

HB 518 INTRODUCED BY GRADY, ET AL.
DEFINING ALL-TERRAIN VEHICLES; PROVIDING FOR
CERTIFICATION AND REGULATION

1/28 INTRODUCED
1/28 REFERRED TO HIGHWAYS & TRANSPORTATION
1/28 FISCAL NOTE REQUESTED
2/04 FISCAL NOTE RECEIVED
2/12 HEARING
2/12 TABLED IN COMMITTEE

1 House BILL NO. 518
 2 INTRODUCED BY Gandy Hagen Ellison Beam
 3 Miss Tom
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING ALL-TERRAIN
 5 VEHICLES; PROVIDING FOR THE REPORTING OF STOLEN VEHICLES;
 6 PROVIDING FOR CERTIFICATION AND OWNER AND DEALER
 7 REGISTRATION, A NONRESIDENT-USE PERMIT, AND A FEE IN LIEU OF
 8 TAX; AND AMENDING SECTION 15-6-146, MCA."
 9

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

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

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

22 (b) All-terrain vehicle does not include:

23 (i) a vehicle designed primarily for travel on, over,
 24 or in the water;

25 (ii) snowmobiles; or

1 (iii) any vehicle otherwise licensed under the laws of
 2 the state.

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

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

8 (4) "Department" means the department of fish,
 9 wildlife, and parks.

10 (5) "Division" means the division of motor vehicles in
 11 the department of justice.

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

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

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

23 (9) "Roadway" includes only those portions of any
 24 highway, road, or street improved, designed, or ordinarily
 25 used for travel or parking of motor vehicles.

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

21 NEW SECTION. Section 3. Certificate of ownership --
 22 procedure -- fee. (1) No all-terrain vehicle may be
 23 operated upon any public lands, trails, easements, lakes,
 24 rivers, streams, roadways or shoulders of roadways, streets,
 25 or highways unless a certificate of ownership has first been

1 obtained from the division.

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

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

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

20 (4) Subject to the provisions of subsection (5)(b),
 21 the application for a new certificate must be accompanied by
 22 the immediately previous certificate. This subsection does
 23 not apply to all-terrain vehicles that are purchased as new
 24 and unused machines or that were operated before [the
 25 effective date of this act].

1 (5) (a) After the owner completes the application
 2 forms furnished to the county treasurer's office by the
 3 division, the county treasurer shall issue to the applicant
 4 two copies of the completed application, with one marked
 5 "file copy", and forward one copy and the original
 6 application to the division. The division shall enter the
 7 information contained in the application upon the
 8 corresponding records of its office and shall send the
 9 applicant a certificate of ownership containing a permanent
 10 ownership number and such information from the application
 11 considered necessary by the division.

12 (b) The certificate of ownership is not to be renewed
 13 annually and is valid as long as the person holding it owns
 14 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 to the division and deposited in the
 22 motor vehicle recording account of the earmarked revenue
 23 fund.

24 NEW SECTION. Section 4. Transfer of interest. (1) To
 25 transfer a certificate of ownership to an all-terrain

1 vehicle registered under [section 9], the person whose title
 2 or interest is to be transferred shall endorse the
 3 certificate of ownership in the appropriate space on the
 4 reverse side of the certificate and have his signature
 5 acknowledged before a notary public.

6 (2) (a) Within 20 calendar days after the date of
 7 notarization, the transferee shall apply with the county
 8 treasurer of the county in which he resides for:

9 (i) transfer of the endorsed certificate of ownership;
 10 and

11 (ii) registration of the all-terrain vehicle.

12 (b) The county treasurer shall forward the application
 13 and the original certificate of ownership to the division,
 14 which shall file the application upon receipt.

15 (c) No certificate of ownership may be issued by the
 16 division until the outstanding certificates are surrendered
 17 to that office or their loss is established.

18 (d) The county treasurer shall collect a fee of \$3 for
 19 each application for transfer of ownership, \$2 of which must
 20 be forwarded to the division for deposit in the motor
 21 vehicle recording account of the earmarked revenue fund.

