SECTION 12. Codification instruction.
4 [Sections 7, 8, and 9] are intended to be codified as an
5 integral part of Title 23, chapter 2, part 5, and the
6 provisions of Title 23, chapter 2, part 5, apply to
7 [sections 7, 8, and 9].

8 NEW SECTION. SECTION 13. TERMINATION DATE. THE
9 AMENDMENTS TO SECTION 23-2-512 PROVIDED IN [SECTION 10]
10 TERMINATE JULY 1, 1993.

11 NEW SECTION. SECTION 14. EFFECTIVE DATES. (1)
12 [SECTIONS 1 THROUGH 10, 12, 13, AND THIS SECTION] ARE
13 EFFECTIVE ON PASSAGE AND APPROVAL.

14 (2) [SECTION 11] IS EFFECTIVE JULY 1, 1991.

-End-

Free Conference Committee
on House Bill 833
Report No. 1, April 18, 1991

4-18-91
15:13
H
B
833

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered House Bill 833 and recommend that House Bill 833 (reference copy -- salmon) be amended as follows:

1. Page 14, line 12.

Following: "(9)"

Insert: "The population density and heavy recreational use of certain lakes require a noise standard more restrictive than the standard set in 23-2-526, in order to protect the public health and safety."

2. Page 14, line 16.

Strike: "SEELEY"

Insert: "Swan"

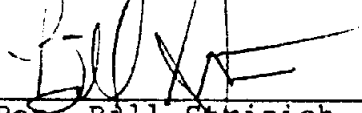
3. Page 14, line 17.

Strike: "MISSOULA"


Insert: "Lake"

And this Free Conference Committee report be adopted.

For the House:

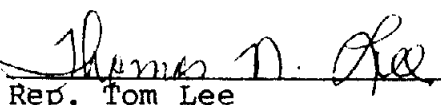

Rep. Bill Strizich, Chair

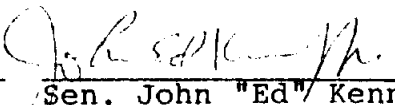
For the Senate:


Sen. Paul Svrcek, Chair


Rep. Bruce Measure


Sen. Bob Brown


Rep. Tom Lee


Sen. John "Ed" Kennedy

ADOPT
REJECT

FCC # 1
HB 833
830833CC.HSF

HOUSE BILL NO. 833

INTRODUCED BY LEE, B. BROWN, KENNEDY, CONNELLY, MERCER,
MEASURE, DOWELL, HARDING, WANZENRIED, BOHARSKI

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO WATERCRAFT; REVISING THE LAWS ON MARINE NOISE, SAFETY, AND SEWAGE REQUIREMENTS; INCREASING THE FEE FOR A CERTIFICATE OF NUMBER; PROVIDING AN APPROPRIATION; LIMITING WHO MAY OPERATE A WATERCRAFT; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT RULES ON VESSEL PUMPOUT STATIONS; AND AUTHORIZING THE FISH AND GAME COMMISSION TO ADOPT RULES ON THE PROPER OBSERVATION AND SAFE TOWING OF PERSONS ON WATER SKIS OR SIMILAR DEVICES AND---RULES---REGARDING---NOISE---RESTRICTIONS---APPLICABLE---TO MOTORBOATS OPERATED ON CERTAIN RIVERS AND STREAMS; AMENDING SECTIONS 23-2-502, 23-2-512, 23-2-521, 23-2-523, 23-2-526, 23-2-529, AND 23-2-530, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

STATEMENT OF INTENT

(1) A statement of intent is required for this bill because in [section 9] the department of health and environmental sciences is authorized to adopt rules allowing counties to provide for the installation, location, and operation of vessel pumpout stations. The legislature

intends that those rules regulate facilities to transfer and dispose of sewage from marine sanitation devices, floating restrooms, and onshore toilets, all of which must be operated in a manner to prevent the discharge of sewage into the waters of the state and maintained in good working order and regularly cleaned. The rules may require a vessel pumpout facility to be equipped with a meter to measure use of the facility. ~~The rules must allow a county to designate which vessel terminals must install vessel pumpout facilities and must require a county to consider the number and type of vessels that use or are berthed at the vessel terminal and whether there are other pumpout stations that have a total capacity sufficient for and convenient and accessible to vessels that use or are berthed at the vessel terminal.~~

(2) A STATEMENT OF INTENT IS FURTHER REQUIRED BECAUSE 23-2-529 REQUIRES THE FISH AND GAME COMMISSION TO ADOPT RULES REGARDING THE PROPER OBSERVATION AND SAFE TOWING OF PERSONS ON WATER SKIS OR SIMILAR DEVICES. IT IS INTENDED THAT THE COMMISSION'S DETERMINATION OF THE NECESSITY FOR RULES BE BASED ON THE DENSITY OF USE OF A BODY OF WATER. WHERE APPLICABLE, THE RULES SHOULD ADDRESS:

- (A) THE PROPER AND CONTINUOUS OBSERVATION OF THE PERSON BEING TOWED; AND
- (B) DISPLAY OF A FLAG WHEN THE PERSON BEING TOWED FALLS



1 INTO THE WATER, INCLUDING THE SIZE, COLOR, CONDITION, AND
 2 MOUNTING OF THE FLAG AND THE LENGTH OF TIME THE FLAG SHOULD
 3 BE DISPLAYED.

