

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on March 18, 1991, at
10:00 a.m.

ROLL CALL

Members Present:

J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 203

Presentation and Opening Statement by Sponsor:

THIS HEARING IS CONTINUED FROM 3/15/91. , SEE MINUTES FROM
3/15/91.

Proponents' Testimony:

SEE MINUTES FROM 3/15/91.

Opponents' Testimony:

SEE MINUTES FROM 3/15/91.

Questions From Committee Members:

Senator Gage asked if there was something in 31-1-112 that
refers to other sections of the code that a regulated lender
might apply to.

Representative Sheila Rice, sponsor of the bill, stated that the only other reference in 31-1-112 is that finance operation that finances transactions between merchants which is defined in 32-104. 32-104 refers to definitions of merchants and defines financing agency.

Senator Williams asked if someone could define usuary tax.

Jacqueline Terrell responded by saying that the usuary statutes are to do is protect people in loan transactions, generally between private parties, but between persons that aren't otherwise controlled by other law.

Senator Thayer stated that the only thing that he got out of the testimony was that effectively all that this thing will do is put these mutual stock insurance companies in the same category as other major lenders. The testimony stated that they aren't going to change their rates, or would it allow them to raise their rates. Isn't this all that the bill does.

Representative Rice responded by saying that the market regulates the rates. The reason that this bill is brought here is that it was never a question whether or not a mutual stock insurance companies were subject to the usuary laws until very recently within the last two years when that was a charge in a case.

Closing by Sponsor:

Representative Sheila Rice closed by saying that this is fair treatment for insurance companies in Montana. It sends a message that Montana wants these insurance companies as agriculture lenders in Montana. They are a very necessary part of the agriculture scene in Montana, and failure to pass this bill will send an opposite message.

HEARING ON HOUSE BILL 719

Presentation and Opening Statement by Sponsor:

Representative Dave Brown, sponsor of the bill, stated that this bill is all about who may perform independent medical examinations when chiropractic patients are involved. This bill ensures when an independent medical examination is done, either by study of a patients charts and records, or by an actual physical examination of the patient that if that individual is a chiropractic patient, the independent examiner will be a chiropractor. The chiropractor must be licensed and practicing in the state of Montana, the treating physician never preforms this function. In the course of treatment of a patient, from time to time, an insurer may request that an examination must be done by a physician who is not in charge of the current treatment of a patient. This exam is done in order to determine if the current course of treatment is the best course. Usually in practice, these evaluations of chiropractic patient care are preformed by chiropractors. Sometimes exams are preformed by medical doctors, and this can be particularly troublesome. There is a long standing discriminatory attitude on the part of many

medical doctor towards chiropractors. Not only do these MD's not know anything about chiropractic care, that they actively try to steer patients back to MD's who will probably preform surgery or other expensive types of care. This bill is simple, straight forward, and has merit.

Proponents' Testimony:

Dr. Lee Hudson, the president of the Montana chiropractic association and the chiropractic consultant for blue cross blue shield, stated that an independent medical examination is an independent examination by a doctor other than the treating physician, or a review of the treatment records also by a doctor other than the treating physician. Only another chiropractor is qualified to determine the appropriateness of care for a chiropractic patient. They would understand the treatment notes that would be provided in this type of examination, the treatment technics that are being used, and whether those are indicated in this particular case.

Gary Blom, a practicing chiropractor in Helena, Montana, stated that he does independent chiropractic examinations for various insurance companies, and he is contracted to do services for a large medical review corporation in the state. There are some insurance carriers that don't feel that they want to allow the same unbiased courtesy of offering chiropractors. Not all of them utilize our services.

Dr. Pam Blanchard, a practicing chiropractor in Great Falls, Montana, stated that it is very important of having an independent medical exam preformed by an in state practitioner. The United States has set up that chiropractic is set up on a state by state basis by fifty separate practice acts. These practice acts vary from state to state as to what is and what is not chiropractic in that state. If an out of state practitioner is doing a paper review of a patient, a lot of times it becomes evident that a physical examination of that patient should be done.

Dr. Duane Borgstrand, a practicing chiropractor in Red Lodge since 1981 and a member of the board of chiropractors, stated that the basic issue surrounding HB 719 is one of fairness. Fairness for the Montana healthcare consumers who choose chiropractors for their injuries, fairness for the doctors of chiropractic, and fairness for the insurance companies and worker's compensation. People come to chiropractors with the knowledge that they want chiropractic care, and the knowledge that their major medical insurance covers this. There is a growing amount of abuse by some insurance companies where these reviews will be done, and medical doctor will make a decision about a chiropractic patient. Is it fair for someone who doesn't know about chiropractic in the first place, like a medical doctor, or an out of state chiropractor who doesn't know about Montana state laws, to make decisions that might result in the reduction or the denial of these claims? HB 719 would be a simple solution to this.

Bonnie Tippy, executive secretary of the Montana

chiropractic association, stated that HB 719 passed the house by a 65-32 vote. Chiropractors have a minimum of seven years education in order to be chiropractors. Many of the chiropractors practicing in Montana have a minimum of a bachelor's degree in sciences, and four or five years of chiropractic college. Montana has a high percentage of chiropractors who are also diplomates of the American college of chiropractic orthopedics. (See Exhibit 1, and Exhibit 1A-1G).

Opponents' Testimony:

George Wood, executive secretary of the Montana self insurer's association, stated that this bill is not about increasing efficiency and reducing the rates to the employers who pay the premiums. It is not about improved administration, and it is not about improved care to the injured worker. It is special legislation to provide an unique position for one healthcare provider, the chiropractors. It does not provide the same benefits for a medical doctor. Our employers, under the worker's compensation law, are insurers but shouldn't be confused with insurance companies. Page two, lines eleven half way through to line nineteen, we have lost in this bill our ability to refer an injured worker for an examination to determine the most appropriate treatment necessary. This bill puts a burden on the worker's compensation insurer.

Tom Hopgood, representing the health insurance association of America, stated that there was a bill, SB 394 heard in the business and industry committee. It governs and restricts utilization review for all of the medical services that an insurer might receive whether those services of a chiropractor, an medical doctor, etc. The reason of utilization review is the tendency by some providers, and some fields of medical care to over prescribe services. They do this with the knowledge that a third party insurance company is the party that will be paying. Up to fifty percent of medical services that are prescribed are unnecessary from a medical view point. Some providers tailor their services to coincide with the terms of the policy. Who does this bill take money away from and who does this bill give the money to?

Pat Sweeney, representing the state's funds (SCMIF), spoke in opposition of the bill (See Exhibit 3).

Norm Grossfield, an attorney in Helena, Montana who does both claimant and defense work, stated that he opposes this bill because it is writing into the statutes some restrictive language regarding the day to day proper adjustment of the worker's compensation plan. The chiropractic profession should have more involvement with worker's compensation, and the current rules are too restrictive. His concern is not with the chiropractic or medical profession in this instance, his concern is writing in to statute restrictions on the proper adjustment of worker's compensation basis. The insurers need the flexibility in order to evaluate cases.

Oliver Goh, stated that his concern with this bill is a lot broader than it needs to be. It addresses the problem with the

worker's compensation area, and causes problems in the adjustment of claims, which will be detrimental to employers and also insurers. Section one of the bill is very broadly written.

Jacqueline Terrell, representing the American insurance association and speaking today also for Gene Phillips who represents the American alliance of insurers, stated that their concern is with worker's compensation. This bill will place an extreme burden on the private worker's compensation carriers. It will place an increased burden on Montana's state fund. The state fund presently has approximately sixty five percent of the market share. The largest private carrier that is within her association has six percent of the market share. Montana represents only three tenths of one percent of the insurance market share in the United States.

Jerry Lyndorf, representing the Montana medical association, stated that when physicians evaluate physicians in peer review and they have an adverse result, you hear the same complaints that you are hearing today. There are some reasonable limitations that can be imposed on reviews, but looking at this bill the limitations are not reasonable. What the reviewer isn't doing is reviewing the treatment, he is also taking a look as a patient to see if this is treatment that this patient is ought to be receiving and worker's compensation ought to be paying for. That is the important issue in this bill.

