

House Bill 633

In The House

February 4, 1981	Introduced and referred to Committee on Taxation.
February 6, 1981	Fiscal note requested.
February 11, 1981	Fiscal note returned.
April 23, 1981	Died in Committee.

HOUSE BILL NO. 633

INTRODUCED BY Walden Bennett

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING ALL-TERRAIN VEHICLES; PROVIDING FOR THE REPORTING OF STOLEN VEHICLES, A METHOD OF CERTIFICATION AND OWNER AND DEALER REGISTRATION, A NONRESIDENT-USE PERMIT, AND A FEE IN LIEU OF TAXATION; AMENDING SECTION 15-6-138, MCA."

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 15], unless the context clearly indicates otherwise, the following definitions apply:

(1) "All-terrain vehicle" means any self-propelled vehicle used for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. These vehicles include but are not limited to motorcycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind. All-terrain vehicle does not include:

- (a) any vehicle designed primarily for travel on, over, or in the water;
(b) snowmobiles; or
(c) any vehicle otherwise licensed under the laws of

the state.

(2) "Certificate of ownership" means the document issued by the division of motor vehicles as prima facie evidence of ownership.

(3) "Certificate of registration" means the owner's receipt evidencing payment of the fee in lieu of tax, decal fee, and registration fee for a given registration year.

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

(5) "New all-terrain vehicle" means any all-terrain vehicle that has not been previously sold to an owner as defined in subsection (7).

(6) "Operator" includes every person who operates or is in actual physical control of the operation of an all-terrain vehicle.

(7) "Owner" includes every person, other than a lienholder or other person having a security interest only, holding a certificate of ownership to an all-terrain vehicle and entitled to the use or possession thereof.

(8) "Person" includes an individual, partnership, association, corporation, and any other body or group of persons, whether incorporated or not and regardless of the degree of formal organization.

(9) "Roadway" includes only those portions of any highway, road, or street improved, designed, or ordinarily

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1 used for travel or parking of motor vehicles.

2 **NEW SECTION.** Section 2. Report of stolen and  
3 recovered all-terrain vehicles. The sheriff of every county  
4 of the state and the chief of police or commissioner of  
5 police of every city shall make an immediate report to the  
6 division of motor vehicles of all-terrain vehicles reported  
7 to him as stolen or recovered, upon forms provided by the  
8 division. The division shall file the information in an  
9 index to be known as the stolen and recovered all-terrain  
10 vehicle index. The division shall file reports of stolen and  
11 recovered all-terrain vehicles reported to it from other  
12 states. Once a month the division shall prepare a list of  
13 all-terrain vehicles stolen or recovered during the previous  
14 month and forward a copy of this list to every sheriff and  
15 all police departments in cities of the first, second, and  
16 third class. This list shall also be forwarded to the  
17 secretary of state or other proper official in each state of  
18 the United States. Before a certificate of ownership may be  
19 issued, the motor and serial number on the all-terrain  
20 vehicle for which the certificate is to be issued must be  
21 checked against the stolen and recovered all-terrain vehicle  
22 index.

23 **NEW SECTION.** Section 3. Certificate of ownership. (1)  
24 No all-terrain vehicle may be operated upon any public  
25 lands, trails, easements, lakes, rivers, streams, roadways

1 or shoulders of roadways, streets, or highways, unless a  
2 certificate of ownership has first been obtained from the  
3 division of motor vehicles.

4 (2) The owner of an all-terrain vehicle shall apply  
5 for a certificate of ownership with the county treasurer of  
6 the county in which the owner resides, upon forms to be  
7 furnished for this purpose. The forms must require the  
8 following information:

- 9 (a) name of the owner;  
10 (b) residence of the owner by town and county;  
11 (c) business or home mailing address of the owner;  
12 (d) name and address of any lienholder;  
13 (e) amount due under any contract or lien;  
14 (f) name of the manufacturer;  
15 (g) model number or name;  
16 (h) identification number; and  
17 (i) name and address of the dealer or other person  
18 from whom acquired.