4 ~~(3) -- A STATEMENT OF INTENT IS FURTHER REQUIRED BECAUSE~~
 5 ~~23-2-521(9) REQUIRES THE FISH AND GAME COMMISSION TO ADOPT~~
 6 ~~RULES REGARDING NOISE RESTRICTIONS APPLICABLE TO MOTORBOATS~~
 7 ~~OPERATED ON RIVERS OR STREAMS. THE LEGISLATURE RECOGNIZES~~
 8 ~~THAT DECIBEL LEVELS ESTABLISHED IN THIS BILL FOR MOTORBOATS~~
 9 ~~OPERATED ON OTHER WATERS OF THIS STATE MAY NOT BE~~
 10 ~~APPROPRIATE WHEN APPLIED TO NARROW RIVERS OR STREAMS.~~
 11 ~~THEREFORE, IT IS INTENDED THAT THE FISH AND GAME COMMISSION~~
 12 ~~ADOPT RULES PROVIDING FOR:~~

13 ~~(A) DESIGNATION OF RIVERS OR STREAMS 300 FEET WIDE OR~~
 14 ~~LESS THAT ARE SUBJECT TO MOTORBOAT NOISE RESTRICTIONS, AND~~

15 ~~(B) SETTING OF APPROPRIATE DECIBEL LEVELS, WHICH MAY BE~~
 16 ~~MORE OR LESS STRICT THAN THE LEVELS ESTABLISHED IN 23-2-521,~~
 17 ~~23-2-523, AND 23-2-526, FOR MOTORBOATS OPERATED ON~~
 18 ~~DESIGNATED RIVERS OR STREAMS, BASED ON DENSITY OF USE OF THE~~
 19 ~~RIVER OR STREAM AND THE PROXIMITY OF RESIDENCES ADJACENT TO~~
 20 ~~THE DESIGNATED RIVER OR STREAM.~~

21 (3) IT IS THE INTENT OF THE LEGISLATURE THAT THE
 22 DEPARTMENT OF FISH, WILDLIFE, AND PARKS EVALUATE AND REPORT
 23 TO THE 53RD LEGISLATURE ON THE EFFECT OF 23-2-523(9).

24
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 **Section 1.** Section 23-2-502, MCA, is amended to read:

2 **"23-2-502. Definitions.** As used in this part, unless
 3 the context clearly requires a different meaning, the
 4 following definitions apply:

5 (1) "Certificate of number" means the certificate
 6 issued annually by the county treasurer to the owner of a
 7 motorboat or by the department of justice to dealers or
 8 manufacturers, assigning such motorboat an identifying
 9 number and containing such information as required.

10 (2) "Certificate of ownership" means a certificate
 11 issued by the department of justice identifying the owner of
 12 a motorboat or sailboat 12 feet in length or longer.

13 (3) "Dealer" means any person who engages in whole or
 14 in part in the business of buying, selling, or exchanging
 15 new and unused vessels or used vessels, or both, either
 16 outright or on conditional sale, bailment, lease, chattel
 17 mortgage, or otherwise, and who has an established place of
 18 business for sale, trade, and display of vessels. A yacht
 19 broker is a dealer.

20 (4) "Department" means the department of fish,
 21 wildlife, and parks of the state of Montana.

22 (5) "Documented vessel" means a vessel which has and is
 23 required to have a valid marine document as a vessel of the
 24 United States.

25 (6) "Identifying number" means the boat number set

1 forth in the certificate of number and properly displayed on
2 the motorboat.

3 (7) "License decals" means the serially numbered
4 license stickers issued annually by the county treasurer and
5 displayed as required by law.

6 (8) "Lienholder" means a person holding a security
7 interest.

8 (9) "Manufacturer" means any person engaged in the
9 business of manufacturing or importing new and unused
10 vessels or new and unused outboard motors for the purpose of
11 sale or trade.

12 (10) "Motorboat" means any vessel, including a canoe,
13 kayak, personal watercraft, rubber raft, or pontoon,
14 propelled by any machinery, motor, or engine of any
15 description, whether or not such machinery, motor, or engine
16 is the principal source of propulsion. The term includes
17 boats temporarily equipped with detachable motors or engines
18 but does not include a vessel which has a valid marine
19 document issued by the U.S. coast guard of the United States
20 government or any federal agency successor thereto.

21 (11) "Operate" means to navigate or otherwise use a
22 motorboat or a vessel.

23 (12) "Operator" means the person who navigates, drives,
24 or is otherwise in immediate control of a motorboat or
25 vessel.

1 (13) "Owner" means a person, other than a lienholder,
2 having the property in or title to a motorboat or vessel.
3 The term includes a person entitled to the use or possession
4 of a motorboat or vessel subject to an interest in another
5 person, reserved or created by an agreement securing payment
6 or performance of an obligation, but the term excludes a
7 lessee under a lease not intended as security.

8 (14) "Passenger" means every person carried on board a
9 vessel other than:

10 (a) the owner or his representative;

11 (b) the operator;

12 (c) bona fide members of the crew engaged in the
13 business of the vessel who have contributed no consideration
14 for their carriage and who are paid for their services; or

15 (d) any guest on board a vessel which is being used
16 exclusively for pleasure purposes who has not contributed
17 any consideration, directly or indirectly, for his carriage.

18 (15) "Person" means an individual, partnership, firm,
19 corporation, association, or other entity.

