

House Bill 222

In The House

January 14, 1981	Introduced and referred to Committee on Fish and Game.
January 16, 1981	Fiscal note requested.
January 20, 1981	Fiscal note returned.
February 12, 1981	Committee recommend bill do pass as amended.
February 13, 1981	Bill printed and placed on members' desks.
February 14, 1981	Second reading do pass.
February 16, 1981	Correctly engrossed.
February 17, 1981	Third reading passed.

In The Senate

February 18, 1981	Introduced and referred to Committee on Fish and Game.
March 26, 1981	Committee recommend bill concurred as amended.
March 28, 1981	Second reading indefinitely postponed.

In The House

March 28, 1981	Returned from Senate indefinitely postponed.
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1 *Bartleson* HOUSE BILL NO. 222
 2 INTRODUCED BY *Robbins* *Shubert* *Spencer* *Messner*
 3 *Metcalf* *Hoyer* *Dr. Gene* *Anderson* *Quillen*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING NOISE

5 EMISSIONS FROM MOTORBOATS, PROVIDING MAXIMUM NOISE LEVELS,
 6 REQUIRING TESTING AND CERTIFICATION OF OUTBOARD MOTORS AND
 7 MARINE ENGINES, ALLOWING CERTAIN EXCEPTIONS, AND INCREASING
 8 THE MOTORBOAT IDENTIFICATION NUMBER FEE TO \$2; AMENDING
 9 SECTIONS 23-2-502 AND 23-2-512, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Maximum noise emissions from
 13 motorboats. (1) No motorboat powered by an engine
 14 manufactured before January 1, 1978, may be operated in or
 15 upon the waters of this state if it emits noise that exceeds
 16 86 dbA measured at a distance of 50 feet from the motorboat.

17 (2) No motorboat may be operated or sold or offered
 18 for sale for use in or upon the waters of this state after
 19 January 1, 1982, if it emits noise, measured at a distance
 20 of 50 feet from the motorboat, that exceeds:

21 (a) 86 dbA for a motorboat powered by an engine
 22 manufactured on or after January 1, 1978, and before January
 23 1, 1982;

24 (b) 84 dbA for a motorboat powered by an engine
 25 manufactured on or after January 1, 1982, and before January

1 1, 1984;

2 (c) 82 dbA for a motorboat powered by an engine
 3 manufactured on or after January 1, 1984.

4 NEW SECTION. Section 2. Certification. Outboard
 5 motors and other marine engines manufactured after January
 6 1, 1982, and offered for sale in Montana shall be certified
 7 to the department by the manufacturer as having been tested
 8 and found to comply with the noise levels prescribed in
 9 subsection (2) of [section 1]. Testing procedures employed
 10 to determine marine engine noise levels shall comply with
 11 the exterior sound level measurement procedure for pleasure
 12 motorboats recommended by the society of automotive
 13 engineers in its recommended practice designated SAEJ34. The
 14 department shall adopt rules prescribing the manner of
 15 certification and testing procedures.

16 NEW SECTION. Section 3. Removal, alteration, or
 17 modification prohibited. No person may remove or alter any
 18 part of a marine engine, its propulsion unit, or its
 19 enclosure or modify the mounting of a marine engine in or
 20 upon a boat to cause its noise emissions to exceed the
 21 limits prescribed in subsection (2) of [section 1].

22 NEW SECTION. Section 4. Exceptions. [Sections 1
 23 through 5] does not apply to:

24 (1) a motorboat competing under a local public entity
 25 or United States coast guard permit in a regatta or boat

1 race or while on official trials for speed records during
2 the time and in the designated area authorized by the
3 permit;

4 (2) a motorboat preparing for a race or a regatta if
5 authorized by a permit issued by the local entity having
6 jurisdiction over the area where the preparations will
7 occur;

8 (3) a motorboat operated by legally designated search
9 and rescue units, law enforcement officers, or personnel of
10 a federal, state, or local government agency on emergency
11 duty or in training for emergency duty.

12 NEW SECTION. Section 5. Contradictory regulations
13 prohibited. No political subdivision may adopt, continue in
14 effect, or enforce an ordinance or regulation that
15 establishes a noise level for motorboats or that imposes a
16 requirement for the sale or use of marine engines that is
17 not identical to the provisions of [sections 1 through 5] or
18 rules adopted by the department in compliance with [sections
19 1 through 5].

