

HOUSE BILL NO. 68

INTRODUCED BY HARPER

IN THE HOUSE

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| January 3, 1983 | Introduced and referred to Committee on Natural Resources. |
| January 25, 1983 | Committee recommend bill do pass as amended. Report adopted. Statement of Intent attached. |
| January 26, 1983 | Bill printed and placed on members' desks. |
| January 27, 1983 | Second reading, do pass as amended. |
| January 28, 1983 | Correctly engrossed. |
| January 29, 1983 | Third reading, passed. Transmitted to Senate. |

IN THE SENATE

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| January 31, 1983 | Introduced and referred to Committee on Natural Resources. |
| March 17, 1983 | Committee recommend bill be concurred in as amended. Report adopted. |
| March 18, 1983 | Second reading, concurred in as amended. |
| March 21, 1983 | Third reading, concurred in. Ayes, 47; Noes, 1. |

IN THE HOUSE

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| March 21, 1983 | Returned to House with amendments. |
| | Second reading, amendments not concurred in. |
| March 30, 1983 | On motion Conference Committee requested. |
| March 31, 1983 | Conference Committee appointed. |
| April 18, 1983 | Conference Committee dissolved. |
| | On motion Free Conference Committee requested and appointed. |
| April 20, 1983 | Free Conference Committee reported. |
| | Second reading, Free Conference Committee report adopted. |
| | Third reading, Free Conference Committee report adopted. |
| April 21, 1983 | Free Conference Committee report adopted by Senate. |
| | Sent to enrolling. |
| | Reported correctly enrolled. |

1 STATEMENT OF INTENT

2 HOUSE BILL 68

3 House Natural Resources Committee

4
5 A statement of intent is required for this bill because
6 it delegates rulemaking authority to the Department of Fish,
7 Wildlife, and Parks to adopt rules prescribing:

8 (1) the manner of certification by manufacturers of
9 outboard motors and other marine engines manufactured after
10 January 1, 1982, as having been tested and found to comply
11 with the noise level limit in section 1;

12 (2) the testing procedures employed to determine
13 compliance on a voluntary basis by owners of outboard motors
14 and other marine engines manufactured before January 1,
15 1982;

16 As prescribed in section 2 of the bill, the testing
17 procedures employed to determine outboard and marine engine
18 noise must comply with the exterior sound level measurement
19 procedure for pleasure motorboats recommended by the society
20 of automotive engineers in its recommended practice
21 designated SAEJ34. The Department shall establish a program
22 throughout the state whereby boaters can voluntarily have
23 their motorboats checked for compliance with the noise level
24 limit in section 1.

25 (3) the guidelines for the issuance of permits by

1 local public entities excepting certain motorboat operators
2 from compliance with the noise level restrictions contained
3 in sections 1 through 5; the Department's guidelines shall
4 only pertain to permit application procedures, permit fees,
5 and duration of permit validity; and

6 (4) the procedures employed to determine whether or
7 not a motorboat is technologically capable of complying with
8 the noise level limits established in section 1.

9 As prescribed in section 4, the Department shall
10 establish a manner of certification of motorboats that are
11 determined to be technologically incapable of complying with
12 section 1.

Approved by Committee
on Natural Resources

HOUSE BILL NO. 68
INTRODUCED BY HARPER

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; PROHIBITING REMOVAL OF NOISE SUPPRESSION DEVICES; ALLOWING CERTAIN EXCEPTIONS; PROHIBITING CONTRADICTORY REGULATIONS; AMENDING SECTION 23-2-502, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

NEW SECTION. Section 1. Maximum noise emissions from motorboats. No motorboat may be operated or sold or offered for sale for use in or upon the waters of this state after January 1, 1984, if it emits noise, measured at a distance of 50 feet from the motorboat, that exceeds:

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

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

(3) 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, 1984, 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 [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 [section 1].