Steve Brown, representing blue cross blue shield of Montana, stated that blue cross blue shield uses a chiropractor to review chiropractic claims in its managed care program. This bill would take away the opportunity of blue cross blue shield to consult with a medical doctor in those rare situations where the case is complex, and there may be questions about proper treatment. That is bad law, and bad for the insurance consumer.

Questions From Committee Members:

Senator Gage commented that the parts of the bill that can be corrected, can be corrected without any problems which has to do with the language on page three and four.

Senator Franklin asked if Tom Hopgood would be more specific about increased costs.

Tom Hopgood replied that the reason that we have utilization review is because of the rise of health insurance. The companies are under pressure from their customers to keep the costs down. One of the ways to keep costs down, is attempt to get a handle on the claims that you are paying out. One of the ways that you get a handle on the claims that you are paying out is not to pay claims unless the claim is for a service that is medically necessary. The companies have instituted a program whereby they review the services that an insured is receiving. If the service is not medically necessary, then they let the person know that and they don't pay the claim. That is the way that it cuts down on the costs to the insurance companies. The language in section one, lines seventeen and eighteen is very broad. He proposed

that the language on page two, lines thirteen and fourteen be stricken.

Closing by Sponsor:

Representative Brown closed by adding some correspondence to the record (See Exhibit 2 through Exhibit 2Z-1). This is not a chiropractic relief bill, it is a patient fairness bill. Chiropractic reviewers are as tough on chiropractors as medical doctors are on medical doctors. Section one is not overly broad, it simply limits chiropractic physical examination and review of the records.

HEARING ON HOUSE BILL 739

Presentation and Opening Statement by Sponsor:

Representative Jim Rice, sponsor of the bill, stated that in those cases where there has been a foreclosure of a mortgage, the lending institution has come in and taken the property back. In cases where there has been a judgement entered and real property is taken for the satisfaction of that judgement. The people who have lost their property in that situation have the right within one year of loosing it to redeem the property, or to buy it back. This is not the typical homeowner situation. This bill sets forth what should be the interest and what should be the cost that the redemptioner pays when buying back his property.

Proponents' Testimony:

Jock Anderson, representing the Montana league of savings institutions, stated anytime a creditor obtains a judgement there is a lien against the property covered by the mortgage, and generally upon the real property. Anytime that real property is sold by the sheriff, to satisfy the debt, in the redemption laws of Montana activate themselves. According to law, all people that are called redemptioners have one year to repurchase the property. The bill changes the interest rate provision.

George Bennett, representing the Montana banker's association, stated that they support the bill for the reasons that have been given. We have not been getting enough bidders at foreclosure sales, this bill would encourage people to do it.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Gage asked if there could be an instance where the judgement does not speak to interest.

Jock Anderson stated no. The judgement statutes now provide

that if the judgement is on an underline of a promissory noter instrument, if there is not interest rate expressed in the instrument then it is automatically ten percent.

Senator Thayer stated that he does not object to the bill as it is written, but has a problem with striking the language in the title that Representative Rice suggested.

Representative Rice stated that the reason that he has asked that this language be stricken is that it reads "as applying to redemption after a mortgage foreclosure" and these redemption statutes that we are amending do apply to situations other than just mortgage foreclosures.

Closing by Sponsor:

Representative Rice closed by saying that this bill is not Galleria, it is something that is different, and if the committee would like more language to clarify that point it is fine with him.

EXECUTIVE ACTION ON HOUSE BILL 853

Motion:

Senator Noble moved the amendment proposed by MACO.
Senator Noble moved that HB 853 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

The amendments to HB 853 passed unanimously.

Recommendation and Vote:

The motion that HB 853 be concurred in as amended passed unanimously. Senator Hager will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 672

Motion:

Senator Williams moved to amend HB 672 by inserting 'solely' on page seven, line six following the word 'individual'.

Senator Hager moved to amend HB 672 on page two, line eighteen, starting by striking 'or' and insert 'the condition may only be excluded for a maximum of twelve months'.

Senator Franklin moved the amendments proposed by blue cross blue shield regarding gender.

Senator Bruski moved HB 672 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

The motion by Senator Williams to amend HB 672 passed unanimously.

The motion by Senator Hager to amend HB 672 passed unanimously.

The motion by Senator Franklin to amend HB 672 passed by a 7 to 2 vote.

Recommendation and Vote:

The motion made by Senator Bruski that HB 672 be concurred in as amended passed unanimously. Senator Franklin will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 530

Motion:

Senator Noble moved HB 530 be concurred in.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion made by Senator Noble that HB 530 be concurred in passed unanimously. Senator Kennedy will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 209

Motion:

Senator Gage moved to amend HB 209.

Senator Gage moved HB 209 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

The motion made to amend HB 209 passed unanimously.

Recommendation and Vote:

The motion made that HB 209 be concurred in as amended passed unanimously. Senator Thayer will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 655

Motion:

Senator Williams moved HB 655 be concurred in.

Discussion:

Senator Noble stated that he felt that the people who testified in favor of the bill, especially the people who work with propane, were very knowledgeable and safety conscious.

Senator Hager stated that he was shocked when the opponents brought in the paper article from the explosion in Billings, Montana. He had carried a bill like this which had been defeated two weeks before that explosion happened. It was in the paper two weeks later that the explosion was definitely not caused by propane.

Senator Lynch stated that the fire marshal did not oppose the bill.

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion that HB 655 be concurred in passed unanimously. Senator Noble will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 203

Motion:

Senator Bruski moved HB 203 be concurred in.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The motion made by Senator Bruski that HB 203 be concurred in passed by 8 to 1 vote. Senator Thayer will carry the bill to the floor.

EXECUTIVE ACTION ON HOUSE BILL 169

Motion:

Senator Noble moved to amend HB 169.

Senator Williams moved HB 169 be concurred in as amended.

Senator Hager made a substitute motion that HB 169 do not be concurred in.

Discussion:

Senator Noble stated that he feels that the bill is not needed.

Senator Gage stated that to take the bill to the floor, you would have to educate the whole senate. The proponents did an excellent job in this bill. The bill is not worthy of it.

Senator Thayer stated that the key thing is what they do in their contracts. They have the ability in the current law to solve the problems, and they are moving towards scaling anyway.

Amendments, Discussion, and Votes:

The motion made to amend HB 169 passed by an 8 to 1 vote.

Recommendation and Vote:

The substitute motion made to do not concur in HB 169 failed by 5 to 4 vote.

The original motion that HB 169 be concurred in passed by a 5 to 4 vote. Senator Svcrek will carry the bill to the floor.

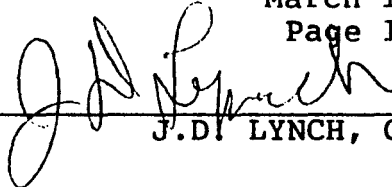
ADJOURNMENT

Adjournment At: 12:30 a.m.