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

22 (4) If a certificate of ownership has previously been  
23 issued, the application for a new certificate must be  
24 accompanied by the immediately previous certificate. This  
25 subsection does not apply to all-terrain vehicles that are

1 purchased as new and unused machines or that were operated  
2 before [the effective date of this act].

3 (5) After completing the application forms furnished  
4 by the division of motor vehicles, the county treasurer  
5 shall issue to the applicant two copies of the application,  
6 with one marked "file copy". The treasurer shall forward one  
7 copy and the original application to the division, which  
8 shall enter the information contained in the application  
9 upon the corresponding records of its office, and shall  
10 furnish the applicant a certificate of ownership containing  
11 information from the application considered necessary by the  
12 division and a permanent ownership number. The certificate  
13 of ownership is not to be renewed annually and is valid as  
14 long as the person holding it owns the all-terrain vehicle.

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

19 (7) Upon application for a certificate of ownership, a  
20 fee of \$3 shall be paid to the county treasurer, \$2 of which  
21 shall be forwarded by the county treasurer to the division  
22 of motor vehicles and deposited in the motor vehicle  
23 recording account of the earmarked revenue fund.

24 NEW SECTION. Section 4. Transfer of interest. (1)  
25 Except as provided in subsection (3), upon transferring a

1 certificate of ownership to an all-terrain vehicle  
2 registered under [section 9], the person whose title or  
3 interest is to be transferred shall write his signature with  
4 pen and ink upon the certificate of ownership issued for the  
5 all-terrain vehicle in the appropriate space provided upon  
6 the reverse side of the certificate, and this signature  
7 shall be acknowledged before a notary public.

8 (2) Within 20 calendar days thereafter, the transferee  
9 shall apply for transfer of the endorsed certificate of  
10 ownership with the county treasurer of the county in which  
11 the transferee resides and also apply for registration of  
12 the all-terrain vehicle. The county treasurer shall forward  
13 the application to the division of motor vehicles, which  
14 shall file it upon receipt. No certificate of ownership may  
15 be issued by the division until the outstanding certificates  
16 are surrendered to that office or their loss is established.  
17 The county treasurer shall collect a fee of \$3 for each  
18 application for transfer of ownership, \$2 of which must be  
19 forwarded to the division of motor vehicles for deposit in  
20 the motor vehicle recording account of the earmarked revenue  
21 fund.

22 (3) A purchaser of a new or used all-terrain vehicle  
23 from a licensed all-terrain vehicle dealer has a grace  
24 period of 20 calendar days from the date of purchase to  
25 register the all-terrain vehicle, apply for a certificate of

1 ownership, and obtain a decal indicating that the fee in  
 2 lieu of property tax has been paid on the all-terrain  
 3 vehicle for the current year. It is not a violation of  
 4 [sections 1 through 15] for the purchaser to operate a newly  
 5 acquired all-terrain vehicle without a certificate of  
 6 ownership, certificate of registration, and a decal during  
 7 the 20-day period. During this period the sticker, provided  
 8 for in subsection (4), shall remain affixed to the  
 9 all-terrain vehicle.

10 (4) Prior to the delivery of the all-terrain vehicle  
 11 to the purchaser, the dealer shall issue and affix to the  
 12 all-terrain vehicle a sticker (in a form to be prescribed by  
 13 the division of motor vehicles). The sticker must contain  
 14 the name and address of the purchaser, the date of sale, the  
 15 name and address of the dealer, and a description of the  
 16 all-terrain vehicle, including its serial number. The dealer  
 17 shall keep a copy of the sticker for his records and shall  
 18 send a copy of the sticker to the division.