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

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

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

5 (3) a motorboat operated by a legally designated
 6 search and rescue unit, law enforcement officer, or
 7 personnel of a federal, state, or local government agency on
 8 emergency duty or in training for emergency duty;

9 (4) a vessel commonly known as an airboat when-used-by
 10 ~~a-utility-company-in-the-course-of-business;~~

11 ~~(5) A MOTORBOAT THAT IS CERTIFIED BY THE DEPARTMENT AS~~
 12 ~~BEING TECHNOLOGICALLY INCAPABLE OF COMPLYING WITH THE NOISE~~
 13 ~~LEVELS PRESCRIBED IN [SECTION 1].~~

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

22 ~~(2) THE DEPARTMENT SHALL ADOPT RULES WHICH ESTABLISH~~
 23 ~~GUIDELINES FOR THE ISSUANCE OF PERMITS BY LOCAL PUBLIC~~
 24 ~~ENTITIES UNDER [SECTION 4] AND NO PERMIT MAY BE ISSUED THAT~~
 25 ~~DOES NOT COMPLY WITH THE DEPARTMENT'S RULES.~~

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

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

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

1 application for registration or reregistration may be
2 accepted by the county treasurer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 ~~(3) (1) "Department" means the department of fish,~~
 21 ~~wildlife, and parks of the state of Montana.~~

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

25 ~~(4) (5) "Identifying number" means the boat number set~~

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

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

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

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

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

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

1 security.

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

4 (a) the owner or his representative;

5 (b) the operator;

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

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

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

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

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

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

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

25 ~~(14)(15)~~ "Waters of this state" means any waters within

1 the territorial limits of this state."

2 **NEW_SECTION.** Section 8. Codification instruction.
3 Sections 1 through 5 are intended to be codified as an
4 integral part of Title 23, chapter 2, part 5, and the
5 provisions of Title 23, chapter 2, part 5, apply to sections
6 1 through 5.

7 **NEW_SECTION.** Section 9. Effective date. Section 6 is
8 effective on May 1, 1984.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 68

3 House Natural Resources Committee

4
5 A statement of intent is required for this bill because
6 it delegates rulemaking authority to the Department of Fish,
7 Wildlife, and Parks to adopt rules prescribing:

8 (1) the manner of certification by manufacturers of
9 outboard motors and other marine engines manufactured after
10 January 1, 1982, as having been tested and found to comply
11 with the noise level limit in section 1;

12 (2) the testing procedures employed to determine
13 compliance on a voluntary basis by owners of outboard motors
14 and other marine engines manufactured before January 1,
15 1982;

16 As prescribed in section 2 of the bill, the testing
17 procedures employed to determine outboard and marine engine
18 noise must comply with the exterior sound level measurement
19 procedure for pleasure motorboats recommended by the society
20 of automotive engineers in its recommended practice
21 designated SAEJ34. The Department shall establish a program
22 throughout the state whereby boaters can voluntarily have
23 their motorboats checked for compliance with the noise level
24 limit in section 1.

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1 local public entities excepting certain motorboat operators
2 from compliance with the noise level restrictions contained
3 in sections 1 through 5; the Department's guidelines shall
4 only pertain to permit application procedures, permit fees,
5 and duration of permit validity; and

6 (4) the procedures employed to determine whether or
7 not a motorboat is technologically capable of complying with
8 the noise level limits established in section 1.

9 As prescribed in section 4, the Department shall
10 establish a manner of certification of motorboats that are
11 determined to be technologically incapable of complying with
12 section 1.

1 HOUSE BILL NO. 68
2 INTRODUCED BY HARPER

3
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; PROHIBITING REMOVAL OF NOISE SUPPRESSION
8 DEVICES; ALLOWING CERTAIN EXCEPTIONS; PROHIBITING
9 CONTRADICTORY REGULATIONS; INCREASING THE MOTORBOAT
10 IDENTIFICATION NUMBER FEE TO \$2; AMENDING SECTION SECTIONS
11 23-2-502 AND 23-2-512, MCA; AND PROVIDING A DELAYED
12 EFFECTIVE DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. Section 1. Maximum noise emissions from
16 motorboats. No motorboat may be operated or sold or offered
17 for sale for use in or upon the waters of this state after
18 January 1, 1984, if it emits noise, measured at a distance
19 of 50 feet from the motorboat, that exceeds:

20 (1) 86 dbA for a motorboat powered by an engine
21 manufactured on or after January 1, 1978, and before January
22 1, 1982;