20 Section 6. Section 23-2-512, MCA, is amended to read:

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

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

10 (2) Before filing the application with the county
11 treasurer, the applicant shall submit it to the county
12 assessor, who shall enter on the application, in a space to
13 be provided for that purpose, the market value and taxable
14 value of the motorboat for the year for which the
15 application for registration is made.

16 (3) The applicant, upon the filing of the application,
17 shall pay to the county treasurer the registration fee and
18 the personal property taxes assessed against the motorboat
19 or vessel for the current year of registration before the
20 application for registration or reregistration may be
21 accepted by the county treasurer.

22 (4) Should the ownership of a motorboat change, a new
23 application form with fee must be filed within a reasonable
24 time with the county treasurer and a new certificate of
25 number assigned in the same manner as provided for in an

1 original assignment of number.

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

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

14 (7) Certificates of number expire on April 30 of each
15 year and may not be in effect unless renewed under this
16 part.

17 (8) In event of transfer of ownership, the purchaser
18 shall furnish the county treasurer notice within a
19 reasonable time of the acquisition of all or any part of his
20 interest, other than the creation of a security interest, in
21 a motorboat numbered in this state or of the loss, theft,
22 destruction, or abandonment of the motorboat. The transfer,
23 loss, theft, destruction, or abandonment terminates the
24 certificate of number for the motorboat. Recovery from theft
25 or transfer of a part interest that does not affect the

1 owner's right to operate the motorboat does not terminate
2 the certificate of number.

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

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

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

8 (b) The certificate of number shall be pocket size and
 9 available to federal, state, or local law enforcement
 10 officers at all reasonable times for inspection on the
 11 motorboat whenever the motorboat is on waters of this state.

12 (c) Boat liveries are not required to have the
 13 certificate of number on board each motorboat, but a rental
 14 agreement must be carried on board livery motorboats in
 15 place of the certificate of number.

16 (11) Fees collected under this section shall be
 17 transmitted to the state treasurer who shall deposit the
 18 fees in the motorboat certificate identification account of
 19 an earmarked revenue fund. These fees shall be used only for
 20 the administration and enforcement of this part, as amended.

21 (12) An owner of a motorboat must within a reasonable
 22 time notify the division of motor vehicles, giving the
 23 motorboat's identifying number and the owner's name when
 24 that motorboat becomes documented as a vessel of the United
 25 States or is transferred, lost, destroyed, abandoned, or

1 frauded or within 60 days after change of state of principal
 2 use."

3 Section 7. Section 23-2-502, MCA, is amended to read:
 4 "23-2-502. Definitions. As used in this part, unless
 5 the context clearly requires a different meaning, the
 6 following definitions apply:

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

12 ~~(2) "dbA" means sound pressure level measured on the~~
 13 ~~"A" weight scale in decibels.~~

14 ~~(2)(3) "Department" means the department of fish,~~
 15 ~~wildlife, and parks of the state of Montana.~~

16 ~~(3)(4) "Documented vessel" means a vessel which has~~
 17 ~~and is required to have a valid marine document as a vessel~~
 18 ~~of the United States.~~

19 ~~(4)(5) "Identifying number" means the boat number set~~
 20 ~~forth in the certificate of number and properly displayed on~~
 21 ~~the motorboat.~~

22 ~~(5)(6) "License decals" means the serially numbered~~
 23 ~~license stickers issued annually by the county treasurer and~~
 24 ~~displayed as required by law.~~

25 ~~(6)(7) "Motorboat" means any vessel propelled by any~~

1 machinery, motor, or engine of any description, whether or
 2 not such machinery, motor, or engine is the principal source
 3 of propulsion. The term includes boats temporarily equipped
 4 with detachable motors or engines but does not include a
 5 vessel which has a valid marine document issued by the U.S.
 6 coast guard of the United States government or any federal
 7 agency successor thereto.

8 ~~(7)~~(8) "Operate" means to navigate or otherwise use a
 9 motorboat or a vessel.

10 ~~(8)~~(9) "Operator" means the person who navigates,
 11 drives, or is otherwise in immediate control of a motorboat
 12 or vessel.