20 (16) "Personal watercraft" means any a vessel 12-feet-in
21 length--or--less that uses an internal-combustion-engine
22 outboard motor or an inboard engine powering a water jet
23 pump as its primary source of propulsion and that is
24 designed to be operated by a person in-a sitting, standing,
25 or kneeling position on or-being-towed-behind the vessel

1 RATHER THAN BY THE CONVENTIONAL METHOD OF SITTING OR
 2 STANDING IN THE VESSEL.

3 (17) "Security interest" means an interest that is
 4 reserved or created by an agreement that secures payment or
 5 performance of an obligation and is valid against third
 6 parties generally.

7 (18) "Uniform state waterway marking system" means one
 8 of two categories:

9 (a) a system of aids to navigation to supplement the
 10 federal system of marking in state waters;

11 (b) a system of regulatory markers to warn a vessel
 12 operator of dangers or to provide general information and
 13 directions.

14 (19) "Vessel" means every description of watercraft,
 15 unless otherwise defined by the department, other than a
 16 seaplane on the water, used or capable of being used as a
 17 means of transportation on water.

18 (20) "Waters of this state" means any waters within the
 19 territorial limits of this state."

20 **Section 2.** Section 23-2-521, MCA, is amended to read:

21 **"23-2-521. Equipment.** (1) Every motorboat or vessel
 22 shall must have aboard:

23 (a) one United States coast guard approved personal
 24 flotation device in good and serviceable condition for each
 25 person on board, provided that any a person who has not

1 reached his 12th birthday ~~shall~~ must have a United States
 2 coast guard approved life preserver properly fastened to his
 3 person when occupying a motorboat or vessel under 26 feet in
 4 length while such the motorboat or vessel is in motion;

5 (b) if carrying or using any an inflammable or toxic
 6 fluid in any an enclosure for any purpose and if the
 7 motorboat or vessel is not an entirely open one, an
 8 efficient natural or mechanical ventilation system
 9 prescribed by the department ~~which-shall~~ that must be used
 10 and be capable of removing resulting gases prior to and
 11 during the time the motorboat or vessel is occupied by a
 12 person;

13 (c) hand portable fire extinguishers approved by the
 14 United States coast guard, the number of which is to be
 15 determined by the department, or a United States coast guard
 16 approved fixed fire extinguishing system, except that
 17 motorboats less than 26 feet in length of entirely open
 18 construction, propelled by outboard motors, and not carrying
 19 passengers for hire need not carry such the portable fire
 20 extinguishers or fire extinguishing systems.

21 (2) Every motorboat or vessel ~~shall~~ must have the
 22 carburetor or carburetors of every-engine--therein each of
 23 its engines (except outboard motors) using gasoline as fuel
 24 equipped with an efficient flame arrester, backfire trap, or
 25 other similar device.

1 (3) (a) Except as provided in subsection (3)(b), the
 2 exhaust of every an internal combustion engine used on a
 3 motorboat or vessel must be muffled either by discharge
 4 underwater or by a functioning muffler capable of muffling
 5 exhaust noise at full-throttle to 86 90 dbA or less when
 6 measured at a distance of 50-feet 1 meter from the muffler
 7 at idle speed in accordance with the stationary sound level
 8 measurement procedure for pleasure motorboats (SAE J2005)
 9 ~~and a person may not operate a motorboat or vessel in a~~
 10 ~~manner to exceed a sound level of 75 dbA when measured as~~
 11 ~~specified in the shoreline sound level measurement procedure~~
 12 ~~(SAE J1970).~~ The muffler may not be modified or altered,
 13 such as by a cutout. The department may require a test at
 14 dockside to determine exhaust noise level.

15 (b) The provisions of subsection (3)(a) do not apply to
 16 a motorboat:

17 (i) competing in a state-sanctioned regatta or boat
 18 race while on trial runs between 9 a.m. and 5 p.m. and
 19 during a period not more than 48 hours immediately preceding
 20 the regatta or boat race; or

21 (ii) operating under a separate permit issued by the
 22 department for the purpose of tuning engines, making test or
 23 trial runs, or competing in official trials for speed
 24 records other than in connection with regattas or boat
 25 races; ~~or~~ OR

1 (iii) operated by an authorized agent of federal, state,
 2 or local government to carry out his duty of enforcement,
 3 search and rescue, firefighting, or research; OR
 4 ~~(iv) operated on a river or stream 300 feet wide or less~~
 5 ~~and subject to fish and game commission rule.~~

6 (4) (a) Except as provided in subsection (4)(b), no a
 7 vessel may not be equipped with a siren, and no a person may
 8 not use or install a siren on a vessel.

9 (b) An authorized emergency vessel may be equipped with
 10 a siren capable of sound audible under normal conditions
 11 from a distance of not less than 500 feet, but the siren may
 12 be used only when the vessel is operated in response to an
 13 emergency call or in the immediate pursuit of an actual or
 14 suspected violator of the law, and the operator of the
 15 vessel shall must sound the siren when necessary to warn
 16 persons of the vessel's approach.

17 (5) When in operation or at anchor or moored away from
 18 a docking facility between sunset and sunrise, all vessels
 19 shall must display lights as prescribed by the department.

20 (6) The department may designate waters where and the
 21 time of year on these waters when all persons aboard a
 22 motorboat or vessel must shall wear approved life preservers
 23 at all times.

24 (7) Vessels, including houseboats and floating cabins,
 25 equipped with a galley or toilet shall must have a

1 wastewater holding system sealed to prevent the discharge of
2 water-carried waste products, whether treated or untreated,
3 into the surrounding waters.