23 (2) 84 dbA for a motorboat powered by an engine
24 manufactured on or after January 1, 1982, and before January
25 1, 1984;

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

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4 motors and other marine engines manufactured after January
5 1, 1984, and offered for sale in Montana shall be certified
6 to the department by the manufacturer as having been tested
7 and found to comply with the noise levels prescribed in
8 [section 1]. Testing procedures employed to determine marine
9 engine noise levels shall comply with the exterior sound
10 level measurement procedure for pleasure motorboats
11 recommended by the society of automotive engineers in its
12 recommended practice designated SAEJ34. The department shall
13 adopt rules prescribing the manner of certification and
14 testing procedures.

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16 modification prohibited. No person may remove or alter any
17 part of a marine engine, its propulsion unit, or its
18 enclosure or modify the mounting of a marine engine in or
19 upon a boat to cause its noise emissions to exceed the
20 limits prescribed in [section 1].

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

23 (1) a motorboat competing under a local public entity
24 or United States coast guard permit in a regatta or boat
25 race or while on official trials for speed records during

1 the time and in the designated area authorized by the
2 permit;

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

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

11 (4) a vessel commonly known as an airboat when-used-by
12 ~~e-utility-company-in-the-course-of-business;~~

13 (5) A MOTORBOAT THAT IS CERTIFIED BY THE DEPARTMENT AS
14 BEING TECHNOLOGICALLY INCAPABLE OF COMPLYING WITH THE NOISE
15 LEVELS PRESCRIBED IN [SECTION 1].

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

24 (2) THE DEPARTMENT SHALL ADOPT RULES WHICH ESTABLISH
25 GUIDELINES FOR THE ISSUANCE OF PERMITS BY LOCAL PUBLIC

1 ENTITIES UNDER [SECTION 4] AND NO PERMIT MAY BE ISSUED THAT
2 DOES NOT COMPLY WITH THE DEPARTMENT'S RULES.

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

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

24 (3) The applicant, upon the filing of the application,
25 shall pay to the county treasurer the registration fee and

1 the personal property taxes assessed against the motorboat
2 or vessel for the current year of registration before the
3 application for registration or reregistration may be
4 accepted by the county treasurer.

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

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

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

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

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

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

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

20 (10) (a) The number assigned must be painted on or
21 attached to each outboard side of the forward half of the
22 motorboat or, if there are no such sides, at a corresponding
23 location on both outboard sides of the foredeck of the
24 motorboat. The number assigned must read from left to right
25 in Arabic numerals and block characters of good proportion

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

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

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

24 (11) Fees collected under this section shall be
 25 transmitted to the state treasurer who shall deposit the

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

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

11 Section 7. Section 23-2-502, MCA, is amended to read:
 12 "23-2-502. Definitions. As used in this part, unless
 13 the context clearly requires a different meaning, the
 14 following definitions apply:

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

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

22 ~~(2)(3)~~ "Department" means the department of fish,
 23 wildlife, and parks of the state of Montana.

24 ~~(3)(4)~~ "Documented vessel" means a vessel which has
 25 and is required to have a valid marine document as a vessel

1 of the United States.

2 ~~(4)~~(5) "Identifying number" means the boat number set
3 forth in the certificate of number and properly displayed on
4 the motorboat.

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

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

16 ~~(7)~~(8) "Operate" means to navigate or otherwise use a
17 motorboat or a vessel.

18 ~~(8)~~(9) "Operator" means the person who navigates,
19 drives, or is otherwise in immediate control of a motorboat
20 or vessel.

21 ~~(9)~~(10) "Owner" means a person, other than a lien
22 holder, having the property in or title to a motorboat or
23 vessel. The term includes a person entitled to the use or
24 possession of a motorboat or vessel subject to an interest
25 in another person, reserved or created by an agreement

1 securing payment or performance of an obligation, but the
2 term excludes a lessee under a lease not intended as
3 security.

4 ~~(10)~~(11) "Passenger" means every person carried on
5 board a vessel other than:

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

14 ~~(11)~~(12) "Person" means an individual, partnership,
15 firm, corporation, association, or other entity.