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

21 ~~(10)~~(11) "Passenger" means every person carried on
 22 board a vessel other than:

- 23 (a) the owner or his representative;
 24 (b) the operator;
 25 (c) bona fide members of the crew engaged in the

1 business of the vessel who have contributed no consideration
 2 for their carriage and who are paid for their services; or
 3 (d) any guest on board a vessel which is being used
 4 exclusively for pleasure purposes who has not contributed
 5 any consideration, directly or indirectly, for his carriage.
 6 ~~(11)~~(12) "Person" means an individual, partnership,
 7 firm, corporation, association, or other entity.

8 ~~(12)~~(13) "Uniform state waterway marking system" means
 9 one of two categories:

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

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

15 ~~(13)~~(14) "Vessel" means every description of
 16 watercraft, unless otherwise defined by the department,
 17 other than a seaplane on the water, used or capable of being
 18 used as a means of transportation on water.

19 ~~(14)~~(15) "Waters of this state" means any waters within
 20 the territorial limits of this state."

21 Section 8. Codification instruction. Sections 1
 22 through 5 are intended to be codified as an integral part of
 23 Title 23, chapter 2, part 5, and the provisions of Title 23,
 24 chapter 2, part 5, apply to sections 1 through 5.

-End-

STATE OF MONTANA

REQUEST NO. 124-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 16, 19 81, there is hereby submitted a Fiscal Note for House Bill 222 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act to limit noise emissions from motorboats, providing maximum noise levels, and increasing the motorboat identification fee to \$2.00.

Assumptions

That the number of boats to be registered will be approximately 31,000 for FY 1982 and 32,000 for FY 1983.

<u>Fiscal Impact</u>	<u>FY 1982</u>	<u>FY 1983</u>
Expenditures under proposed law	\$31,764	\$35,764
Personal Services	24,000	26,000
Operations	<u>10,000</u>	<u>5,000</u>
Total	\$65,764	\$66,764
Less Expenditures under current law		
Personal Services	\$18,764	\$18,764
Operations	<u>16,000</u>	<u>16,000</u>
Total	\$34,764	\$34,764
Increased expenditures under proposed law		
Personal Services	\$13,000	\$17,000
Operations	8,000	10,000
Equipment	<u>10,000</u>	<u>5,000</u>
Total Cost to State	\$31,000	\$32,000

Comments

Enactment of House Bill 222 will increase the workload of state game wardens and require the purchase of sound meters. The emission levels in House Bill 222 are in line with federal guidelines.

Airboats are not addressed in the bill, their unique design and operation makes control of noise level extremely difficult and therefore should be exempted.

David M Lewis
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____

The Enforcement Division's budget spending authority should be increased \$31,000 for FY 1982 and \$32,000 for FY 1983 to insure compliance with the new act.

Approved by Comm.
on Fish and Game

HOUSE BILL NO. 222

INTRODUCED BY ROBBINS, SCHULTZ, ZABROCKI, DUSSAULT,
BERTELSEN, METCALF, HARPER, McLANE, UNDERDAL,
JENSEN, QUILICI, KESSLER

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING NOISE
EMISSIONS FROM MOTORBOATS, PROVIDING MAXIMUM NOISE LEVELS,
REQUIRING TESTING AND CERTIFICATION OF OUTBOARD MOTORS AND
MARINE ENGINES, ALLOWING CERTAIN EXCEPTIONS, AND INCREASING
THE MOTORBOAT IDENTIFICATION NUMBER FEE TO \$2; AMENDING
SECTIONS 23-2-502 AND 23-2-512, MCA."

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

NEW SECTION. Section 1. Maximum noise emissions from
motorboats. (1) No motorboat powered by an engine
manufactured before AFTER January 1, 1978, may be operated
in or upon the waters of this state if it emits noise that
exceeds 85 dbA measured at a distance of 50 feet from the
motorboat.

(2) No motorboat may be operated or sold or offered
for sale for use in or upon the waters of this state after
January 1, 1982, if it emits noise, measured at a distance
of 50 feet from the motorboat, that exceeds:

(a) 36 dbA for a motorboat powered by an engine
manufactured on or after January 1, 1978, and before January

1, 1982;

(b) 84 dbA for a motorboat powered by an engine
manufactured on or after January 1, 1982, and before January
1, 1984;

(c) 82 dbA for a motorboat powered by an engine
manufactured on or after January 1, 1984.