SENATE BUSINESS & INDUSTRY COMMITTEE

March 18, 1991

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J.D. LYNCH, Chairman



DARA ANDERSON, Secretary

JDL/dia

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE

3/18/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	Y		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Dr. Lee Hudson	Mt. Chiropractic Assn.	HB 719	✓	
Dr. Pam Blanchard	MT. Chiropractic Assn.	HB 719	✓	
Bonnie Tipping	MT Chiropractic Assn	HB 719	✓	
GEORGE T. BENNETT	MONT. BANKERS ASS'N	H.B. 739	✓	
Tony Hopgood	Health Ins. Assn. Amer.	HB 719		✓
Diana Koon	D of Revenue	HB 698	—	—
Steve Brown	Blue Cross-Blue Shield	HB 719		✓
Marqueline N. Verrill	Am. Ins. Assoc.	HB 203	✓	
Marqueline N. Verrill	Am. Ins. Assoc.	HB 719		✓
Dr. Bingham	Board of Chiropractors	HB 719	✓	
LARRY AKEY	MT ASSOC OF LIFE UNDERWRITERS	HB 719		✓
LARRY AKEY	"	HB 203	✓	
George Wood	MT SELF INSURERS ASSOC	HB 719		✓
Gary Blom	MCA	719	✓	
Pat Sweeney	STATE FUND	719		✓
Jim T. Lundy	mt. med assn	719		✓
Steve Browning	State Farm INS	HB 719		✓
Gene Phillips	Alliance Am. Ins.	HB 719		✓
Jack Anderson	MT League of Svcs	HB 739	✓	
Roger Tipping	MT Beer & Wine Wholesaler	HB 698	✓	
Roger Tipping	MT Indep Bankers	HB 739	✓	

**THE AMERICAN
MEDICAL ASSOCIATION
FOUND GUILTY OF
CONSPIRACY**

United States Court of Appeals—February 7, 1990
United States District Court—August 27, 1987

**The complete opinion and summary of the
United States Court of Appeals Decision
follows:**

Ruling for chiropractors in suit against AMA is upheld by appeals court

By BRENDA C. COLEMAN
Associated Press

CHICAGO — A federal appeals court has upheld a 1987 ruling that the American Medical Association (AMA) violated antitrust laws by trying to destroy the profession of chiropractic, attorneys in the case said Thursday.

The 7th U.S. Circuit Court of Appeals on Wednesday affirmed the finding of U.S. District Judge Susan Getzendanner, who permanently barred the nation's largest organization of physicians from boycotting chiropractors, who treat patients with physical manipulation focused on the spine.

"The experience of the AMA in this case should now put other medical associations, and hospitals dominated by them, on notice that chiropractors will fight for the rights of their patients," attorney George McAndrews, who represented the chiropractors, said in a statement.

Those rights include "fair treatment by tax-supported institutions, hospitals, insurance plans, HMOs and other groups that have burdened those patients with anti-competitive barriers," McAndrews said. HMOs are health maintenance organizations.

The AMA has yet to decide if it

will appeal, said association attorney Kirk Johnson.

The plaintiffs alleged AMA policy had prevented doctors from referring patients to chiropractors or taking referrals from them. The doctors were accused of preventing chiropractors from treating patients at hospitals controlled by medical doctors.

After an eight-week trial, Ms. Getzendanner issued a permanent injunction on Sept. 25, 1987, barring the AMA from "restricting, regulating or impeding" its 275,000 members or the hospitals where they work from associating with chiropractors.

The injunction came four weeks after she found the Chicago-based AMA had engaged in a conspiracy "to contain and eliminate the chiropractic profession."

A three-judge appellate panel, which heard arguments in the case in December, ruled unanimously that Ms. Getzendanner had reached a "reasonable" decision in granting the injunction.

The lawsuit, filed in 1977 by four chiropractors in different states, didn't seek monetary damages but challenged the refusal of medical doctors to acknowledge chiropractors' professional abilities.

BOARD OF CHIROPRACTORS
DEPARTMENT OF COMMERCE

STAN STEPHENS, GOVERNOR

STATE OF MONTANA

(406) 444-6433

HELENA, MONTANA 59620-0407



February 20, 1991

Mr. Bob Bachini, Chairman
Business and Economic Development Committee
Montana House of Representatives
Helena, Montana

Dear Mr. Bachini;

I know of no insurance company that would settle a claim on a damaged automobile without first having one of their agents inspect the car and probably take photos to send to their district office.

Yet, the good people of the State of Montana, who are insured for chiropractic care by various companies, are subjected to a "paper review" by "out of state" and "out of profession" consultants whose first allegiance is to their employers, namely the insurance companies, and who do not have either the opportunity or the desire to examine the patient to make a competent or fair evaluation of the condition for which the patient is, or has been treated.

It makes sense, that if you drive a Ford, you seek a competent Ford dealership for services. If you drive a Cadillac or Mercedes, you don't go to a Honda repair center. For the same reason, medical doctors should review medical claims, and chiropractors should review chiropractic claims, and they should be reviewed by Montana doctors who are familiar with and understand Montana laws and protocol.

Montana chiropractors welcome review of their patients insurance claims, but we do desire that it be done in fairness, with the patients well being in mind.

As chairman of the Montana Board of Chiropractors, I am personally aware of the abuses by out of state and out of profession consultants and the hardships both in terms of finances and physical distress that those abuses result in, not to mention the ill-gained profits of the insurers.

The Montana Board of Chiropractors therefore, very humbly, requests your support for HB 719, limiting independent medical evaluations to chiropractors licensed in the state of Montana.

Sincerely yours,

Lou G. Sage, D.C.
Lou G. Sage, D.C., President
Montana Board of Chiropractors

WASHINGTON, DC -- The U.S. Supreme Court announced Nov. 26 that it would decline to review a Trial Court and a Court of Appeals finding that the ~~American Medical Association had been~~ ^{guilty of a lengthy, systematic, successful and unlawful} ~~boycott of doctors of chiropractic and their patients.~~ ^{3/18/91 43719}

The denial of review came after the four chiropractic plaintiffs in the Wilk et al v. AMA et al suit had argued in their opposition to the AMA's petition for a writ of certiorari that the ~~AMA had no justification whatsoever for its direct but private challenge to the 50 state legislatures that licensed chiropractic. Millions have suffered and continue to suffer because of the AMA's arrogant abuse of power.~~

The lawsuit was filed Oct. 13, 1976. During the ensuing 14 years of litigation, the AMA had attempted to justify its boycott while the chiropractors argued that the AMA knew at an early date that chiropractic was licensed, effective, desired by many millions of consumers and a competitive threat to medical physicians.

"The ACA is extremely pleased that this 14-year legal battle has ended in chiropractic's favor," said ACA Executive Vice President J. Ray Morgan. "However, the chiropractic community must be aware that it has won simply that, a legal battle. The real fight lies ahead in that the chiropractic profession must work together with the medical community for the betterment of the nation's health care."

"This makes the third time that the AMA has lost in the Supreme Court," said the plaintiffs' attorney and ACA General Counsel George P. McAndrews, Esq. "In fact, it has never won at that level. Time has been running out on the AMA's ability to bully other health care providers in the increasingly competitive health care market. The studies, from reputable medical and governmental sources, have been increasingly pointing to the fact that members of the AMA have been deprived of access to more effective health care procedures by a boycott that denied them and their patients access to the documented skills of doctors of chiropractic. The AMA has been tripped up by the very scientific studies that it demanded and which now have been used in court to confirm the finding of guilty in the antitrust case. It is certainly hoped that medical and chiropractic physicians, recognizing the scientific proof of the efficacy of chiropractic care, will now cooperate for the benefit of patients everywhere."

The chiropractors in their opposition to the AMA's request to have the Supreme Court review the case, were aided by numerous ~~scientific studies that have found that chiropractic care is up to twice as effective as medical physician care, for non-surgical, neuro-mechanical corrections of problems related to the musculoskeletal system.~~ As recently as June of 1990, a lengthy, prospective, scientific study of chiropractic care in Great Britain, when measured against corresponding medical care at 10 hospital outpatient centers, concluded that "chiropractic almost certainly confers worthwhile, long-term benefit in comparison with hospital outpatient management,"

HOUSE BILL 719, INTRODUCED BY REPRESENTATIVE DAVE BROWN: A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING PERSONS WHO MAY CONDUCT A PHYSICAL EXAMINATION OR REVIEW OF CHIROPRACTIC RECORDS ON BEHALF OF AN INSURER; SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1D
DATE 3/18/91
BILL NO. HB 719

Question: What does HB 719 do?

Answer: HB 719 insures that when an independent medical examination is done either by study of a physicians records or by an actual physical examination of the patient, that if that individual is a chiropractic patient, the independent examiner will be a chiropractor. In addition, that chiropractor must be licensed by and practicing in the state of Montana. Remember, the treating physician will never perform this function.

Question: What is an independent medical evaluation?

Answer: In the course of treatment of a patient, from time-to-time an insurer will request that an exam should be done by a physician not in charge of the current treatment of the patient. This exam is done in order to determine if the current course of treatment is the best course, if the patient is improving, and if anything needs to be changed. These exams can be done through a paper review of physicians' chart notes, an actual physical examination of the patient, and oftentimes both.