16 ~~(12)~~(13) "Uniform state waterway marking system" means
17 one of two categories:

- 18 (a) a system of aids to navigation to supplement the
19 federal system of marking in state waters;
- 20 (b) a system of regulatory markers to warn a vessel
21 operator of dangers or to provide general information and
22 directions.

23 ~~(13)~~(14) "Vessel" means every description of
24 watercraft, unless otherwise defined by the department,
25 other than a seaplane on the water, used or capable of being

1 used as a means of transportation on water.

2 ~~(14)~~(15) "Waters of this state" means any waters within
3 the territorial limits of this state."

4 NEW SECTION. Section 8. Codification instruction.

5 Sections 1 through 5 are intended to be codified as an
6 integral part of Title 23, chapter 2, part 5, and the
7 provisions of Title 23, chapter 2, part 5, apply to sections
8 1 through 5.

9 NEW SECTION. Section 9. Effective date. Section 6 is
10 effective on May 1, 1984.

-End-

March 17, 1983

SENATE STANDING COMMITTEE REPORT
(Natural Resources)

That House Bill No. 68 be amended as follows:

1. Title, line 5.

Following: "MOTORBOATS"

Strike: remainder of line 5 through "23-2-512" on line 11

Insert: "BY AUTHORIZING FISH AND GAME WARDENS (STATE CONSERVATION OFFICERS) THE POWER FOR ENFORCING PUBLIC NUISANCE AND DISORDERLY CONDUCT LAWS AS THEY APPLY TO THE OPERATION OF MOTORBOATS; AMENDING SECTION 87-1-506,"

2. Title, line 11.

Strike: "A DELAYED"

Insert: "AN"

3. Pages 1 through 11.

Strike: all of the bill following the enacting clause.

Insert: "Section 1. Section 87-1-506, MCA is amended to read:

87-1-506. Enforcement powers of wardens. A warden may:

(1) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

(2) search, without a warrant, any tent not used as a residence, any boat, vehicles, box, locker, basket, creel, crate, game bag, or package or their contents upon probable cause to believe that any fish and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals has been violated;

(3) search, with a search warrant, any dwelling house or other building;

(4) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;

(5) seize and hold, subject to law or the orders of the department, devices which have been used to unlawfully take game, fish, birds, or fur-bearing animals;

(6) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the department, violation of which is a misdemeanor;

(7) enforce the disorderly conduct and public nuisance laws (45-8-101 and 45-8-111) as they apply to the operation of motorboats on all waters of the state;

~~(7)~~ (8) exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules of the department, and judgments obtained for violation of those laws or rules.

Section 2. Effective Date. This act is effective May 1, 1983."

4. Statement of Intent, House Bill 68.

Strike: The statement of intent in its entirety

March 19, 1983

COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 68 be amended as follows:

1. Strike Statement of Intent

STATEMENT OF INTENT

HOUSE BILL 68

House Natural Resources Committee

1 ~~4--statement-of-intent-is-required-for-this-bill--because~~
 2 ~~it-delegates-rulemaking-authority-to-the-Department-of-Fishy~~
 3 ~~Wildlife-and-Parks-to-adopt-rules-prescribing~~

4 ~~{1}--the-manner-of-certification--by--manufacturers--of~~
 5 ~~outboard--motors-and-other-marine-engines-manufactured-after~~
 6 ~~January-17-1982,--as-having-been-tested-and-found--to--comply~~
 7 ~~with-the-noise-level-limit-in-section-17~~

8 ~~{2}--the--testing--procedures--employed--to--determine~~
 9 ~~compliance-on-a-voluntary-basis-by-owners-of-outboard-motors~~
 10 ~~and-other-marine--engines--manufactured--before--January--17~~
 11 ~~1982~~