NEW SECTION. Section 2. Certification. Outboard
motors and other marine engines manufactured after January
1, 1982, and offered for sale in Montana shall be certified
to the department by the manufacturer as having been tested
and found to comply with the noise levels prescribed in
subsection (2) of [section 1]. Testing procedures employed
to determine marine engine noise levels shall comply with
the exterior sound level measurement procedure for pleasure
motorboats recommended by the society of automotive
engineers in its recommended practice designated SAEJ34. The
department shall adopt rules prescribing the manner of
certification and testing procedures.

NEW SECTION. Section 3. Removal, alteration, or
modification prohibited. No person may remove or alter any
part of a marine engine, its propulsion unit, or its
enclosure or modify the mounting of a marine engine in or
upon a boat to cause its noise emissions to exceed the
limits prescribed in subsection (2) of [section 1].

NEW SECTION. Section 4. Exceptions. [Sections 1

1 through 5] does not apply to:

2 (1) a motorboat competing under a local public entity
3 or United States coast guard permit in a regatta or boat
4 race or while on official trials for speed records during
5 the time and in the designated area authorized by the
6 permit;

7 (2) a motorboat preparing for a race or a regatta if
8 authorized by a permit issued by the local entity having
9 jurisdiction over the area where the preparations will
10 occur;

11 (3) a motorboat operated by legally designated search
12 and rescue units, law enforcement officers, or personnel of
13 a federal, state, or local government agency on emergency
14 duty or in training for emergency duty;

15 (4) VESSELS COMMONLY KNOWN AS AIRBOATS WHEN USED BY A
16 UTILITY COMPANY IN THE COURSE OF BUSINESS.

17 NEW SECTION. Section 5. Contradictory regulations
18 prohibited. No political subdivision may adopt, continue in
19 effect, or enforce an ordinance or regulation that
20 establishes a noise level for motorboats or that imposes a
21 requirement for the sale or use of marine engines that is
22 not identical to the provisions of [sections 1 through 5] or
23 rules adopted by the department in compliance with [sections
24 1 through 5].

25 Section 6. Section 23-2-512, MCA, is amended to read:

1 "23-2-512. Identification number. (1) The owner of
2 each motorboat requiring numbering by this state shall file
3 an application for number in the office of the county
4 treasurer where the motorboat is owned or taxable on forms
5 prepared and furnished by the division of motor vehicles.
6 The application must be signed by the owner of the motorboat
7 and be accompanied by a fee of ~~\$\$~~ \$2. Any alteration,
8 change, or false statement contained in the application will
9 render the certificate of number void. Upon receipt of the
10 application in approved form, the county treasurer shall
11 issue to the applicant a certificate of number prepared and
12 furnished by the division of motor vehicles, stating the
13 number assigned to the motorboat and the name and address of
14 the owner.

15 (2) Before filing the application with the county
16 treasurer, the applicant shall submit it to the county
17 assessor, who shall enter on the application, in a space to
18 be provided for that purpose, the market value and taxable
19 value of the motorboat for the year for which the
20 application for registration is made.

21 (3) The applicant, upon the filing of the application,
22 shall pay to the county treasurer the registration fee and
23 the personal property taxes assessed against the motorboat
24 or vessel for the current year of registration before the
25 application for registration or reregistration may be

1 accepted by the county treasurer.

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

7 (5) If an agency of the United States government has
8 in force a comprehensive system of identification numbering
9 for motorboats in the United States, the numbering system
10 employed pursuant to this part by the division of motor
11 vehicles must be in conformity.

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

19 (7) Certificates of number expire on April 30 of each
20 year and may not be in effect unless renewed under this
21 part.

22 (8) In event of transfer of ownership, the purchaser
23 shall furnish the county treasurer notice within a
24 reasonable time of the acquisition of all or any part of his
25 interest, other than the creation of a security interest, in

1 a motorboat numbered in this state or of the loss, theft,
2 destruction, or abandonment of the motorboat. The transfer,
3 loss, theft, destruction, or abandonment terminates the
4 certificate of number for the motorboat. Recovery from theft
5 or transfer of a part interest that does not affect the
6 owner's right to operate the motorboat does not terminate
7 the certificate of number.