19 (5) The provisions of subsection (2) of this section  
 20 do not apply to the transfer of an all-terrain vehicle to a  
 21 licensed all-terrain vehicle dealer intending to resell the  
 22 vehicle and who operates it only for demonstration purposes,  
 23 but every dealer, upon transferring the interest, shall  
 24 deliver the certificate of ownership with an application for  
 25 a new certificate executed by the new owner. The division,

1 upon receipt of the certificate of ownership and application  
 2 for a new certificate, together with the conditional sales  
 3 contract or other lien, if any, shall issue a new  
 4 certificate of ownership together with a statement of any  
 5 conditional sales contract, mortgage, or other lien.

6 ~~NEW SECTION.~~ Section 5. Lost or mutilated  
 7 certificates. If any certificate of ownership is lost,  
 8 mutilated, or becomes illegible, the person to whom it was  
 9 issued shall immediately apply for and obtain a duplicate  
 10 certificate, upon payment of a fee of \$2 to the county  
 11 treasurer.

12 ~~NEW SECTION.~~ Section 6. Exemptions. (1) The  
 13 provisions of [sections 1 through 15], regarding  
 14 registration, tax-paid decals, and certification of  
 15 ownership, do not apply to all-terrain vehicles owned or  
 16 used by the United States or another state or any agency or  
 17 political subdivision thereof, any all-terrain vehicle  
 18 registered in a country other than the United States and to  
 19 be temporarily used within this state for a period of not  
 20 more than 30 days, any all-terrain vehicle registered in  
 21 another state of the United States but to be temporarily  
 22 used within this state for not more than 30 days, or any  
 23 all-terrain vehicle operated only on lands owned or leased  
 24 by the all-terrain vehicle owner.

25 (2) The provisions of [sections 1 through 15]

1 regarding registration, tax-paid decals, and certification  
 2 of ownership do not apply to unregistered all-terrain  
 3 vehicles owned by nonresidents of the state of Montana who  
 4 either:

5 (a) display visual proof that a nonresident  
 6 temporary-use permit has been purchased; or

7 (b) use the all-terrain vehicle only in races and for  
 8 not more than 30 days in the state. "Race" means an  
 9 organized competition on a predetermined course that is run  
 10 according to accepted rules.

11 NEW SECTION. Section 7. Nonresident temporary-use  
 12 permits -- use of fees. (1) (a) Application for the  
 13 issuance of an all-terrain vehicle nonresident temporary-use  
 14 permit must be made at locations and upon forms prescribed  
 15 by the department. The forms must include but are not  
 16 limited to:

17 (i) the applicant's name and permanent address;

18 (ii) the make, model, year, and serial number of the  
 19 all-terrain vehicle; and

20 (iii) an affidavit declaring the nonresidency of the  
 21 applicant.

22 (b) After submitting the application and a fee of \$6,  
 23 a nonresident temporary-use sticker shall be issued. The  
 24 sticker shall be displayed in a conspicuous place on the  
 25 all-terrain vehicle.

1 (2) The temporary permit is valid for a period of 30  
 2 consecutive days as designated by the permit.

3 (3) The permit is not proof of ownership, and no  
 4 certificate of ownership may be issued.

5 (4) All money collected by payment of fees under this  
 6 section shall be turned over to the state treasurer and  
 7 placed in the earmarked revenue fund to the credit of the  
 8 department for use in administering this section.

9 NEW SECTION. Section 8. Fee in lieu of tax on  
 10 snowmobiles -- disposition of fees. (1) There is a fee in  
 11 lieu of tax on all-terrain vehicles.

12 (a) The fee for an all-terrain vehicle less than 4  
 13 years old is \$22. In all other cases the fee is \$15.

14 (b) The age of an all-terrain vehicle is determined by  
 15 subtracting the manufacturer's designated model year from  
 16 the current calendar year.

17 (c) The fee need not be paid by a dealer for  
 18 all-terrain vehicles constituting inventory of the  
 19 dealership.

20 (2) The county treasurer shall credit all fees in lieu  
 21 of tax collected on all-terrain vehicles to the county motor  
 22 vehicle suspense fund provided for in 61-3-509.