4 (8) The department may adopt rules modifying the
5 equipment requirements contained in this section to the
6 extent necessary to keep these requirements in conformity
7 with the provisions of the federal navigation and safety
8 laws or with the navigation and safety rules promulgated by
9 the United States coast guard.

10 ~~(9) THE FISH AND GAME COMMISSION SHALL ADOPT RULES~~
11 ~~DESIGNATING RIVERS OR STREAMS 300 FEET WIDE OR LESS WHERE~~
12 ~~MOTORBOAT NOISE REGULATIONS APPLY AND SET APPROPRIATE~~
13 ~~DECIBEL LIMITS APPLICABLE TO THE OPERATION OF MOTORBOATS ON~~
14 ~~THOSE DESIGNATED RIVERS OR STREAMS.~~

15 (9) A person may not operate or give permission
16 for the operation of a vessel which that is not equipped as
17 required by this section."

18 **Section 3.** Section 23-2-523, MCA, is amended to read:

19 "23-2-523. Prohibited operation and mooring --
20 enforcement. (1) No A person may not operate or knowingly
21 permit any a person to operate any a motorboat or vessel or
22 manipulate any water skis, surfboard, or similar device or
23 other contrivance in a reckless or negligent manner so as to
24 endanger the life, limb, or property of any person by:

25 (a) engaging in maneuvers that unreasonably or

1 unnecessarily endanger life, limb, or property, including
2 but not limited to weaving through congested vessel traffic
3 or jumping the wake of another vessel unreasonably or
4 unnecessarily close to the other vessel or when visibility
5 around the other vessel is obstructed and including swerving
6 at the last possible moment to avoid collision, FOLLOWING
7 DIRECTLY BEHIND A WATERSKI, SPEEDING IN CONFINED OR
8 RESTRICTED AREAS, AND BUZZING OR WETTING DOWN OTHERS, which
9 constitutes reckless operation of a vessel;

10 (b) crossing or jumping the wake of another vessel when
11 within 100 yards of the vessel or within 100 yards of a
12 waterskier being towed by the vessel, EXCEPT WHEN DIRECTLY
13 ENTERING OR LEAVING A PUBLIC OR PRIVATE MARINA, WATERSKI
14 FACILITY, OR OTHER WATERCRAFT DOCKING OR LOADING AREA.

15 (2) No A person may not operate any motorboat,
16 including a sailboat propelled by a motor of any kind, or
17 manipulate any water skis, surfboard, or similar device
18 attached to a motorboat while under the influence of alcohol
19 or drugs.

20 (3) It is unlawful for the owner of any a motorboat or
21 vessel or any a person having such the motorboat or vessel
22 in charge or in control to authorize or knowingly permit the
23 same to be operated by any a person who by reason of
24 physical or mental disability is incapable of operating such
25 the watercraft under the prevailing circumstances.

1 (4) No A person may not operate or knowingly permit any
 2 a person to operate any a motorboat or vessel at a rate of
 3 speed greater than will permit such the person, in the
 4 exercise of reasonable care, to bring the vessel to a stop
 5 within the assured clear distance ahead. However, nothing in
 6 this part is intended to prevent the operator of a vessel
 7 actually competing in a regatta which that is sanctioned by
 8 an appropriate governmental unit from attempting to attain
 9 high speeds on a marked racing course.

10 (5) No A person may not make a reckless approach to,
 11 departure from, or passage by a dock, ramp, diving board, or
 12 float.

13 (6) Skiers being pulled by motorboats must have on
 14 their person a ~~life-preserver, buoyant vest, or ski belt~~
 15 United States coast guard approved personal flotation device
 16 in good and serviceable condition.

17 (7) No A person may not moor a vessel to ~~any-of-the~~
 18 buoys or beacons placed in any waters of this state by the
 19 authority of the United States, an agency of the United
 20 States, or the department or in any manner hang on with a
 21 vessel to such buoy or beacon, except in the act of
 22 maintenance work on such the buoy or beacon, nor may any
 23 person deface, remove, or destroy ~~any-such~~ a buoy, beacon,
 24 or other authorized navigational marker maintained in the
 25 waters of this state.

1 (8) If an officer whose duty it is to enforce the
 2 sections of this law observes a vessel being used without
 3 sufficient lifesaving or firefighting devices or in an
 4 overloaded or other unsafe condition and in his judgment
 5 such use creates an especially hazardous condition, he may
 6 direct the operator to take whatever immediate and
 7 reasonable steps would be necessary for the safety of those
 8 aboard the vessel, including directing the operator to
 9 return to a mooring or launching site and to remain there
 10 until the situation creating the hazard is corrected or
 11 ended.

12 (9) THE POPULATION DENSITY AND HEAVY RECREATIONAL USE
 13 OF CERTAIN LAKES REQUIRE A NOISE STANDARD MORE RESTRICTIVE
 14 THAN THE STANDARD SET IN 23-2-526, IN ORDER TO PROTECT THE
 15 PUBLIC HEALTH AND SAFETY. A UNLESS OPERATED ON A RIVER OR
 16 STREAM IN COMPLIANCE WITH A COMMISSION RULE ADOPTED UNDER
 17 23-2-521(9), A person may not operate a motorboat or
 18 personal watercraft ON FLATHEAD LAKE, SITUATED IN LAKE AND
 19 FLATHEAD COUNTIES, ECHO LAKE, SITUATED IN FLATHEAD COUNTY,
 20 OR SEELEY SWAN LAKE, SITUATED IN MISSOULA LAKE COUNTY, in
 21 proximity to the shoreline if the noise emitted is greater
 22 than 75 dbA measured at the shoreline in accordance with the
 23 shoreline sound level measurement procedure (SAE J1970).