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

17 (10) (a) The number assigned must be painted on or
18 attached to each outboard side of the forward half of the
19 motorboat or, if there are no such sides, at a corresponding
20 location on both outboard sides of the foredeck of the
21 motorboat. The number assigned must read from left to right
22 in Arabic numerals and block characters of good proportion
23 at least 3 inches tall excluding border or trim of a color
24 that contrasts with the color of the background and be so
25 maintained as to be clearly visible and legible. The number

1 may not be placed on the obscured underside of the flared
 2 bow where it cannot be easily seen from another vessel or
 3 ashore. No numerals, letters, or devices other than those
 4 used in connection with the identifying number issued may be
 5 placed in the proximity of the identifying number. No
 6 numerals, letters, or devices that might interfere with the
 7 ready identification of the motorboat by its identifying
 8 number may be carried as to interfere with the motorboat's
 9 identification. No number other than the number and license
 10 decal assigned to a motorboat or granted reciprocity under
 11 this part may be painted, attached, or otherwise displayed
 12 on either side of the forward half of the motorboat.

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

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

21 (11) Fees collected under this section shall be
 22 transmitted to the state treasurer who shall deposit the
 23 fees in the motorboat certificate identification account of
 24 an earmarked revenue fund. These fees shall be used only for
 25 the administration and enforcement of this part, as amended.

1 (12) An owner of a motorboat must within a reasonable
 2 time notify the division of motor vehicles, giving the
 3 motorboat's identifying number and the owner's name when
 4 that motorboat becomes documented as a vessel of the United
 5 States or is transferred, lost, destroyed, abandoned, or
 6 frauded or within 60 days after change of state of principal
 7 use."

8 Section 7. Section 23-2-502, MCA, is amended to read:
 9 "23-2-502. Definitions. As used in this part, unless
 10 the context clearly requires a different meaning, the
 11 following definitions apply:

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

17 (2) "dba" means sound pressure level measured on the
 18 "A" weight scale in decibels.

19 (2)(3) "Department" means the department of fish,
 20 wildlife, and parks of the state of Montana.

21 (3)(4) "Documented vessel" means a vessel which has
 22 and is required to have a valid marine document as a vessel
 23 of the United States.

24 (4)(5) "Identifying number" means the boat number set
 25 forth in the certificate of number and properly displayed on

1 the motorboat.

2 ~~(5)~~(6) "License decals" means the serially numbered
3 license stickers issued annually by the county treasurer and
4 displayed as required by law.

5 ~~(6)~~(7) "Motorboat" means any vessel propelled by any
6 machinery, motor, or engine of any description, whether or
7 not such machinery, motor, or engine is the principal source
8 of propulsion. The term includes boats temporarily equipped
9 with detachable motors or engines but does not include a
10 vessel which has a valid marine document issued by the U.S.
11 coast guard of the United States government or any federal
12 agency successor thereto.

13 ~~(7)~~(8) "Operate" means to navigate or otherwise use a
14 motorboat or a vessel.

15 ~~(8)~~(9) "Operator" means the person who navigates,
16 drives, or is otherwise in immediate control of a motorboat
17 or vessel.

18 ~~(9)~~(10) "Owner" means a person, other than a lien
19 holder, having the property in or title to a motorboat or
20 vessel. The term includes a person entitled to the use or
21 possession of a motorboat or vessel subject to an interest
22 in another person, reserved or created by an agreement
23 securing payment or performance of an obligation, but the
24 term excludes a lessee under a lease not intended as
25 security.

1 ~~(10)~~(11) "Passenger" means every person carried on
2 board a vessel other than:

- 3 (a) the owner or his representative;
4 (b) the operator;
5 (c) bona fide members of the crew engaged in the
6 business of the vessel who have contributed no consideration
7 for their carriage and who are paid for their services; or
8 (d) any guest on board a vessel which is being used
9 exclusively for pleasure purposes who has not contributed
10 any consideration, directly or indirectly, for his carriage.

11 ~~(11)~~(12) "Person" means an individual, partnership,
12 firm, corporation, association, or other entity.

13 ~~(12)~~(13) "Uniform state waterway marking system" means
14 one of two categories:

- 15 (a) a system of aids to navigation to supplement the
16 federal system of marking in state waters;
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18 operator of dangers or to provide general information and
19 directions.

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21 watercraft, unless otherwise defined by the department,
22 other than a seaplane on the water, used or capable of being
23 used as a means of transportation on water.

24 ~~(14)~~(15) "Waters of this state" means any waters within
25 the territorial limits of this state."

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2 through 5 are intended to be codified as an integral part of
3 Title 23, chapter 2, part 5, and the provisions of Title 23,
4 chapter 2, part 5, apply to sections 1 through 5.