23 NEW SECTION. Section 9. Registration and decals --  
 24 application and issuance -- use of certain fees. (1) No  
 25 all-terrain vehicle may be operated on public lands by any

1 person in Montana unless it has been registered and there is  
 2 displayed in a conspicuous place a decal as visual proof  
 3 that the fee in lieu of property tax has been paid on it for  
 4 the current year.

5 (2) Application for registration shall be made to the  
 6 county treasurer upon forms furnished by the division of  
 7 motor vehicles for this purpose, which may be obtained at  
 8 the county treasurer's office in the county where the owner  
 9 resides. The application shall contain the following  
 10 information:

- 11 (a) name and address of the owner;
- 12 (b) certificate of ownership number;
- 13 (c) make of the all-terrain vehicle;
- 14 (d) model name of the all-terrain vehicle;
- 15 (e) year of manufacture;
- 16 (f) a statement evidencing payment of the fee in lieu  
 17 of property tax; and
- 18 (g) such other information as the division of motor  
 19 vehicles may require.

20 (3) The application shall be accompanied by a decal  
 21 fee of \$2, a registration fee of 50 cents, and, if the  
 22 all-terrain vehicle has previously been registered, by the  
 23 registration certificate for the most recent year in which  
 24 the all-terrain vehicle was registered. The treasurer shall  
 25 sign the application and issue a registration receipt, which

1 shall contain information considered necessary by the  
 2 division of motor vehicles and a listing of fees paid. The  
 3 owner shall retain possession of the registration receipt  
 4 until it is surrendered to the county treasurer for  
 5 reregistration or to a purchaser or subsequent owner  
 6 pursuant to a transfer of ownership.

7 (4) The county treasurer shall forward the signed  
 8 application to the division of motor vehicles and shall  
 9 issue to the applicant a decal in the style and design  
 10 prescribed by the division and of a different color than the  
 11 preceding year, numbered in sequence.

12 (5) The county treasurer may not accept any  
 13 application under this section until the applicant has paid  
 14 the decal and registration fees and the fee in lieu of  
 15 property tax on the all-terrain vehicle for the current  
 16 year.

17 (6) All money collected from payment of the decal fees  
 18 and all interest accruing from use of this money shall be  
 19 forwarded to the state treasurer and placed in the earmarked  
 20 revenue fund to the credit of the department for use in  
 21 enforcing the provisions of this section. All money  
 22 collected from payment of the registration fee shall be  
 23 forwarded to the state treasurer and deposited in the motor  
 24 vehicle recording account of the earmarked revenue fund.

25 NEW SECTION. Section 10. Duplicate decal. If a decal

1 indicating that the fee in lieu of property tax has been  
 2 paid on an all-terrain vehicle for the current year is lost,  
 3 mutilated, or becomes illegible, the person to whom it was  
 4 issued shall immediately apply for and may obtain a  
 5 duplicate decal, upon payment of a fee of \$1 to the county  
 6 treasurer.

7 NEW SECTION. Section 11. Application for registration  
 8 and decals to be made annually. Application must be made  
 9 annually to the county treasurer for registration and the  
 10 issuance of a decal indicating that the fee in lieu of  
 11 property tax has been paid for the current year. All  
 12 registrations and decals expire on June 30 of each year.

13 NEW SECTION. Section 12. Dealer registration  
 14 certificate -- use of fees. (1) No dealer may sell  
 15 all-terrain vehicles unless a dealer registration  
 16 certificate has first been applied for and obtained from the  
 17 division of motor vehicles according to the provisions of  
 18 this section.

19 (2) The dealer application must be accompanied by an  
 20 application fee of \$5 and a registration fee of \$5. Upon  
 21 receipt of the dealer application and payment of fees, the  
 22 dealer shall be issued two dealer all-terrain identification  
 23 cards to be carried by the dealer or the dealer's customer  
 24 when demonstrating the dealer's all-terrain vehicles.

25 (3) No bond is required of the dealer.