Question: Don't chiropractors perform IME's on chiropractic patients now?

Answer: It is the general practice that IME's of chiropractic patients are performed by chiropractors, but there some insurers who do not follow this practice. We are unable to find the reasons for this. In some instances, the examination is actually done by someone located out-of-state, as far away as Peoria, Illinois. There are cases where these reviews will be performed by a nurse or a medical doctor, individuals who have little, if any, knowledge of chiropractic care.

Question: Why is it a problem for an out-of-state chiropractor to do these evaluations?

Answer: First and foremost, an out-of-state physician cannot perform a physical examination of a patient. It is very difficult in many cases to make a determination regarding patient care and future treatment needs without doing a physical examination. Also, out-of-state people have very little, if any, knowledge regarding Montana law or protocols. All they can do is a paper review.

Question: Are these people full-time employees of insurance companies?

Answer: Many times they are, and we believe that this creates a definite conflict of interest. Are they evaluating patient records in order to determine what is best for the patient or what is best for the insurance company? HB 719 solves many of these problems.

Question: Do chiropractors perform IMEs on patients of medical doctors?

Answer: Absolutely not, and if it ever happened, the M.D.s would be incensed. What is good for one type of provider should be good for the next. Montana chiropractors are primary health care providers, with extensive training and skills in diagnosis and treatment. These diagnostic skills help them to know when to refer a patient to another type of provider.

Question: Didn't a bill similar to this pass last session.

Answer: Yes, last session a bill was passed which required that, in worker's compensation cases, if the treating physician is a chiropractor, then the impairment evaluation can be done by a chiropractor. The bill, at our request, also required that in order to do an impairment evaluation, chiropractors must be certified as evaluators by the state board. The rules implemented require a minimum of 36 hours of education followed by a day-long test on impairment evaluation. The Doctors of Chiropractic in Montana have asked for, and received, a tougher criteria for doing these evaluations than medical doctors, and many workers compensation employees will say that they are some of the best evaluators in the state because of it.

In a nutshell:

HB 719 is a fair bill. It mirrors legislation which has passed in several other states, including Minnesota just last year. We believe that insurers should be willing to deal in good faith with the people paying the bill. . .health insurance consumers. Those consumers, should they choose to use a chiropractor for their health care, deserve to have their reviews done by a chiropractor. There is still a great deal of prejudice against D.C.s by the traditional medical community, and patients of chiropractic should not also be subjected to this prejudice. This is legislation which, if argued on its merits only, should pass easily. Please do not allow insurers to kill it by quiet assassination by making unfair and erroneous comments about just what this bill does and about chiropractic care in general.

49ers put game in chiropractors' hands

NEW ORLEANS — Chiropractor Nicholas J. Athens stripped the megahyped Super Bowl to its bare bones.

Athens, whose practice is in San Carlos, Calif., says 35 of the 47 49ers came to him and associate Jody L. Serra of Lebanon, N.J., for treatment Saturday night in the Hilton Hotel.

Others visited him Sunday morning, just hours before the Super Bowl.

"I'm like a body mechanic," Athens said. "When something feels good to their bodies, they stick with it."

Athens is paid by the players, not the 49ers. He said trainers and team physicians still don't embrace his methods. "They are set in their ways and may never change," he says.

He began working with Roger Craig in 1982.

"He was seven years ahead of his time. He stood up to the controversy," said Athens. "He wanted drug-free health care, and he hasn't missed a game in eight years."

Athens says "one by one" the 49ers have started to come to him. Jerry Rice and Joe Montana are among his patients.

The chiropractic game plan is to keep the spine balanced. "We look at spine as the circuit breaker to the body," Athens said.

Players like Athens' pregame treatment enough that Serra comes to their hotel when they play road games. He hopes someday the team will employ him as its chiropractor.

— Kevin Allen

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1 FDATE 3/18/91BILL NO. HB 719

Dear Montana Senate Members:

Whereas, the quality of chiropractic care provided to and received by Montana residents has been negatively affected in certain cases by the activities of independent chiropractic medical examiners, and

Whereas, health care insurers often employ persons who are not qualified to evaluate Montana claims, conduct a physical examination, or review chiropractic records to aid the insurer in making a determination regarding the propriety of chiropractic treatment and the costs of the treatment; and

Whereas, the ability of Montana chiropractors to meet uniform standards of treatment and patient care is impaired because the criteria applied by persons conducting the examinations or record reviews are subjective and differ widely among the persons, resulting in a wide variance in the procedures employed; and

Whereas, the ability of Montana chiropractors to provide timely and effective chiropractic care to Montana residents is impaired because the persons conducting the examinations or record reviews, especially those providing the services from outside Montana, are often inaccessible to Montana chiropractors,

We, the patients of Montana chiropractors urge the Montana Senate to enact House Bill 719, which resolves these problems. (Use back of page if necessary)

NAME

CITY

1. Marilyn Vane	Vida, Mont. 59274
2. Stanley Mc Lindholm	^{P.O. Box 493} Sidney, Montana 59270
3. Lillian E. Lindholm	P.O. Box 493, Sidney, Mt. 59270
4. Fred R. Poland	Box 264 Culbertson MT 59218
5. Bruce V. Watt	Box 371 Sidney, MT 59270
6. Carol Edwardson	^{706 S + h St S.E.} Sidney, Mt. 59270
7. David Cox	Box 19 Fairview Mont. 59271
8. Ronald Anderson	^{1001 14th St. S.W.} Sidney, Mt. 59270
9. Evelyn Ekness 721-6th St. SE, Sidney	^{10th Ave S. S. E.} Sidney, MT 59270
10. Ralph Allard	^{10112 Ave S. S. E.} Savage, MT 59262
12. Violet 777 Tanglew Box 98	Crane, Mt 59217

March 14, 1991

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 2F

DATE 3/18/91

BILL NO. HB 719

Dear Sir:

I support the house bill

719.

Sincerely yours,

Gary Pami
Linda Pami

March 12 191

Dear Sir:
I support the house bill

719.

Sincerely yours,

Harry P. Pami
Linda Pami

There were 68 more pages of signatures supporting HB 719. They can be viewed at the archives.

HB 719
Written Testimony of
Patrick J. Sweeney
President, SCMIF

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 3

DATE 5/18/91

BILL NO. HB 719

This bill would to deny a workers' compensation insurer the right to have a physical examination of a patient or review of the patient's records by a medical doctor if the patient is being seen by a chiropractor, when the insurer is attempting to determine whether or not further chiropractic care of a patient or whether certain chiropractic services should be allowed.

The bill only allows a chiropractor to determine whether or not chiropractor services should be covered or continued.

Problems with this bill are as follows:

1. This bill interferes with an insurance company adjuster's ability to handle a claim which is in the workers' and the employer's best interest. Typically a medical review of a chiropractor's treatment is only requested when treatment has gone on for a prolonged period of time with no or little results or certain services are questioned. At that time a claims adjuster may question whether or not the claimant has a condition which should be treated instead by a medical physician or whether or not continued chiropractic care is warranted. - This bill would potentially injure a claimant in that they may not realize that additional medical care is warranted. -

2. This Bill is not about cost containment. The State Fund is concerned about cost containment in workers' compensation and we know this Legislature is too. This has been demonstrated by the passage of SB 130 which requires the use of generic drugs in workers' compensation cases.

It is not cost effective for an employer's compensation policy to pay for chiropractic care if it is unwarranted or unneeded and this Bill allows no one but another chiropractor to say when it should stop or what services should be paid for. - I would like to read you a question which was answered in the CareWise newsletter which is a publication of Health Incentives, Inc.: -

- How do you feel about chiropractors?