-End-

1 HOUSE BILL NO. 222
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 3 BERTELSEN, METCALF, HARPER, McLANE, UNDERDAL,
 4 JENSEN, QUILICI, KESSLER

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 15 motorboats. (1) No motorboat powered by an engine
 16 manufactured before AFTER January 1, 1978, may be operated
 17 in or upon the waters of this state if it emits noise that
 18 exceeds 86 dbA measured at a distance of 50 feet from the
 19 motorboat.

20 (2) No motorboat may be operated or sold or offered
 21 for sale for use in or upon the waters of this state after
 22 January 1, 1982, if it emits noise, measured at a distance
 23 of 50 feet from the motorboat, that exceeds:

24 (a) 36 dbA for a motorboat powered by an engine
 25 manufactured on or after January 1, 1978, and before January

1 1, 1982;

2 (b) 84 dbA for a motorboat powered by an engine
 3 manufactured on or after January 1, 1982, and before January
 4 1, 1984;

5 (c) 82 dbA for a motorboat powered by an engine
 6 manufactured on or after January 1, 1984.

7 NEW SECTION. Section 2. Certification. Outboard
 8 motors and other marine engines manufactured after January
 9 1, 1982, and offered for sale in Montana shall be certified
 10 to the department by the manufacturer as having been tested
 11 and found to comply with the noise levels prescribed in
 12 subsection (2) of [section 1]. Testing procedures employed
 13 to determine marine engine noise levels shall comply with
 14 the exterior sound level measurement procedure for pleasure
 15 motorboats recommended by the society of automotive
 16 engineers in its recommended practice designated SAEJ34. The
 17 department shall adopt rules prescribing the manner of
 18 certification and testing procedures.

19 NEW SECTION. Section 3. Removal, alteration, or
 20 modification prohibited. No person may remove or alter any
 21 part of a marine engine, its propulsion unit, or its
 22 enclosure or modify the mounting of a marine engine in or
 23 upon a boat to cause its noise emissions to exceed the
 24 limits prescribed in subsection (2) of [section 1].

25 NEW SECTION. Section 4. Exceptions. [Sections 1

1 through 5] does not apply to:

2 (1) a motorboat competing under a local public entity
3 or United States coast guard permit in a regatta or boat
4 race or while on official trials for speed records during
5 the time and in the designated area authorized by the
6 permit;

7 (2) a motorboat preparing for a race or a regatta if
8 authorized by a permit issued by the local entity having
9 jurisdiction over the area where the preparations will
10 occur;

11 (3) a motorboat operated by legally designated search
12 and rescue units, law enforcement officers, or personnel of
13 a federal, state, or local government agency on emergency
14 duty or in training for emergency duty;

15 (4) VESSELS COMMONLY KNOWN AS AIRBOATS WHEN USED BY A
16 UTILITY COMPANY IN THE COURSE OF BUSINESS.

17 NEW SECTION. Section 5. Contradictory regulations
18 prohibited. No political subdivision may adopt, continue in
19 effect, or enforce an ordinance or regulation that
20 establishes a noise level for motorboats or that imposes a
21 requirement for the sale or use of marine engines that is
22 not identical to the provisions of [sections 1 through 5] or
23 rules adopted by the department in compliance with [sections
24 1 through 5].

25 Section 6. Section 23-2-512, MCA, is amended to read:

1 "23-2-512. Identification number. (1) The owner of
2 each motorboat requiring numbering by this state shall file
3 an application for number in the office of the county
4 treasurer where the motorboat is owned or taxable on forms
5 prepared and furnished by the division of motor vehicles.
6 The application must be signed by the owner of the motorboat
7 and be accompanied by a fee of ~~\$1~~ \$2. Any alteration,
8 change, or false statement contained in the application will
9 render the certificate of number void. Upon receipt of the
10 application in approved form, the county treasurer shall
11 issue to the applicant a certificate of number prepared and
12 furnished by the division of motor vehicles, stating the
13 number assigned to the motorboat and the name and address of
14 the owner.

15 (2) Before filing the application with the county
16 treasurer, the applicant shall submit it to the county
17 assessor, who shall enter on the application, in a space to
18 be provided for that purpose, the market value and taxable
19 value of the motorboat for the year for which the
20 application for registration is made.

21 (3) The applicant, upon the filing of the application,
22 shall pay to the county treasurer the registration fee and
23 the personal property taxes assessed against the motorboat
24 or vessel for the current year of registration before the
25 application for registration or reregistration may be

1 accepted by the county treasurer.