24 (10) Unless accompanied by a person 18 years of age or
 25 older, a person under 12 years of age OR YOUNGER may not

1 operate a motorboat or a personal watercraft that is powered
 2 by a motor rated at more than 10 horsepower. After December
 3 31, 1993, a person under 15 years of age may not operate a
 4 vessel or personal watercraft powered by a motor rated at
 5 more than 10 horsepower without possessing a valid Montana
 6 motorboat operator's safety certificate or evidence of
 7 completion of a Montana-approved water safety course.

8 (11) A person who owns or has charge or control of a
 9 motorboat or personal watercraft powered by a motor rated at
 10 more than 10 horsepower may not authorize or knowingly
 11 permit the motorboat or personal watercraft to be operated:

12 (a) by a person under 12 years of age OR YOUNGER unless
 13 accompanied by a person 18 years of age or older; or

14 (b) after December 31, 1993, by a person under 15 years
 15 of age unless the person possesses a valid Montana motorboat
 16 operator's safety certificate or evidence of completion of a
 17 Montana-approved water safety course or is accompanied by a
 18 person 18 years of age or older.

19 (12) A person may not rent a motorboat or a personal
 20 watercraft powered by a motor rated at more than 10
 21 horsepower to a person under 18 years of age."

22 **Section 4.** Section 23-2-526, MCA, is amended to read:

23 **"23-2-526. Overloading -- overpowering -- noise**
 24 **limitations. (1) No vessel shall be loaded with passengers**
 25 **or cargo beyond its safe carrying capacity, taking into**

1 consideration weather and other normal operating conditions.

2 (2) No vessel shall be equipped with any motor or other
 3 propulsion machinery beyond its safe power capacity, taking
 4 into consideration the type and construction of such
 5 watercraft and other existing operating conditions.

6 (3) ~~For EXCEPT AS PROVIDED IN 23-2-523(9), FOR~~ the
 7 purposes of 45-8-101 and 45-8-111, the operation of a
 8 motorboat or personal watercraft that emits noise in excess
 9 of 86 ~~75~~ 86 dbA when measured at ~~a distance of 50 feet the~~
 10 ~~shoreline in accordance with the shoreline sound level~~
 11 ~~measurement procedure (SAE J1970) A DISTANCE OF 50 FEET or~~
 12 ~~emits exhaust noise in excess of 90 dbA measured 1 meter~~
 13 ~~from the muffler at idle speed in accordance with the~~
 14 ~~stationary sound level measurement procedure for pleasure~~
 15 ~~motorboats (SAE J2005) is presumed to be a public nuisance~~
 16 ~~and constitute disorderly conduct, except when otherwise~~
 17 ~~lawfully operated under a motorboat racing permit issued by~~
 18 ~~a political subdivision of the state OR WHEN OPERATED ON A~~
 19 ~~RIVER OR STREAM IN COMPLIANCE WITH A COMMISSION RULE ADOPTED~~
 20 ~~UNDER 23-2-521(9)."~~

21 **Section 5.** Section 23-2-529, MCA, is amended to read:

22 **"23-2-529. Water skis and surfboards. (1) No A person**
 23 **may not operate a motorboat or vessel on any waters of this**
 24 **state for the purpose of towing a person or persons on water**
 25 **skis, a surfboard, or similar device unless the operator is**

1 ~~at least 12 years of age and there is~~ ACCOMPANIED BY AN
 2 OBSERVER. IF THE OPERATOR IS 12 YEARS OF AGE OR YOUNGER,
 3 THERE MUST BE a second person, at least 12 18 years of age,
 4 in the vessel to observe the person being towed. The
 5 ~~observer shall continuously observe the person being towed~~
 6 ~~and shall display a flag immediately after the towed person~~
 7 ~~falls into the water and during the entire time the person~~
 8 ~~is in the water preparatory to towing. The flag must be~~
 9 ~~daylight fluorescent orange in color, in good and~~
 10 ~~serviceable condition, and no less than 12 inches on each~~
 11 ~~side, mounted on a handle and visible from every direction.~~
 12 THE FISH AND GAME COMMISSION SHALL ADOPT RULES REGARDING THE
 13 PROPER OBSERVATION AND SAFE TOWING OF PERSONS ON WATER SKIS
 14 OR SIMILAR DEVICES, BASED ON DENSITY OF USE OF A BODY OF
 15 WATER.

16 (2) ~~No~~ A person may not operate a motorboat or vessel
 17 towing a person engage engaged in waterskiing, surfboarding,
 18 or similar activity or towing some other contrivances nor
 19 may a person engage in those activities at any time between
 20 the hours from ~~1-hour-after~~ sunset to ~~1-hour-before~~ sunrise,
 21 except that this subsection does not apply to a performer
 22 engaged in a professional exhibition or a person engaged in
 23 a regatta or race authorized under this part.

24 (3) All right-of-way rules applying to a towing vessel
 25 apply to a person being towed."

1 **Section 6.** Section 23-2-530, MCA, is amended to read:

2 "23-2-530. Education program. The department shall
 3 coordinate a statewide boat safety education program,
 4 including a home study testing program for motorboat
 5 operators."