The problem with chiropractors is that some of them don't know when to stop. The patient is bent over and can't straighten up. A good chiropractor who knows what he's doing can help you get straightened up. But as soon as you're upright and he's taught you exercises to maintain that, he should release you. If he signs you up like an Arthur Murray dance course for two years, then there's a problem. -

3. The State Fund has attempted to work with the chiropractors to arrive at guidelines for chiropractic care in Montana, however, at this point the parties have not been able to reach any agreements on guidelines for chiropractic care. The State Fund is interested in working out these guidelines for chiropractic care with the chiropractors in Montana in that it would give both chiropractors and insurance adjusters some parameters on what treatment is acceptable and what treatment is not acceptable, as well as the duration of such treatment.

However, the State Fund will consider supporting this bill if the committee would add an amendment to HB 719. The amendment would limit chiropractic care for a period of 30 days from the date of the first visit on the claim or for 12 visits, whichever first occurs. We feel this amendment would be reasonable and not without precedent in that it is based upon a statute recently passed in Oregon for their Workers' Compensation Act. By limiting treatment times, this also limits any need for a claims adjuster to be concerned as to whether a claimant's condition warrants medical treatment vs. chiropractic treatment or whether or not treatment has gone on for an unwarranted period of time.

HB719A.DOC

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. HB 655 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion:

BE CONCURRED IN.

NOBLE TO CARRY

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. HB203 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER		X
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion:

BE CONCURRED IN
THAYER TO CARRY

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. HB169 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER		X
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion:

AMENDMENTS

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. HB169 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS		X
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN		X
SENATOR BRUSKI		X
SENATOR KENNEDY		X
SENATOR LYNCH		X

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion: Do Not Pass As Amended

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. HB169 Time 10 a.m.

NAME

YES

NO

SENATOR WILLIAMS	X	
SENATOR THAYER		X
SENATOR NOBLE		X
SENATOR HAGER		X
SENATOR GAGE		X
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: BE CONCURRED IN AS AMENDED
SURCEK TO CARRY

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. HB 209 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion:

AMENDMENTS

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. HB 209 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion:

Be CONCURRED IN AS AMENDED
SN. THAYER

Amendments to House Bill No. 209
First Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell
February 11, 1991

1. Title, line 5.

Following: "VEHICLE"

Insert: ", BOAT, SNOWMOBILE, OR OFF-HIGHWAY VEHICLE"

2. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 23-2-508, 23-2-611, 23-2-811, AND"

3. Page 3, line 12.

Following: "notice"

Strike: "is"

Insert: "and the certificate of ownership or manufacturers'
statement of origin are"

4. Page 3, line 20.

Following: line 19

Insert: "(6) Security interests or other lien filings that do not require transfer of ownership are perfected when received by the department. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date the lien notice is delivered to the department, of the existence of the security interest."

Renumber: subsequent subsections

5. Page 5, line 12.

Insert: "Section 2. Section 23-2-508, MCA, is amended to read:

"23-2-508. Certificate of ownership -- filing of security interests. (1) Except as provided in subsection (9), a motorboat or sailboat 12 feet in length or longer may not be operated upon the waters of the state unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state.

(2) The owner of a motorboat or sailboat 12 feet in length or longer shall apply for a certificate of ownership and a certificate of number with the county treasurer of the county in which the owner resides, upon forms furnished by the department of justice. The forms must require the following information:

- (a) name of the owner;
- (b) residence of the owner, by town or county;
- (c) business or home address of the owner;
- (d) name and address of any lienholder;
- (e) amount due under any contract or lien;
- (f) name of the manufacturer;
- (g) model number or name;
- (h) identification number;

(i) name and address of the dealer or other person from whom acquired, if known; and

(j) such other information as the department of justice may require.

(3) The application is to be accompanied by documentation of ownership, such as an invoice, bill of sale, foreign title, official certificate of boat number, fee in lieu of tax receipt, or a certificate of ownership of a trailer purchased with the motorboat or sailboat. An applicant who fails to provide such proof of ownership shall provide a certified statement describing how the motorboat or sailboat 12 feet in length or longer was acquired, from whom acquired if known, and other information requested by the department of justice.

(4) If a certificate of ownership has previously been issued under the provisions of this part, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to motorboats or sailboats 12 feet in length or longer that are purchased as new and unused vessels or that were operated when the provisions of this part were not in force and effect.

(5) Any motorboat or sailboat 12 feet in length or longer that does not have a manufacturer's or other identifying number thereon must be assigned an identification number by the department of fish, wildlife, and parks. A fee of \$1 must be paid to the department for an assignment of number.

(6) Upon completion of the application, the county treasurer shall issue to the applicant two copies of the certificate of number application, one of which must be marked "file copy". The treasurer shall forward one copy and the original application for a certificate of ownership to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office, and shall furnish the applicant a certificate of ownership containing that information in the application considered necessary by the department and a permanent boat number. The certificate of ownership need not be renewed annually and is valid as long as the person holding it owns the vessel.

(7) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(8) Upon application for a certificate of ownership, a fee of \$5 must be paid to the county treasurer, \$3.50 of which must be forwarded by the county treasurer to the department of justice and deposited in the general fund.

(9) A person who, on July 1, 1988, is the owner of a motorboat or sailboat 12 feet in length or longer with a valid certificate of number issued by the state is not required to file an application for a certificate of ownership for the motorboat or sailboat unless he transfers a part of his interest in the motorboat or sailboat or he renews the certificate of number for the motorboat or sailboat.

(10) A security interest in a boat is not valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice, showing that a security interest has been created, has

been ~~filed with the department of justice~~ perfected as provided in this section. The lien notice must be filed on a form approved by the department [of justice]. The department of justice may not file a security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the boat encumbered. If the lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete boat description, the amount of the lien, and the signature of the debtor. The department of justice shall file the security interest or lien by entering the name and address of the secured party upon the face of the certificate of ownership. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county where the boat is to be registered. The owner of a boat is the person entitled to operate and possess the boat.

(11) A security interest in a boat held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, and no endorsement on the certificate of title is necessary for perfection.

(12) Whenever a security interest or lien is filed against a boat that is subject to two security interests previously perfected ~~by filing~~ under this section, the department of justice shall endorse on the face of the certificate of ownership: "NOTICE. This boat is subject to additional security interest on file with the Department of Justice." No other information regarding the additional security interests need be endorsed on the certificate.

(13) Satisfactions or statements of release filed with the department of justice under this part must be retained for a period of 8 years after receipt, after which they may be destroyed.

(14) ~~The filing of a~~ A security interest or other lien as herein provided ~~in this section, perfects a security interest that has attached at the time the certificate of ownership noting the interest is issued is perfected on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing perfection. Issuance of a certificate of ownership~~ Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the ~~time of filing date of delivery of the lien notice to the county treasurer,~~ of the existence of the security interest.

(15) Upon default under a chattel mortgage or conditional sales contract covering a boat, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of a boat all the provisions of 27-18-413, 27-18-

414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

(16) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of \$1 for each day that he fails to file the satisfaction.

(17) Upon receipt of any liens, notice of liens dependent on possession, or attachments against the record of any boat registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both.

(18) It is not necessary to refile with the department of justice any instruments on file in the office of any county clerk and recorder on October 1, 1989.

(19) A fee of \$4 must be paid to the department of justice to file any security interest or other lien against a boat. The \$4 fee must cover the cost of filing a satisfaction or release of the security interest and the cost of entering the satisfaction or release on the records of the department of justice and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of \$4 must be paid to the department of justice for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file with the department of justice or for filing an assignment of any security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in the general fund in accordance with 15-1-504."

Section 3. Section 23-2-611, MCA, is amended to read:

"23-2-611. Certificate of ownership -- filing of security interests. (1) A snowmobile may not be operated upon any public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state.

(2) The owner of a snowmobile shall apply for a certificate of ownership with the county treasurer of the county in which the owner resides, upon forms to be furnished for this purpose. The forms must require the following information:

- (a) name of the owner;
- (b) residence of the owner, by town and county;
- (c) business or home mail address of the owner;
- (d) name and address of any lienholder;
- (e) amount due under any contract or lien;
- (f) name of the manufacturer;
- (g) model number or name;
- (h) identification number; and
- (i) name and address of the dealer or other person from

whom acquired.

(3) The application must be signed by at least one owner or by a properly authorized officer or representative of the owner.