1 (4) The dealer must have a principal place of business  
 2 where he maintains all his business records and displays and  
 3 sells merchandise.

4 (5) An applicant for renewal of an all-terrain vehicle  
 5 dealer registration shall certify that he has sold three or  
 6 more all-terrain vehicles during the preceding year or pay  
 7 an additional \$50 renewal registration fee or provide a copy  
 8 of a written new all-terrain vehicle franchise or sales  
 9 agreement that the applicant has with a manufacturer,  
 10 importer, or distributor.

11 (6) Additional dealer all-terrain vehicle  
 12 identification cards as required may be purchased by the  
 13 dealer from the division for a fee of \$2.

14 (7) Dealer registration certificates and  
 15 identification cards expire on June 30 following the date of  
 16 issuance.

17 (8) (a) The dealer application fees and all interest  
 18 accruing from use of this money shall be deposited in the  
 19 earmarked revenue fund to the credit of the department to be  
 20 used for all-terrain vehicle safety and education.

21 (b) All money collected from dealer registration and  
 22 renewal registration fees shall be deposited in the motor  
 23 vehicle recording account of the earmarked revenue fund.

24 NEW SECTION. Section 13. Enforcement. The  
 25 department's enforcement personnel, the sheriffs and their



1 deputies of the various counties of the state, the Montana  
2 highway patrol, and the police of each municipality shall  
3 enforce the provisions of [sections 7 and 9].

4 NEW SECTION. Section 14. Penalties. (1) The failure  
5 to display a current decal indicating that the fee in lieu  
6 of property tax has been paid on the snowmobile for the  
7 current year as provided in [sections 1 through 15] is a  
8 misdemeanor, punishable by a fine of not less than \$10 or  
9 more than \$50.

10 (2) The failure to display the permit as required  
11 under [section 7] or the making of false statements in  
12 obtaining the permit is a misdemeanor, punishable by a fine  
13 of not less than \$25 or more than \$100.

14 NEW SECTION. Section 15. Use of funds from fines. All  
15 fines collected under [section 14] shall be transmitted to  
16 the state treasurer who shall deposit this money in the  
17 earmarked revenue fund to the credit of the department to be  
18 used for all-terrain vehicle safety and education.

19 Section 16. Section 15-6-138, MCA, is amended to read:

20 "15-6-138. Class eight property -- description --  
21 taxable percentage. (1) Class eight property includes:

- 22 (a) all agricultural implements and equipment;  
23 (b) all mining machinery, fixtures, equipment, tools,  
24 and supplies except:  
25 (i) those included in class five; and

- 1 (ii) coal and ore haulers;  
2 (c) all manufacturing machinery, fixtures, equipment,  
3 tools, and supplies except those included in class five;  
4 (d) motorcycles;  
5 (e) watercraft;  
6 (f) light utility and boat trailers;  
7 (g) aircraft;  
8 (h) snowmobiles ~~and off-terrain-vehicles~~;  
9 (i) harness, saddlery, and other tack equipment; and  
10 (j) all other machinery except that specifically  
11 included in another class.  
12 (2) Class eight property is taxed at 11% of its market  
13 value."

-End-

STATE OF MONTANA

REQUEST NO. 317-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 6, 19 81, there is hereby submitted a Fiscal Note for House Bill 633 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

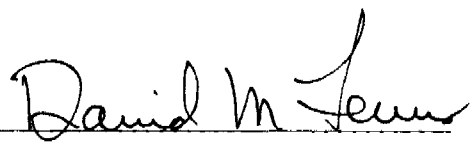
An act defining all-terrain vehicles; providing for the reporting of stolen vehicles, a method of certification and owner and dealer registration, a non-resident-use permit and a fee in lieu of taxation.