22 (3) A purchaser of a new or used all-terrain vehicle
 23 from an all-terrain vehicle dealer licensed under [section
 24 12] has a grace period of 20 calendar days from the date of
 25 purchase to register the all-terrain vehicle, apply for a

1 certificate of ownership, and obtain a certificate of
 2 registration and a decal indicating that the fee in lieu of
 3 property tax has been paid for the current year. It is not a
 4 violation of [sections 1 through 15] for the purchaser to
 5 operate a newly acquired all-terrain vehicle without a
 6 certificate of ownership, certificate of registration, and
 7 decal during the 20-day period. During this period the
 8 sticker provided for in subsection (4) must remain affixed
 9 to the 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, containing the name and address of the
 14 purchaser, the date of sale, the name and address of the
 15 dealer, and a description of the all-terrain vehicle,
 16 including its serial number. The dealer shall keep a copy of
 17 the sticker for his records and shall send a copy of the
 18 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 an
 21 all-terrain vehicle dealer licensed under [section 12] who
 22 intends to resell the vehicle and who operates it only for
 23 demonstration purposes. Every dealer, upon transferring the
 24 interest, shall deliver the certificate of ownership with an
 25 application for a new certificate executed by the new owner.

1 The division, upon receipt of the certificate of ownership
 2 and application for a new certificate, together with the
 3 conditional sales contract or other lien, if any, shall
 4 issue a new certificate of ownership showing the name of the
 5 lienholder and amount due under the contract, mortgage, or
 6 lien as required by [section 3(2)(d) and (2)(e)].

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

13 NEW SECTION. Section 6. Exemptions. (1) The
 14 provisions of [sections 1 through 15] regarding
 15 registration, tax-paid decals, and certification of
 16 ownership do not apply to:

17 (a) an all-terrain vehicle owned or used by the United
 18 States or another state or an agency or political
 19 subdivision thereof;

20 (b) an all-terrain vehicle registered in a country
 21 other than the United States, which is temporarily used
 22 within this state for not more than 30 days;

23 (c) an all-terrain vehicle registered in another state
 24 of the United States, which is temporarily used within this
 25 state for not more than 30 days; or

1 (d) an all-terrain vehicle operated only on lands
2 owned or leased by the all-terrain vehicle owner.

3 (2) The provisions of [sections 1 through 15]
4 regarding registration, tax-paid decals, and certification
5 of ownership do not apply to unregistered all-terrain
6 vehicles owned by nonresidents of the state of Montana who
7 either:

8 (a) display visual proof that a nonresident
9 temporary-use permit, as provided for in [section 7], has
10 been purchased; or

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

15 NEW SECTION. Section 7. Nonresident temporary-use
16 permits -- fee -- use. (1) (a) Application for the issuance
17 of an all-terrain vehicle nonresident temporary-use permit
18 must be made at a location and upon forms prescribed by the
19 department. The forms must require the following
20 information:

- 21 (i) the applicant's name and home mailing address;
22 (ii) the make, model, year, and serial number of the
23 all-terrain vehicle; and
24 (iii) an affidavit declaring the nonresidency of the
25 applicant.

1 (b) Upon receipt of the application and a fee of \$6,
2 the dealer shall issue a nonresident temporary-use sticker.
3 The sticker must be displayed in a conspicuous place on the
4 all-terrain vehicle.

5 (2) The temporary permit is valid for a period of 30
6 consecutive days from the date of issuance.

7 (3) The permit is not proof of ownership, and no
8 certificate of ownership may be issued under this section.

9 (4) Money collected from payment of fees under this
10 section must be remitted to the state treasurer and placed
11 in the earmarked revenue fund to the credit of the
12 department, with one-half to be used in administering this
13 section and one-half to be used for the development,
14 maintenance, and operation of all-terrain vehicle
15 facilities.

16 NEW SECTION. Section 8. Fee in lieu of tax on
17 all-terrain vehicles -- disposition of fees. (1) There is a
18 fee in lieu of tax on all-terrain vehicles.

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

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

24 (c) The fee need not be paid by a dealer for
25 all-terrain vehicles constituting inventory of the

1 dealership.