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

7 (5) If an agency of the United States government has
8 in force a comprehensive system of identification numbering
9 for motorboats in the United States, the numbering system
10 employed pursuant to this part by the division of motor
11 vehicles must be in conformity.

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

19 (7) Certificates of number expire on April 30 of each
20 year and may not be in effect unless renewed under this
21 part.

22 (8) In event of transfer of ownership, the purchaser
23 shall furnish the county treasurer notice within a
24 reasonable time of the acquisition of all or any part of his
25 interest, other than the creation of a security interest, in

1 a motorboat numbered in this state or of the loss, theft,
2 destruction, or abandonment of the motorboat. The transfer,
3 loss, theft, destruction, or abandonment terminates the
4 certificate of number for the motorboat. Recovery from theft
5 or transfer of a part interest that does not affect the
6 owner's right to operate the motorboat does not terminate
7 the certificate of number.

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

17 (10) (a) The number assigned must be painted on or
18 attached to each outboard side of the forward half of the
19 motorboat or, if there are no such sides, at a corresponding
20 location on both outboard sides of the foredeck of the
21 motorboat. The number assigned must read from left to right
22 in Arabic numerals and block characters of good proportion
23 at least 3 inches tall excluding border or trim of a color
24 that contrasts with the color of the background and be so
25 maintained as to be clearly visible and legible. The number

1 may not be placed on the obscured underside of the flared
 2 bow where it cannot be easily seen from another vessel or
 3 ashore. No numerals, letters, or devices other than those
 4 used in connection with the identifying number issued may be
 5 placed in the proximity of the identifying number. No
 6 numerals, letters, or devices that might interfere with the
 7 ready identification of the motorboat by its identifying
 8 number may be carried as to interfere with the motorboat's
 9 identification. No number other than the number and license
 10 decal assigned to a motorboat or granted reciprocity under
 11 this part may be painted, attached, or otherwise displayed
 12 on either side of the forward half of the motorboat.

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

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

21 (11) Fees collected under this section shall be
 22 transmitted to the state treasurer who shall deposit the
 23 fees in the motorboat certificate identification account of
 24 an earmarked revenue fund. These fees shall be used only for
 25 the administration and enforcement of this part, as amended.

1 (12) An owner of a motorboat must within a reasonable
 2 time notify the division of motor vehicles, giving the
 3 motorboat's identifying number and the owner's name when
 4 that motorboat becomes documented as a vessel of the United
 5 States or is transferred, lost, destroyed, abandoned, or
 6 frauded or within 60 days after change of state of principal
 7 use."

8 Section 7. Section 23-2-502, MCA, is amended to read:
 9 "23-2-502. Definitions. As used in this part, unless
 10 the context clearly requires a different meaning, the
 11 following definitions apply:

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

17 (2) "dba" means sound pressure level measured on the
 18 "A" weight scale in decibels.

19 ~~(2)~~(3) "Department" means the department of fish,
 20 wildlife, and parks of the state of Montana.

21 ~~(3)~~(4) "Documented vessel" means a vessel which has
 22 and is required to have a valid marine document as a vessel
 23 of the United States.

24 ~~(4)~~(5) "Identifying number" means the boat number set
 25 forth in the certificate of number and properly displayed on

1 the motorboat.

2 ~~5~~6 "License decals" means the serially numbered
3 license stickers issued annually by the county treasurer and
4 displayed as required by law.

5 ~~6~~7 "Motorboat" means any vessel propelled by any
6 machinery, motor, or engine of any description, whether or
7 not such machinery, motor, or engine is the principal source
8 of propulsion. The term includes boats temporarily equipped
9 with detachable motors or engines but does not include a
10 vessel which has a valid marine document issued by the U.S.
11 coast guard of the United States government or any federal
12 agency successor thereto.

13 ~~7~~8 "Operate" means to navigate or otherwise use a
14 motorboat or a vessel.

15 ~~8~~9 "Operator" means the person who navigates,
16 drives, or is otherwise in immediate control of a motorboat
17 or vessel.

18 ~~9~~10 "Owner" means a person, other than a lien
19 holder, having the property in or title to a motorboat or
20 vessel. The term includes a person entitled to the use or
21 possession of a motorboat or vessel subject to an interest
22 in another person, reserved or created by an agreement
23 securing payment or performance of an obligation, but the
24 term excludes a lessee under a lease not intended as
25 security.