Fiscal Information for the Department of Revenue

Assumptions

1. 25% of all motorcycles are considered all-terrain vehicles in the proposed legislation.
2. Legislation effective January 1, 1982; no fiscal impact until FY 1983.
3. Tax year 1980 - 35,455 motorcycles and all-terrain vehicles assessed for tax purposes.
4. Number of all-terrain vehicles tax year 1982 - 9,000 (average fee - \$18).
5. Senate Bill 126 has no effect on this legislation (Senate Bill 126 - change assessment basis from retail to wholesale value).
6. Revenues from fee system are distributed in the same relative proportions as other personal property taxes are distributed: University levy - (2.5%); Local Government - (97.5%).
7. Taxable value of motorcycles and all-terrain vehicles - Tax Year 1982 - \$540,000.
8. University levy - 6 mills, average statewide levy - 220 mills.
9. Registration fees, etc:  
 Current law - Registration fee - motorcycles - \$2; all-terrain vehicles - %5 and \$10 (average - \$7.50)  
 Proposed law - Certificate of ownership - \$3; Distribution - \$1 - county, \$2 - motor vehicle recording account of the Earmarked Revenue Fund. Decal - \$2, Distribution - Earmarked Revenue Fund of the Department of Fish, Wildlife & Parks for use in enforcing provisions of this section, (e.r.f. of F.W.P.) Registration - \$.50, Distribution - motor vehicle recording account of the Earmarked Revenue Fund.
10. The fiscal impact of the dealer registration section of the proposed bill cannot be determined, but it should be minimal.

<u>Fiscal Impact</u>	<u>FY 1982</u>	<u>FY 1983</u>
University Levy (6 mills)		
Under current law	NO EFFECT	\$ 3,240
Under proposed law		4,050
Estimated Increase		810
Motor Vehicle Registration Fees (State Portion)		
(Proposed law includes certificate of ownership, decal and registration fee)		

  
 BUDGET DIRECTOR  
 Office of Budget and Program Planning  
 Date: 2-11-81

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FISCAL IMPACT	FY 82	FY83
Under current law	NO EFFECT	\$18,000
Under proposed law		<u>40,500</u>
Estimated Increase		\$22,500
Total Revenue		
Under current law	NO EFFECT	\$21,240
Under proposed law		<u>44,500</u>
Estimated Increase		\$23,310
FUND INFORMATION		
University System		
Under current law	NO EFFECT	\$ 3,240
Under proposed law		<u>4,050</u>
Estimated Increase		\$ 810
Earmarked Revenue Fund-Motor Vehicle Recording Account		
Under current law	NO EFFECT	\$18,000
Under proposed law		<u>22,500</u>
Estimated Increase		\$ 4,500
Earmarked Revenue Fund-FW&P Enforcement Account		
Under current law		\$ 0
Under proposed law		<u>18,000</u>
Estimated Increase		\$18,000

EFFECT ON LOCAL GOVERNMENT

The proposed legislation should increase revenues to local governments statewide by approximately \$45,900.

Fiscal Information for the Department of Fish, Wildlife & Parks (FW&P)

Assumptions

Dealer fees 60 at \$500	\$ 300.00
Decal fees 3,000 at \$2.00	6,000.00
Temporary use permit 10 at \$6.00	60.00
Fines 60 at \$15.00	300.00

Only revenues generated would be expended for enforcement of act.

Dealer's surveyed indicate approximately 25% of motorcycles sold are for off road use. Department of Justice licenses 35,455 motorcycles annually. Approximately 5,200 new motorcycles are sold annually.

Field personnel feel 120-200 violations would be apprehended annually.

Half of vehicles are estimated for use on private property which appears exempt.

<u>Fiscal Impact</u>	<u>FY 1982</u>	<u>FY 1983</u>
Revenues		
Current Law	\$ 0	\$ 0
Proposed Law	0	7,260
Expenditures		
Current Law	\$ 0	\$ 0
Proposed Law	0	7,260

Technical Note

The proposed legislation seems to have a drafting error in Section 8. That section refers to a "Fee in lieu of tax on snowmobiles...disposition of fees." The entire section would read correctly with this line eliminated.