12 ~~As--prescribed--in--section--2--of--the--bill,--the-testing~~
 13 ~~procedures-employed-to-determine-outboard-and-marine--engine~~
 14 ~~noise--must-comply-with-the-exterior-sound-level-measurement~~
 15 ~~procedure-for-pleasure-motorboats-recommended-by-the-society~~
 16 ~~of--automotive--engineers--in--its--recommended--practice~~
 17 ~~designated--SAEJ34. The-Department-should-establish-a-program~~
 18 ~~throughout-the-state-whereby-boaters--can--voluntarily--have~~
 19 ~~their-motorboats-checked-for-compliance-with-the-noise-level~~
 20 ~~limit-in-section-17~~

21 ~~{3}--the--guidelines--for--the--issuance--of--permits--by~~

1 ~~local-public-entities-excepting-certain-motorboat--operators~~
 2 ~~from--compliance-with-the-noise-level-restrictions-contained~~
 3 ~~in-sections-1-through-5,--the-Department's--guidelines--shall~~
 4 ~~only--pertain-to-permit-application-procedures,--permit-fee,--and~~
 5 ~~and-duration-of-permit-validity,--and~~

6 ~~{4}--the-procedures-employed-to--determine--whether--or~~
 7 ~~not-a-motorboat-is-technologically-capable-of-complying-with~~
 8 ~~the-noise-level-limits-established-in-section-17~~

9 ~~As--prescribed--in--section--4,--the--Department--shall~~
 10 ~~establish-a-manner-of-certification-of-motorboats--that--are~~
 11 ~~determined-to-be-technologically-incapable-of-complying-with~~
 12 ~~section-17~~

1 HOUSE BILL NO. 68

2 INTRODUCED BY HARPER

3
 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; PROHIBITING REMOVAL OF NOISE SUPPRESSION~~
 8 ~~DEVICES; ALLOWING CERTAIN EXCEPTIONS; PROHIBITING~~
 9 ~~CONTRADICTORY REGULATIONS; INCREASING THE MOTORBOAT~~
 10 ~~IDENTIFICATION NUMBER FEE TO \$22; AMENDING SECTION SECTIONS~~
 11 ~~23-2-502 AND 23-2-512 BY AUTHORIZING FISH AND GAME WARDENS~~
 12 ~~(STATE CONSERVATION OFFICERS) THE POWER FOR ENFORCING PUBLIC~~
 13 ~~NUISANCE AND DISORDERLY CONDUCT LAWS AS THEY APPLY TO THE~~
 14 ~~OPERATION OF MOTORBOATS; AMENDING SECTION 87-1-506, MCA; AND~~
 15 ~~PROVIDING A DELAYED AN EFFECTIVE DATE."~~

16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 (Refer to Third Reading Bill)

19 Strike everything after the enacting clause and insert:

20 Section 1. Section 87-1-506, MCA, is amended to read:

21 "87-1-506. Enforcement powers of wardens. A warden

22 may:

23 (1) serve a subpoena issued by a court for the trial
 24 of a violator of the fish and game laws;

25 (2) search, without a warrant, any tent not used as a

1 residence, any boat, vehicle, box, locker, basket, creel,
 2 crate, game bag, or package or their contents upon probable
 3 cause to believe that any fish and game law or department
 4 rule for the protection, conservation, or propagation of
 5 game, fish, birds, or fur-bearing animals has been violated;

6 (3) search, with a search warrant, any dwelling house
 7 or other building;

8 (4) seize game, fish, game birds, and fur-bearing
 9 animals and any parts of them taken or possessed in
 10 violation of the law or the rules of the department;

11 (5) seize and hold, subject to law or the orders of
 12 the department, devices which have been used to unlawfully
 13 take game, fish, birds, or fur-bearing animals;

14 (6) arrest, in accordance with Title 46, chapter 6, a
 15 violator of a fish and game law or rule of the department,
 16 violation of which is a misdemeanor;

17 ~~(7) enforce the disorderly conduct and public nuisance~~
 18 ~~laws (45-8-101 and 45-8-111) as they apply to the operation~~
 19 ~~of motorboats on all waters of the state;~~

20 ~~(7)(B) exercise the other powers of peace officers in~~
 21 ~~the enforcement of the fish and game laws, the rules of the~~
 22 ~~department, and judgments obtained for violation of those~~
 23 ~~laws or rules."~~