1 ~~10~~11 "Passenger" means every person carried on
2 board a vessel other than:

3 (a) the owner or his representative;

4 (b) the operator;

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

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

11 ~~11~~12 "Person" means an individual, partnership,
12 firm, corporation, association, or other entity.

13 ~~12~~13 "Uniform state waterway marking system" means
14 one of two categories:

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

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

20 ~~13~~14 "Vessel" means every description of
21 watercraft, unless otherwise defined by the department,
22 other than a seaplane on the water, used or capable of being
23 used as a means of transportation on water.

24 ~~14~~15 "Waters of this state" means any waters within
25 the territorial limits of this state."

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1 Section 8. Codification instruction. Sections 1
2 through 5 are intended to be codified as an integral part of
3 Title 23, chapter 2, part 5, and the provisions of Title 23,
4 chapter 2, part 5, apply to sections 1 through 5.

-End-

March 26, 1981

SENATE STANDING COMMITTEE REPORT
(Fish and Game)

That House Bill No. 222 be amended as follows:

1. Page 1, lines 14 through line 6 on page 2.
Strike: section 1 in its entirety
Insert: "Section 1. Maximum noise emissions from motorboats. No motorboat may be operated in or upon the waters of this state if it emits noise that exceeds 86 dbA measured at a distance of 50 feet from the motorboat except those motorboats permitted under the provisions of [section 4]."
2. Page 2, line 11.
Strike: "levels"
Insert: "level"
3. Page 2, line 12.
Following: line 11
Strike: "subsection (2) of"
4. Page 2, lines 19 through 24.
Strike: section 3 in its entirety
Renumber: all subsequent sections
5. Page 2, line 25 through line 16 on page 3.
Strike: section 4 in its entirety
Insert: "Section 4. Exceptions. [Sections 1 through 3] do not apply to:
 - (1) a motorboat that is:
 - (a) registered by a bona fide national boat racing association and displaying numbering approved by that association; and
 - (b) authorized by a permit issued on an annual basis by the department.
 - (2) a motorboat or boats competing in a regatta that is sanctioned by a bona fide national boat racing association including those motorboats or boats sanctioned by that association for testing for not more than 2 days prior to competition in a regatta.
 - (3) a motorboat or airboat operated by legally designated search and rescue units, law enforcement officers, or personnel of a federal, state, or local government agency on emergency duty or in training for emergency duty.
 - (4) vessels commonly known as airboats."
6. Page 3, line 22.
Strike: "5"
Insert: "4"
7. Page 3, line 24.
Strike: "5"
Insert: "4"
8. Page 11, line 2.
Strike: "5"
Insert: "4"

9. Page 11, line 4.
Following: "through"
Strike: "5"
Insert: "4"

March 26, 1981

SENATE STANDING COMMITTEE REPORT
(Fish and Game)

That the Statement of Intent be amended to House Bill No. 222 as follows:

A statement of intent is required for this bill because it delegates rulemaking authority to the Department of Fish, Wildlife, and Parks to adopt rules prescribing:

- (1) the manner of certification by manufacturers of outboard motors and other marine engines manufactured after January 1, 1982, as having been tested and found to comply with the noise level limit in Section 1;
- (2) the testing procedures employed to determine compliance on a voluntary basis by owners of outboard motors and other marine engines manufactured before January 1, 1982.

As prescribed in Section 2 of the bill, the testing procedures employed to determine outboard and marine engine noise shall comply with the exterior sound level measurement procedure for pleasure motorboats recommended by the society of automotive engineers in its recommended practice designated SAEJ34. The department shall establish a program throughout the state whereby boaters can voluntarily have their motorboats checked for compliance with the noise level limit in Section 1.

Section 4 of this bill requires that the Department of Fish, Wildlife, and Parks will issue a permit on an annual basis to the owner of a motorboat that is registered by a bona fide national boat racing association and displaying numbering approved by that association in order to exempt the motorboat from compliance with the noise level limit in Section 1 for the purposes of competing in regattas and testing for competition races. Before issuing the permit, the department shall require proof of registration and displayed numbering by the bona fide national boat racing association. In addition, the department shall determine whether the racing association that the motorboat is registered with is in fact a legitimate nationally recognized boat racing association.

First adopted by the Senate Fish and Game Committee on the 25th day of March, 1981.