6 NEW SECTION. Section 7. Personal watercraft operation.

7 In addition to all other applicable provisions in this part,
 8 a person may not operate a personal watercraft:

9 (1) unless each person operating or riding on the
 10 vessel is wearing a United States coast guard approved type
 11 I, II, III, or V personal flotation device;

12 (2) if the vessel is equipped by the manufacturer with
 13 a lanyard type engine cutoff switch unless the lanyard is
 14 attached to the operator's person, clothing, or personal
 15 flotation device as is appropriate for the specific vessel;
 16 or

17 (3) in a reckless or negligent manner. Actions
 18 prohibited in 23-2-523 are considered reckless operation.

19 NEW SECTION. Section 8. Restrictions on manufacture
 20 and sale. A motorboat or vessel that fails to comply with
 21 the provisions of 23-2-521(3) may not be manufactured in
 22 Montana after [the effective date of this act] and may not
 23 be sold or offered for sale in Montana after January 1,
 24 1994.

25 NEW SECTION. Section 9. Department of health and

1 environmental sciences to adopt rules on vessel pumpout
2 facilities. (1) The department of health and environmental
3 sciences shall adopt rules to enable--counties--to protect
4 water quality and aquatic ecosystems by establishing
5 guidelines for the installation of vessel pumpout
6 facilities.

7 (2) In adopting the rules, the department shall use
8 these definitions:

9 (a) "Vessel terminal" means a private or public
10 shoreside installation on any waters of Montana that
11 provides mooring, docking, berthing, and other facilities
12 for the use of vessels.

13 (b) "Marine sanitation device" means any equipment on
14 board a vessel that is designed to receive, retain, treat,
15 or discharge sewage, and any process to treat the sewage.

16 (3) The rules must include standards for the
17 construction, operation, and maintenance of vessel pumpout
18 facilities.

19 (4) NOTHING IN THIS SECTION MAY BE CONSTRUED TO REQUIRE
20 THE DEPARTMENT TO INSTALL PUMPOUT FACILITIES WITHOUT PRIOR
21 LEGISLATIVE APPROVAL AND AN APPROPRIATION.

22 **SECTION 10. SECTION 23-2-512, MCA, IS AMENDED TO READ:**

23 "23-2-512. Identification number. (1) The owner of each
24 motorboat, sailboat, or personal watercraft requiring
25 numbering by this state shall file an application for number

1 in the office of the county treasurer where the motorboat,
2 sailboat, or personal watercraft is owned, on forms prepared
3 and furnished by the department of justice. The application
4 must be signed by the owner of the motorboat, sailboat, or
5 personal watercraft and be accompanied by a fee of \$2 ~~\$2~~ \$2.50.
6 Any alteration, change, or false statement contained in the
7 application will render the certificate of number void. Upon
8 receipt of the application in approved form, the county
9 treasurer shall issue to the applicant a certificate of
10 number prepared and furnished by the department of justice,
11 stating the number assigned to the motorboat, sailboat, or
12 personal watercraft and the name and address of the owner.

13 (2) The applicant, upon the filing of the application,
14 shall pay to the county treasurer the fee in lieu of tax
15 required for a motorboat 10 feet in length or longer, a
16 sailboat 12 feet in length or longer, or a personal
17 watercraft for the current year of certification before the
18 application for certification or recertification may be
19 accepted by the county treasurer.

20 (3) Should the ownership of a motorboat, sailboat, or
21 personal watercraft change, a new application form with the
22 certification fee must be filed within a reasonable time
23 with the county treasurer and a new certificate of number
24 assigned in the same manner as provided for in an original
25 assignment of number.

1 (4) If an agency of the United States government has in
2 force a comprehensive system of identification numbering for
3 motorboats in the United States, the numbering system
4 employed pursuant to this part by the department of justice
5 must be in conformity.

6 (5) Every certificate of number and the license decals
7 assigned under this part continues in effect for a period
8 not to exceed 1 year unless terminated or discontinued in
9 accordance with the provisions of this part. Certificates of
10 number and license decals must show the date of expiration
11 and may be renewed by the owner in the same manner provided
12 for in the initial securing of the certificate.

13 (6) Certificates of number expire on December 31 of
14 each year and may not be in effect unless renewed under this
15 part.

16 (7) In event of transfer of ownership, the purchaser
17 shall furnish the county treasurer notice within a
18 reasonable time of the acquisition of all or any part of his
19 interest, other than the creation of a security interest, in
20 a motorboat, sailboat, or personal watercraft numbered in
21 this state or of the loss, theft, destruction, or
22 abandonment of the motorboat, sailboat, or personal
23 watercraft. The transfer, loss, theft, destruction, or
24 abandonment terminates the certificate of number for the
25 motorboat, sailboat, or personal watercraft. Recovery from

1 theft or transfer of a part interest that does not affect
2 the owner's right to operate the motorboat, sailboat, or
3 personal watercraft does not terminate the certificate of
4 number.

5 (8) A holder of a certificate of number shall notify
6 the county treasurer within reasonable time if his address
7 no longer conforms to the address appearing on the
8 certificate and furnish the county treasurer with his new
9 address. The department of justice may provide by rule for
10 the surrender of the certificate bearing the former address
11 and its replacement with a certificate bearing the new
12 address or the alteration of an outstanding certificate to
13 show the new address of the holder.