(4) If a certificate of ownership has previously been issued under the provisions of 23-2-601 through 23-2-644, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to snowmobiles that are purchased as new and unused machines or that were operated when the provisions of 23-2-601 through 23-2-644 were not in force and effect.

(5) Upon completion of the application, on forms furnished by the department of justice, the county treasurer shall issue to the applicant two copies of the application, one of which shall be marked "file copy". The treasurer shall forward one copy and the original application to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office and shall furnish the applicant a certificate of ownership, which shall contain that information in the application considered necessary by the department of justice, and a permanent ownership number. The certificate of ownership is not to be renewed annually and is valid as long as the person holding it owns the snowmobile.

(6) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(7) Upon application for a certificate of ownership, a fee of \$5 shall be paid to the county treasurer, \$3.50 of which shall be forwarded by the county treasurer to the department of justice and deposited in the general fund.

(8) A security interest in a snowmobile is not valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice, showing that a security interest has been created, has been ~~filed with the department of justice~~ perfected as provided in this section. The lien notice must be filed on a form approved by the department [of justice]. The department of justice may not file a security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the snowmobile encumbered. If the lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete snowmobile description, the amount of the lien, and the signature of the debtor. The department of justice shall file the security interest or lien by entering the name and address of the secured party upon the face of the certificate of ownership. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of

ownership to the county treasurer of the county where the snowmobile is to be registered. The owner of a snowmobile is the person entitled to operate and possess the snowmobile.

(9) A security interest in a snowmobile held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, and no endorsement on the certificate of title is necessary for perfection.

(10) Whenever a security interest or lien is filed against a snowmobile that is subject to two security interests previously perfected ~~by filing~~ under this section, the department of justice shall endorse on the face of the certificate of ownership: "NOTICE. This snowmobile is subject to additional security interest on file with the Department of Justice". No other information regarding the additional security interests need be endorsed on the certificate.

(11) Satisfactions or statements of release filed with the department of justice under this part must be retained for a period of 8 years after receipt, after which they may be destroyed.

(12) ~~The filing of a~~ A security interest or other lien as herein provided ~~in this section, perfects a security interest that has attached at the time the certificate of ownership noting the interest is issued is perfected on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Issuance of a certificate of ownership~~ Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the time of filing date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(13) Upon default under a chattel mortgage or conditional sales contract covering a snowmobile, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of a snowmobile all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

(14) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of \$1 for each day that he fails to file the satisfaction.

(15) Upon receipt of any liens, notice of liens dependent on possession, or attachments against the record of any snowmobile registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both.

(16) It is not necessary to refile with the department of justice any instruments on file in the office of the county clerk and recorder on October 1, 1989.

(17) A fee of \$4 must be paid to the department of justice

to file any security interest or other lien against a snowmobile. The \$4 fee must cover the cost of filing a satisfaction or release of the security interest and the cost of entering the satisfaction or release on the records of the department of justice and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of \$4 must be paid to the department of justice for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file with the department of justice or for filing an assignment of a security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in the general fund in accordance with 15-1-504."

Section 4. Section 23-2-811, MCA, is amended to read:

"23-2-811. Certificate of ownership -- procedure -- fee -- filing security interest. (1) No off-highway vehicle may be operated upon any public lands, trails, easements, lakes, rivers, or streams unless a certificate of ownership has first been obtained from the department of justice.

(2) The owner of an off-highway vehicle shall apply for a certificate of ownership to the county treasurer of the county in which the owner resides, on a form furnished by the department of justice for that purpose. The form must include:

- (a) the name of the owner;
- (b) the residence of the owner, by town and county;
- (c) the business address or home mailing address of the owner;
- (d) the name and address of any lienholder;
- (e) the amount due under any contract, mortgage, or lien;
- (f) the name of the manufacturer;
- (g) the model number or name;
- (h) the identification number; and
- (i) the name and address of the dealer or other person from whom the off-highway vehicle was acquired.

(3) The application must be signed by at least one owner or by a properly authorized agent of the owner.

(4) The application for a new certificate of ownership must be accompanied by the immediately previous certificate. This subsection does not apply to off-highway vehicles that are purchased as new and unused machines or that were operated before January 1, 1990.

(5) (a) After the owner completes the application form, the county treasurer shall issue to the applicant two copies of the completed application, with one marked "file copy", and shall forward one copy and the original application to the department of justice. The department of justice shall enter the information contained in the application upon the corresponding records of its office and shall send the applicant a certificate of ownership containing a permanent ownership number and information from the application considered necessary by the department of justice.

(b) The certificate of ownership is not required to be renewed annually and is valid as long as the person holding it owns the off-highway vehicle.

(6) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(7) Upon application for a certificate of ownership, a fee of ~~\$4~~ \$5 must be paid to the county treasurer, of which:

(a) ~~\$3~~ \$3.50 must be forwarded to the department of justice for deposit in the general fund; and

(b) ~~\$1~~ \$1.50 must be retained by the county treasurer for the cost of administering this section.

(8) A security interest in an off-highway vehicle is not valid against creditors, subsequent purchasers, or encumbrancers unless a lien notice, showing that a security interest has been created, has been perfected as provided in this section on a form approved by the department of justice. The department of justice may not file a security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the encumbered off-highway vehicle. If the lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, a complete description of the off-highway vehicle, the amount of the lien, and the signature of the debtor. The department of justice shall file the security interest or lien by entering the name and address of the secured party upon the face of the certificate of ownership. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate. However, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county where the vehicle is to be registered. The owner of an off-highway vehicle is the person entitled to operate and possess the vehicle.

(9) A security interest in an off-highway vehicle held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, and no endorsement on the certificate of title is necessary for perfection.

(10) Whenever a security interest or lien is filed against an off-highway vehicle that is subject to two or more security interests previously perfected under this section, the department of justice shall endorse on the face of the certificate of ownership: "Notice. This off-highway vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests need not be endorsed on the certificate.

(11) Satisfaction or statements of release filed with the department of justice under this section must be retained for a period of 8 years from the date of receipt, after which they may be destroyed.

(12) A security interest or other lien as provided in this section is perfected on the date the lien notice is delivered to

the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(13) Upon default under a chattel mortgage or conditional sales contract covering an off-highway vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In the case of attachment of an off-highway vehicle, the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

(14) A conditional sales vendor, chattel mortgagee, or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sale contract within 15 days after receiving final payment shall pay to the department of justice the sum of \$1 for each day after the expiration of the 15-day period that he fails to file the satisfaction.

(15) Upon receipt of any liens, notices of liens dependent on possession, or attachments against the record of an off-highway vehicle in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice of the lien, showing the date of execution of the lien and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both.

(16) It is not necessary to refile with the department of justice instruments on file in the offices of the county clerk and recorders at the time this law takes effect.

(17) A fee of \$4 must be paid to the department of justice to file a security interest or other lien against an off-highway vehicle. The \$4 fee includes and covers the cost of filing a satisfaction or release of the security interest and also the cost of entering the satisfaction or release on the records of the department and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of \$4 must be paid to the department for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file in the office of the department, or for filing an assignment of a security interest or other lien on file with the department. All fees provided for in this section must be paid to the county treasurer for deposit in the state general fund in accordance with 15-1-504."