24 Section 2. Effective date. This act is effective May
 25 1, 1983.

-End-

-2-

HB 68

REFERENCE BILL

1 STATEMENT OF INTENT

2 HOUSE BILL 68

3 House Natural Resources Committee

4
5 A statement of intent is required for this bill because
6 it delegates rulemaking authority to the Department of Fish
7 and Wildlife and Parks to adopt rules prescribing:

8 (1) the manner of certification by manufacturers of
9 outboard motors and other marine engines manufactured after
10 January 17, 1982, as having been tested and found to comply
11 with the noise level limit in section 12

12 (2) the testing procedures employed to determine
13 compliance on a voluntary basis by owners of outboard motors
14 and other marine engines manufactured before January 17,
15 1982;

16 As prescribed in section 2 of the bill, the testing
17 procedures employed to determine outboard and marine engine
18 noise must comply with the exterior sound level measurement
19 procedure for pleasure motorboats recommended by the society
20 of automotive engineers in its recommended practice
21 designated SAEd 34. The Department shall establish a program
22 throughout the state whereby boaters can voluntarily have
23 their motorboats checked for compliance with the noise level
24 limit in section 12

25 (3) the guidelines for the issuance of permits by

1 local public entities excepting certain motorboat operators
2 from compliance with the noise level restrictions contained
3 in sections 1 through 5; the Department's guidelines shall
4 only pertain to permit application procedures, permit fees,
5 and duration of permit validity; and

6 (4) the procedures employed to determine whether or
7 not a motorboat is technologically capable of complying with
8 the noise level limits established in section 12

9 As prescribed in section 4, the Department shall
10 establish a manner of certification of motorboats that are
11 determined to be technologically incapable of complying with
12 section 12

SECOND PRINTING

REFERENCE BILL; Includes Free Joint
Conference Committee Report
Dated 7-19-83

-2-

CLERICAL CORRECTION MADE ON P. 3
OF THIS BILL.

1 HOUSE BILL NO. 68
 2 INTRODUCED BY HARPER
 3
 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; PROHIBITING REMOVAL OF NOISE SUPPRESSION~~
 8 ~~DEVICES; ALLOWING CERTAIN EXCEPTIONS; PROHIBITING~~
 9 ~~CONTRADICTORY REGULATIONS; INCREASING THE MOTORBOAT~~
 10 ~~IDENTIFICATION NUMBER FEE TO \$2; AMENDING SECTION SECTIONS~~
 11 ~~29-2-502 AND 29-2-512 BY AUTHORIZING FISH AND GAME WARDENS~~
 12 ~~(STATE CONSERVATION OFFICERS) THE POWER FOR ENFORCING PUBLIC~~
 13 ~~NUISANCE AND DISORDERLY CONDUCT LAWS AS THEY APPLY TO THE~~
 14 ~~OPERATION OF MOTORBOATS; AMENDING SECTION 87-1-506, MCA; AND~~
 15 ~~PROVIDING A BELAYED AN EFFECTIVE DATE."~~

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

17 (Refer to Third Reading Bill)

18 Strike everything after the enacting clause and insert:

19 Section 1. Section 87-1-506, MCA, is amended to read:

20 "87-1-506. Enforcement powers of wardens. A warden
21 may:

22 (1) serve a subpoena issued by a court for the trial
23 of a violator of the fish and game laws;

24 (2) search, without a warrant, any tent not used as a

1 residence, any boat, vehicle, box, locker, basket, creel,
2 crate, game bag, or package or their contents upon probable
3 cause to believe that any fish and game law or department
4 rule for the protection, conservation, or propagation of
5 game, fish, birds, or fur-bearing animals has been violated;

6 (3) search, with a search warrant, any dwelling house
7 or other building;

8 (4) seize game, fish, game birds, and fur-bearing
9 animals and any parts of them taken or possessed in
10 violation of the law or the rules of the department;

11 (5) seize and hold, subject to law or the orders of
12 the department, devices which have been used to unlawfully
13 take game, fish, birds, or fur-bearing animals;

14 (6) arrest, in accordance with Title 46, chapter 6, a
15 violator of a fish and game law or rule of the department,
16 violation of which is a misdemeanor;