14 (9) (a) The number assigned must be painted on or
15 attached to each outboard side of the forward half of the
16 motorboat, sailboat, or personal watercraft or, if there are
17 no such sides, at a corresponding location on both outboard
18 sides of the foredeck of the motorboat, sailboat, or
19 personal watercraft. The number assigned must read from left
20 to right in Arabic numerals and block characters of good
21 proportion at least 3 inches tall excluding border or trim
22 of a color that contrasts with the color of the background
23 and be so maintained as to be clearly visible and legible.
24 The number may not be placed on the obscured underside of
25 the flared bow where it cannot be easily seen from another

1 vessel or ashore. No numerals, letters, or devices other
 2 than those used in connection with the identifying number
 3 issued may be placed in the proximity of the identifying
 4 number. No numerals, letters, or devices that might
 5 interfere with the ready identification of the motorboat,
 6 sailboat, or personal watercraft by its identifying number
 7 may be carried as to interfere with the motorboat's,
 8 sailboat's, or personal watercraft's identification. No
 9 number other than the number and license decal assigned to a
 10 motorboat, sailboat, or personal watercraft or granted
 11 reciprocity under this part may be painted, attached, or
 12 otherwise displayed on either side of the forward half of
 13 the motorboat, sailboat, or personal watercraft.

14 (b) The certificate of number shall be pocket size and
 15 available to federal, state, or local law enforcement
 16 officers at all reasonable times for inspection on the
 17 motorboat, sailboat, or personal watercraft whenever the
 18 motorboat, sailboat, or personal watercraft is on waters of
 19 this state.

20 (c) Boat liveries are not required to have the
 21 certificate of number on board each motorboat, sailboat, or
 22 personal watercraft, but a rental agreement must be carried
 23 on board livery motorboats, sailboats, or personal
 24 watercraft in place of the certificate of number.

25 (10) Fees (a) Except as provided in subsection (10)(b),

1 fees, other than the fee in lieu of tax, collected under
 2 this section shall be transmitted to the state treasurer,
 3 who shall deposit the fees in the motorboat or sailboat
 4 certificate identification account of the state special
 5 revenue fund. These fees shall be used only for the
 6 administration and enforcement of this part, as amended.

7 (b) Of the fee collected under the provisions of
 8 subsection (1), 20% must be deposited by the state treasurer
 9 in an account in the state special revenue fund to the
 10 credit of the department to be used to provide necessary
 11 education for boat owners and acquire decibel meters, as
 12 required to implement the provisions of 23-2-523(9) and
 13 23-2-526(3), and to acquire marine sewage pumpout equipment.

14 (11) An owner of a motorboat, sailboat, or personal
 15 watercraft must within a reasonable time notify the
 16 department of justice, giving the motorboat's, sailboat's,
 17 or personal watercraft's identifying number and the owner's
 18 name when the motorboat, sailboat, or personal watercraft is
 19 transferred, lost, destroyed, abandoned, or frauded or
 20 within 60 days after change of state of principal use or if
 21 a motorboat becomes documented as a vessel of the United
 22 States."

23 NEW SECTION. SECTION 11. APPROPRIATION. ALL THE MONEY
 24 IN THE ACCOUNT ESTABLISHED IN 23-2-512(10)(B) IS
 25 APPROPRIATED TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

1 FOR USE DURING THE BIENNIUM ENDING JUNE 30, 1993, TO PROVIDE
2 NECESSARY EDUCATION FOR BOAT OWNERS AND ACQUIRE DECIBEL
3 METERS, AS REQUIRED TO IMPLEMENT THE PROVISIONS OF
4 23-2-523(9) AND 23-2-526(3), AND TO ACQUIRE MARINE SEWAGE
5 PUMPOUT EQUIPMENT.

6 NEW SECTION. SECTION 12. Codification instruction.
7 [Sections 7, 8, and 9] are intended to be codified as an
8 integral part of Title 23, chapter 2, part 5, and the
9 provisions of Title 23, chapter 2, part 5, apply to
10 [sections 7, 8, and 9].

11 NEW SECTION. SECTION 13. TERMINATION DATE. THE
12 AMENDMENTS TO SECTION 23-2-512 PROVIDED IN [SECTION 10]
13 TERMINATE JULY 1, 1993.

14 NEW SECTION. SECTION 14. EFFECTIVE DATES. (1)
15 [SECTIONS 1 THROUGH 10, 12, 13, AND THIS SECTION] ARE
16 EFFECTIVE ON PASSAGE AND APPROVAL.

17 (2) [SECTION 11] IS EFFECTIVE JULY 1, 1991.

-End-

HOUSE BILL NO. 832

INTRODUCED BY ELLISON, ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOCATING 20 PERCENT OF AN INCREASE IN GROSS PROCEEDS TAX TO THE LOCAL GOVERNMENT UNIT IN WHICH THE ORE WAS LOCATED IF CERTAIN CRITERIA ARE MET; ALLOCATING THE APPLICABLE METAL MINES LICENSE TAX TO THOSE COUNTIES IDENTIFIED AS EXPERIENCING IMPACTS IF AN IMPACT PLAN HAS BEEN PREPARED; AMENDING SECTIONS 15-37-117 AND 90-6-404, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 90-6-404, MCA, is amended to read:

"90-6-404. Allocation of taxable valuation for local taxation purposes. When property of a large-scale mineral development is subject to the provisions of 90-6-403, the increase in taxable valuation must be allocated by the department of revenue as follows:

(1) Twenty--percent IF THE BOARD DETERMINES THAT THE LOCAL GOVERNMENT UNIT IN WHICH THE ORE BODY OR THE MINERAL DEPOSIT BEING MINED IS LOCATED IS NOT AFFECTED BY THE DEVELOPMENT AND IF THIS DETERMINATION IS SHOWN ON THE IMPACT PLAN, 20% of the total increase in taxable valuation of the gross proceeds must be allocated to the THAT local

government unit in-which-the-ore-was-located. THIS PROVISION IS INTENDED TO ESTABLISH A MINIMUM ALLOCATION FOR THE UNITS AND DOES NOT PROHIBIT PROOF BY A UNIT THAT ACTUAL DIRECT IMPACTS WOULD EXCEED 20% OF THE TOTAL IMPACTS OF THE DEVELOPMENT.