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. 43853 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion:

Amendment

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. H73853 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion: BE CONCURRED IN AS AMENDED
S. HAGER

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. 45672 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: Will. 4MS
AMENDMENT 'SOLELY' PG 7 LINE 6
FOLLOWING THE WORD 'BASED' 'INDIVIDUAL'

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. HB 672 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: ^{HAGER} AMENDMENT - PG 2, LINE 18
STRIKE 'OR' → INSERT

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. HB672 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS		X
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER		X
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

FRANKLIN
Motion:

AMENDMENT BLUE CROSS - GENDOR INSURANCE
1-2 & 3

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. HB 672 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

BRUSKI
Motion:

BE CONCURRED IN AS AMENDED
FRANKLIN T. CARRY

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/18/91 Bill No. HB530 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion: Be CONCURRED IN
SN. KENNEDY

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 18, 1991

MR. PRESIDENT:

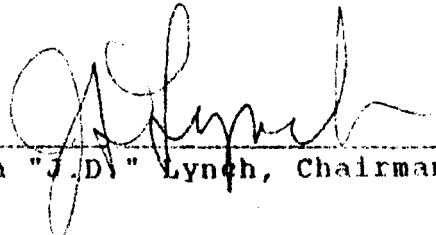
We, your committee on Business and Industry having had under consideration House Bill No. 169 (third reading copy -- blue), respectfully report that House Bill No. 169 be amended and as so amended be concurred in:

1. Page 11, line 7.

Strike: "1993"

Insert: "1995"

Signed: _____


John "J.D." Lynch, Chairman

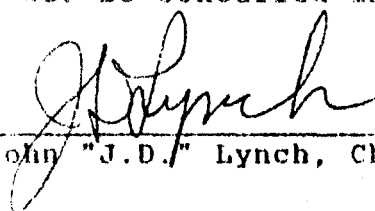
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 18, 1991


MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 530 (third reading copy -- blue), respectfully report that House Bill No. 530 be concurred in.

Signed: _____


John "J.D." Lynch, Chairman

 3-18-91
Amd. Coord.

 3/18 d:50
Sec. of Senate

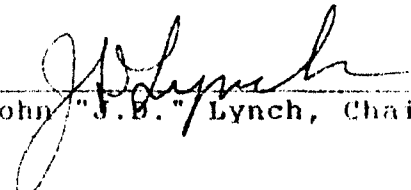
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 18, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 655 (third reading copy -- blue), respectfully report that House Bill No. 655 be concurred in.

Signed: _____


John "J.B." Lynch, Chairman

141 3, 18-91
Amd. Coord.

512 3/18 1:50
Sec. of Senate

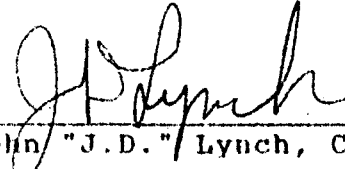
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 18, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 203 (third reading copy -- blue), respectfully report that House Bill No. 203 be concurred in.

Signed: _____


John "J.D." Lynch, Chairman

1991 3-18-91
And. Coord.

MD-418 1:50
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 11
March 18, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 209 (third reading copy -- blue), respectfully report that House Bill No. 209 be amended and as so amended be concurred in:

1. Title, line 5.

Following: "VEHICLE"

Insert: ", BOAT, SNOWMOBILE, OR OFF-HIGHWAY VEHICLE"

2. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 23-2-508, 23-2-611, 23-2-811, AND"

3. Page 3, line 12.

Following: "notice"

Strike: "is"

Insert: "and the certificate of ownership or manufacturer's statement of origin are"

4. Page 3, line 20.

Following: line 19

Insert: "(6) Security interests or other lien filings that do not require transfer of ownership are perfected when received by the department. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date the lien notice is delivered to the department, of the existence of the security interest."

Renumber: subsequent subsections

5. Page 5, line 12.

Insert: "Section 2. Section 23-2-508, MCA, is amended to read:

"23-2-508. Certificate of ownership -- filing of security interests. (1) Except as provided in subsection (9), a motorboat or sailboat 12 feet in length or longer may not be operated upon the waters of the state unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state.

(2) The owner of a motorboat or sailboat 12 feet in length or longer shall apply for a certificate of ownership and a certificate of number with the county treasurer of the county in which the owner resides, upon forms furnished by the department of justice. The forms must require the following information:

- (a) name of the owner;
- (b) residence of the owner, by town or county;
- (c) business or home address of the owner;
- (d) name and address of any lienholder;

(e) amount due under any contract or lien;
(f) name of the manufacturer;
(g) model number or name;
(h) identification number;
(i) name and address of the dealer or other person from whom acquired, if known; and
(j) such other information as the department of justice may require.

(3) The application is to be accompanied by documentation of ownership, such as an invoice, bill of sale, foreign title, official certificate of boat number, fee in lieu of tax receipt, or a certificate of ownership of a trailer purchased with the motorboat or sailboat. An applicant who fails to provide such proof of ownership shall provide a certified statement describing how the motorboat or sailboat 12 feet in length or longer was acquired, from whom acquired if known, and other information requested by the department of justice.

(4) If a certificate of ownership has previously been issued under the provisions of this part, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to motorboats or sailboats 12 feet in length or longer that are purchased as new and unused vessels or that were operated when the provisions of this part were not in force and effect.

(5) Any motorboat or sailboat 12 feet in length or longer that does not have a manufacturer's or other identifying number thereon must be assigned an identification number by the department of fish, wildlife, and parks. A fee of \$1 must be paid to the department for an assignment of number.

(6) Upon completion of the application, the county treasurer shall issue to the applicant two copies of the certificate of number application, one of which must be marked "file copy". The treasurer shall forward one copy and the original application for a certificate of ownership to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office, and shall furnish the applicant a certificate of ownership containing that information in the application considered necessary by the department and a permanent boat number. The certificate of ownership need not be renewed annually and is valid as long as the person holding it owns the vessel.

(7) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(8) Upon application for a certificate of ownership, a fee of \$5 must be paid to the county treasurer, \$3.50 of which must be forwarded by the county treasurer to the department of justice and deposited in the general fund.

(9) A person who, on July 1, 1988, is the owner of a motorboat or sailboat 12 feet in length or longer with a valid certificate of number issued by the state is not required to file an application for a certificate of ownership for the motorboat or sailboat unless he transfers a part of his interest in the motorboat or sailboat or he renews the certificate of number for the motorboat or sailboat.

(10) A security interest in a boat is not valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice, showing that a security interest has been created, has been filed with the department of justice perfected as provided in this section. The lien notice must be filed on a form approved by the department [of justice]. The department of justice may not file a security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the boat encumbered. If the lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete boat description, the amount of the lien, and the signature of the debtor. The department of justice shall file the security interest or lien by entering the name and address of the secured party upon the face of the certificate of ownership. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county where the boat is to be registered. The owner of a boat is the person entitled to operate and possess the boat.

(11) A security interest in a boat held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, and no endorsement on the certificate of title is necessary for perfection.

(12) Whenever a security interest or lien is filed against a boat that is subject to two security interests previously perfected by filing under this section, the department of justice shall endorse on the face of the certificate of ownership:

"NOTICE. This boat is subject to additional security interest on file with the Department of Justice." No other information

regarding the additional security interests need be endorsed on the certificate.

(13) Satisfactions or statements of release filed with the department of justice under this part must be retained for a period of 8 years after receipt, after which they may be destroyed.

(14) ~~The filing of a A security interest or other lien as herein provided in this section perfects a security interest that has attached at the time the certificate of ownership noting the interest is issued is perfected on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Issuance of a certificate of ownership~~ Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the time of filing date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(15) Upon default under a chattel mortgage or conditional sales contract covering a boat, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of a boat all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

(16) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of \$1 for each day that he fails to file the satisfaction.

(17) Upon receipt of any liens, notice of liens dependent on possession, or attachments against the record of any boat registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both.

(18) It is not necessary to refile with the department of justice any instruments on file in the office of any county clerk and recorder on October 1, 1989.

(19) A fee of \$4 must be paid to the department of justice to file any security interest or other lien against a boat. The \$4 fee must cover the cost of filing a satisfaction or release of the security interest and the cost of entering the satisfaction or release on the records of the department of justice and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of \$4 must be paid to the

department of justice for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file with the department of justice or for filing an assignment of any security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in the general fund in accordance with 15-1-504."

Section 3. Section 23-2-611, MCA, is amended to read:

"23-2-611. Certificate of ownership -- filing of security interests. (1) A snowmobile may not be operated upon any public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state.

(2) The owner of a snowmobile shall apply for a certificate of ownership with the county treasurer of the county in which the owner resides, upon forms to be furnished for this purpose. The forms must require the following information:

- (a) name of the owner;
- (b) residence of the owner, by town and county;
- (c) business or home mail address of the owner;
- (d) name and address of any lienholder;
- (e) amount due under any contract or lien;
- (f) name of the manufacturer;
- (g) model number or name;
- (h) identification number; and
- (i) name and address of the dealer or other person from whom acquired.