17 ~~(7) enforce the disorderly conduct and public nuisance~~
18 ~~laws (45-8-101 and 45-8-111) as they apply to the operation~~
19 ~~of motorboats on all waters of the state;~~

20 ~~(7)(8) exercise the other powers of peace officers in~~
21 ~~the enforcement of the fish and game laws, the rules of the~~
22 ~~department, and judgments obtained for violation of those~~
23 ~~laws or rules."~~

24 HERE IS A NEW MCA SECTION THAT READS:

25 Section 2. Presumption of nuisance and disorderly

1 conduct. For the purposes of this part, the operation of a
2 motorboat that emits noise in excess of 86 dbA when measured
3 at a distance of 50 feet is presumed to be a public nuisance
4 and constitute disorderly conduct, except when otherwise
5 lawfully operated under a motorboat racing permit issued by
6 a political subdivision of the state.

7 Section 3. Effective date. This act is effective May
8 1, 1983.

-End-

STATEMENT OF INTENT

HOUSE BILL 68

House Natural Resources Committee

A statement of intent is required for this bill because it delegates rulemaking authority to the Department of Fish and 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 must comply with the exterior sound level measurement procedure for pleasure motorboats recommended by the society of automotive engineers in its recommended practice designated SAE J346. 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.

(3) the guidelines for the issuance of permits by

local public entities excepting certain motorboat operators from compliance with the noise level restrictions contained in sections 1 through 5; the Department's guidelines shall only pertain to permit application procedures, permit fees, and duration of permit validity; and

(4) the procedures employed to determine whether or not a motorboat is technologically capable of complying with the noise level limits established in section 1.

As prescribed in section 4, the Department shall establish a manner of certification of motorboats that are determined to be technologically incapable of complying with section 1.

REFERENCE BILL: Includes Free Joint Conference Committee Report Dated 4-19-83

HOUSE BILL NO. 68

INTRODUCED BY HARPER

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; PROHIBITING REMOVAL OF NOISE SUPPRESSION DEVICES; ALLOWING CERTAIN EXCEPTIONS; PROHIBITING CONTRADICTORY REGULATIONS; INCREASING THE MOTORBOAT IDENTIFICATION NUMBER FEE TO \$21~~ AMENDING SECTION ~~SECTIONS 23-2-502 AND 23-2-512~~ BY AUTHORIZING FISH AND GAME WARDENS (STATE CONSERVATION OFFICERS) THE POWER FOR ENFORCING PUBLIC NUISANCE AND DISORDERLY CONDUCT LAWS AS THEY APPLY TO THE OPERATION OF MOTORBOATS; AMENDING SECTION 87-1-506, MCA; AND PROVIDING ~~A DELAYED AN~~ EFFECTIVE DATE."

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

(Refer to Third Reading Bill)

Strike everything after the enacting clause and insert:

Section 1. Section 87-1-506, MCA, is amended to read:

"87-1-506. Enforcement powers of wardens. A warden may:

(1) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

(2) search, without a warrant, any tent not used as a

residence, any boat, vehicle, box, locker, basket, creel, crate, game bag, or package or their contents upon probable cause to believe that any fish and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals has been violated;

(3) search, with a search warrant, any dwelling house or other building;

(4) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;

(5) seize and hold, subject to law or the orders of the department, devices which have been used to unlawfully take game, fish, birds, or fur-bearing animals;

(6) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the department, violation of which is a misdemeanor;

(7) enforce the disorderly conduct and public nuisance laws (45-8-101 and 45-8-111) as they apply to the operation of motorboats on all waters of the state;

~~(7)(B)~~ exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules of the department, and judgments obtained for violation of those laws or rules."

HERE IS A NEW MCA SECTION THAT READS:

Section 2. Presumption of nuisance and disorderly

1) conduct. For the purposes of this part, the operation of a
2) motorboat that emits noise in excess of 86 dbA when measured
3) at a distance of 50 feet is presumed to be a public nuisance
4) and constitutes disorderly conduct, except when otherwise
5) lawfully operated under a motorboat racing permit issued by
6) a political subdivision of the state.

7) Section 3. Effective date. This act is effective May
8) 1, 1988.

-End-