(+) (2) The total remaining increase in taxable valuation of the mineral development must be allocated between affected counties and affected municipalities according to the following formula based on the place of residence of mineral development employees:

(a) A portion, not to exceed 20%, to affected municipalities, based on that percentage of the total number of mineral development employees that reside within municipal boundaries. The taxable valuation allocated to affected municipalities must be distributed to each municipality according to its percentage of the total number of mineral development employees who reside within municipal boundaries. That portion of the taxable valuation distributed to a municipality pursuant to this section is subject to the same county mill levy as other taxable properties located in the municipality.

(b) The remaining portion of the taxable valuation must be distributed to each affected county according to its percentage of the total number of mineral development employees that reside within the county.



1 ~~(2)~~(3) The total increase in taxable valuation equal to
 2 that subject to subsection (2) must be distributed pro rata
 3 among each affected high school district according to the
 4 percentage of the total number of mineral development high
 5 school students that reside within each district.

6 ~~(3)~~(4) The total increase in taxable valuation equal to
 7 that subject to subsection (2) must be distributed pro rata
 8 among each affected elementary school district according to
 9 the percentage of the total number of mineral development
 10 elementary school students that reside within each district.

11 (5) THE DISTRIBUTION FORMULA SPECIFIED IN SUBSECTIONS
 12 (2) THROUGH (4) MAY BE MODIFIED BY AN IMPACT PLAN APPROVED
 13 AS PROVIDED IN 90-6-307 OR AMENDED AS PROVIDED IN 90-6-311,
 14 IF THE MODIFICATION IS NEEDED IN ORDER TO ENSURE A
 15 REASONABLE CORRESPONDENCE BETWEEN THE OCCURRENCE OF
 16 INCREASED COSTS RESULTING FROM THE MINERAL DEVELOPMENT AND
 17 THE ALLOCATION OF TAXABLE VALUATION RESULTING FROM THE
 18 MINERAL DEVELOPMENT."

19 **Section 2.** Section 15-37-117, MCA, is amended to read:

20 "15-37-117. Disposition of metalliferous mines license
 21 taxes. (1) Metalliferous mines license taxes collected under
 22 the provisions of this part are allocated as follows:

23 (a) to the credit of the general fund of the state, 58%
 24 of total collections each year;

25 (b) to the state special revenue fund to the credit of

1 a hard-rock mining impact trust account, 1.5% of total
 2 collections each year;

3 (c) to the state resource indemnity trust fund, 15.5%
 4 of total collections each year;

5 (d) to the county ~~or proportionally to the counties~~
 6 identified as experiencing fiscal and economic impacts,
 7 RESULTING IN INCREASED EMPLOYMENT OR LOCAL GOVERNMENT COSTS,
 8 under an impact plan for a large-scale mineral development
 9 prepared and approved pursuant to 90-6-307, IN DIRECT
 10 PROPORTION TO THE FISCAL AND ECONOMIC IMPACTS DETERMINED IN
 11 THE PLAN, or, if no impact plan has been prepared, to the
 12 county in which the mine is located, 25% of total
 13 collections each year, to be allocated by the county
 14 commissioners as follows:

15 (i) not less than 40% to the county hard-rock mine
 16 trust reserve account established in 7-6-2225; and

17 (ii) all money not allocated to the account pursuant to
 18 subsection (1)(d)(i) to be further allocated as follows
 19 ~~except--that more than one entity may share an allocation if~~
 20 ~~a jurisdictional revenue disparity is identified pursuant to~~
 21 ~~subsection (2):~~

22 (A) 33 1/3% is allocated to the county for planning or
 23 economic development activities;

24 (B) 33 1/3% is allocated to the elementary school
 25 districts within the county that have been affected by the

1 development or operation of the metal mine; and

2 (C) 33 1/3% is allocated to the high school districts
3 within the county that have been affected by the development
4 or operation of the metal mine.

5 (2) When an impact plan for a large-scale mineral
6 development approved pursuant to 90-6-307 identifies a
7 jurisdictional revenue disparity, the county shall
8 distribute the proceeds allocated under subsection (1)(d) in
9 a manner similar to that provided for property tax sharing
10 under Title 90, chapter 6, part 4.

11 (3) The department shall return to the county in which
12 metals are produced the tax collections allocated under
13 subsection (1)(d). The allocation to the county described by
14 subsection (1)(d) is a statutory appropriation pursuant to
15 17-7-502."

16 NEW SECTION. **Section 3. Retroactive applicability.**

17 [This act] applies retroactively, within the meaning of
18 1-2-109, to all large-scale mineral developments required to
19 comply with 90-6-307 that did not have an impact plan
20 approved pursuant to 90-6-307, as of December 31, 1990.

-End-