(3) The application must be signed by at least one owner or by a properly authorized officer or representative of the owner.

(4) If a certificate of ownership has previously been issued under the provisions of 23-2-601 through 23-2-644, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to snowmobiles that are purchased as new and unused machines or that were operated when the provisions of 23-2-601 through 23-2-644 were not in force and effect.

(5) Upon completion of the application, on forms furnished by the department of justice, the county treasurer shall issue to the applicant two copies of the application, one of which shall be marked "file copy". The treasurer shall forward one copy and the original application to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office and shall furnish the applicant a certificate of ownership, which shall contain that information in the application considered necessary by the department of justice, and a permanent ownership number. The

certificate of ownership is not to be renewed annually and is valid as long as the person holding it owns the snowmobile.

(6) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(7) Upon application for a certificate of ownership, a fee of \$5 shall be paid to the county treasurer, \$3.50 of which shall be forwarded by the county treasurer to the department of justice and deposited in the general fund.

(8) A security interest in a snowmobile is not valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice, showing that a security interest has been created, has been filed with the department of justice perfected as provided in this section. The lien notice must be filed on a form approved by the department of justice. The department of justice may not file a security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the snowmobile encumbered. If the lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete snowmobile description, the amount of the lien, and the signature of the debtor. The department of justice shall file the security interest or lien by entering the name and address of the secured party upon the face of the certificate of ownership. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county where the snowmobile is to be registered. The owner of a snowmobile is the person entitled to operate and possess the snowmobile.

(9) A security interest in a snowmobile held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, and no endorsement on the certificate of title is necessary for perfection.

(10) Whenever a security interest or lien is filed against a snowmobile that is subject to two security interests previously perfected by filing under this section, the department of justice shall endorse on the face of the certificate of ownership: "NOTICE. This snowmobile is subject to additional security interest on file with the Department of Justice". No other

information regarding the additional security interests need be endorsed on the certificate.

(11) Satisfaction or statements of release filed with the department of justice under this part must be retained for a period of 8 years after receipt, after which they may be destroyed.

(12) ~~The filing of a A security interest or other lien as herein provided in this section perfects a security interest that has attached at the time the certificate of ownership noting the interest is issued~~ is perfected on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Issuance of a certificate of ownership Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the time of filing date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(13) Upon default under a chattel mortgage or conditional sales contract covering a snowmobile, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of a snowmobile all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

(14) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of \$1 for each day that he fails to file the satisfaction.

(15) Upon receipt of any liens, notice of liens dependent on possession, or attachments against the record of any snowmobile registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both.

(16) It is not necessary to refile with the department of justice any instruments on file in the office of the county clerk and recorder on October 1, 1989.

(17) A fee of \$4 must be paid to the department of justice to file any security interest or other lien against a snowmobile. The \$4 fee must cover the cost of filing a satisfaction or release of the security interest and the cost of entering the satisfaction or release on the records of the department of justice and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of \$4 must

be paid to the department of justice for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file with the department of justice or for filing an assignment of a security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in the general fund in accordance with 15-1-504."

Section 4. Section 23-2-811, MCA, is amended to read:

"23-2-811. Certificate of ownership -- procedure -- fee -- filing security interest. (1) No off-highway vehicle may be operated upon any public lands, trails, easements, lakes, rivers, or streams unless a certificate of ownership has first been obtained from the department of justice.

(2) The owner of an off-highway vehicle shall apply for a certificate of ownership to the county treasurer of the county in which the owner resides, on a form furnished by the department of justice for that purpose. The form must include:

- (a) the name of the owner;
- (b) the residence of the owner, by town and county;
- (c) the business address or home mailing address of the owner;
- (d) the name and address of any lienholder;
- (e) the amount due under any contract, mortgage, or lien;
- (f) the name of the manufacturer;
- (g) the model number or name;
- (h) the identification number; and
- (i) the name and address of the dealer or other person from whom the off-highway vehicle was acquired.

(3) The application must be signed by at least one owner or by a properly authorized agent of the owner.

(4) The application for a new certificate of ownership must be accompanied by the immediately previous certificate. This subsection does not apply to off-highway vehicles that are purchased as new and unused machines or that were operated before January 1, 1990.

(5) (a) After the owner completes the application form, the county treasurer shall issue to the applicant two copies of the completed application, with one marked "file copy", and shall forward one copy and the original application to the department of justice. The department of justice shall enter the information contained in the application upon the corresponding records of its office and shall send the applicant a certificate of ownership containing a permanent ownership number and information from the application considered necessary by the department of justice.

(b) The certificate of ownership is not required to be renewed annually and is valid as long as the person holding it owns the off-highway vehicle.

(6) The owner shall at all times retain possession of the certificate of ownership, except when it is being transmitted to and from the department of justice for endorsement or cancellation.

(7) Upon application for a certificate of ownership, a fee of \$4 ~~\$5~~ must be paid to the county treasurer, of which:

(a) ~~\$3~~ \$3.50 must be forwarded to the department of justice for deposit in the general fund; and

(b) ~~\$1~~ \$1.50 must be retained by the county treasurer for the cost of administering this section.

(8) A security interest in an off-highway vehicle is not valid against creditors, subsequent purchasers, or encumbrancers unless a lien notice, showing that a security interest has been created, has been perfected as provided in this section on a form approved by the department of justice. The department of justice may not file a security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the encumbered off-highway vehicle. If the lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, a complete description of the off-highway vehicle, the amount of the lien, and the signature of the debtor. The department of justice shall file the security interest or lien by entering the name and address of the secured party upon the face of the certificate of ownership. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate. However, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county where the vehicle is to be registered. The owner of an off-highway vehicle is the person entitled to operate and possess the vehicle.

(9) A security interest in an off-highway vehicle held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, and no endorsement on the certificate of title is necessary for perfection.

(10) Whenever a security interest or lien is filed against an off-highway vehicle that is subject to two or more security interests previously perfected under this section, the department of justice shall endorse on the face of the certificate of

ownership. "Notice. This off-highway vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests need not be endorsed on the certificate.

(11) Satisfaction or statements of release filed with the department of justice under this section must be retained for a period of 8 years from the date of receipt, after which they may be destroyed.

(12) A security interest or other lien is perfected as provided in this section on the date the lien notice is delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(13) Upon default under a chattel mortgage or conditional sales contract covering an off-highway vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In the case of attachment of an off-highway vehicle, the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable, except that deposits must be made with the department of justice.

(14) A conditional sales vendor, chattel mortgagee, or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sale contract within 15 days after receiving final payment shall pay to the department of justice the sum of \$1 for each day after the expiration of the 15-day period that he fails to file the satisfaction.

(15) Upon receipt of any liens, notices of liens dependent on possession, or attachments against the record of an off-highway vehicle in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice of the lien, showing the date of execution of the lien and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both.

(16) It is not necessary to refile with the department of justice instruments on file in the offices of the county clerk and recorders at the time this law takes effect.

(17) A fee of \$4 must be paid to the department of justice to file a security interest or other lien against an off-highway vehicle. The \$4 fee includes and covers the cost of filing a satisfaction or release of the security interest and also the cost of entering the satisfaction or release on the records of the department of justice and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of \$4 must be paid to the department of justice for issuing

a certified copy of a certificate of ownership subject to a security interest or other lien on file in the office of the department of justice or for filing an assignment of a security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in the state general fund in accordance with 15-1-504."

Signed:


John "J.D." Lynch, Chairman

3-18-91
Ad. Coord.

50 3/18 2:25
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 18, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 853 (third reading copy -- blue), respectfully report that House Bill No. 853 be amended and as so amended be concurred in:

1. Page 4, line 12.

Following: "appoint"

Insert: "or, at the option of the governing body, elect, as provided in [section 2],"

2. Page 6, line 19.

Strike: "AND"

Insert: "or"

Signed: _____


John "J.D." Lynch, Chairman

191 3-18-91
And. Coord.

2/18/91
Sec. of Senate