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

5 NEW SECTION. Section 9. Registration and decals --
6 application and issuance -- use of certain fees. (1) No
7 all-terrain vehicle may be operated on public lands by any
8 person in Montana unless it has been registered and there is
9 displayed in a conspicuous place a decal as visual proof
10 that the fee in lieu of tax has been paid on it for the
11 current year.

12 (2) Application for registration must be made to the
13 county treasurer upon forms furnished by the division for
14 this purpose, which may be obtained at the county
15 treasurer's office in the county where the owner resides.
16 The application must contain the following information:

- 17 (a) name and home mailing address of the owner;
18 (b) certificate of ownership number;
19 (c) name of the manufacturer of the all-terrain
20 vehicle;
21 (d) model number or name;
22 (e) year of manufacture;
23 (f) a statement evidencing payment of the fee in lieu
24 of property tax; and
25 (g) such other information as the division may

1 require.

2 (3) The application must be accompanied by a decal fee
3 of \$2, a registration fee of 50 cents, and, if the
4 all-terrain vehicle has previously been registered, by the
5 registration certificate for the most recent year in which
6 it was registered. The treasurer shall sign the application
7 and issue a registration receipt, which must contain the
8 information considered necessary by the division and a
9 listing of fees paid. The owner shall retain possession of
10 the registration receipt until it is surrendered to the
11 county treasurer for reregistration or to a purchaser or
12 subsequent owner pursuant to a transfer of ownership.

13 (4) The county treasurer shall forward the signed
14 application to the division and shall issue to the applicant
15 a decal, in the style and design prescribed by the division,
16 of a different color than that of the preceding year, and
17 numbered in sequence.

18 (5) The county treasurer may not accept any
19 application under this section until the applicant pays the
20 decal and registration fees and the fee in lieu of property
21 tax on the all-terrain vehicle for the current year.

22 (6) All money collected from payment of the decal fees
23 and all interest accruing from use of this money must be
24 forwarded to the state treasurer and placed in the earmarked
25 revenue fund to the credit of the department for use in

1 enforcing the provisions of this section. All money
2 collected from payment of the registration fee shall be
3 forwarded to the state treasurer and deposited in the motor
4 vehicle recording account of the earmarked revenue fund.

5 NEW SECTION. Section 10. Duplicate decal. If a decal
6 indicating that the fee in lieu of tax has been paid on an
7 all-terrain vehicle for the current year is lost, mutilated,
8 or becomes illegible, the person to whom it was issued shall
9 immediately apply for and may obtain a duplicate decal upon
10 payment of a fee of \$1 to the county treasurer.

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

17 NEW SECTION. Section 12. Dealer registration
18 certificate -- use of fees. (1) No dealer may sell
19 all-terrain vehicles unless a dealer registration
20 certificate has first been obtained from the division under
21 the provisions of this section.

22 (2) The dealer application must be accompanied by an
23 application fee of \$5 and a registration fee of \$5. Upon
24 receipt of the dealer application and payment of fees, the
25 dealer must be issued two dealer all-terrain identification

1 cards to be carried by the dealer or the dealer's customer
2 when demonstrating the dealer's all-terrain vehicles.
3 Additional dealer all-terrain vehicle identification cards
4 as required may be purchased by the dealer from the division
5 for a fee of \$2.

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

7 (4) The dealer shall have a principal place of
8 business where he maintains all his business records and
9 displays and sells merchandise.

10 (5) An applicant for renewal of an all-terrain vehicle
11 dealer registration shall:

12 (a) certify that he has sold three or more all-terrain
13 vehicles during the preceding year;

14 (b) pay an additional \$50 renewal registration fee; or

15 (c) provide a copy of a written new all-terrain
16 vehicle franchise or sales agreement that the applicant has
17 with a manufacturer, importer, or distributor.

18 (6) Dealer registration certificates and
19 identification cards expire on June 30 following the date of
20 issuance.

21 (7) (a) The dealer application fees and all interest
22 accruing from use of this money must be deposited in the
23 earmarked revenue fund to the credit of the department to be
24 used for all-terrain vehicle safety and education programs.

25 (b) All money collection from dealer registration and

1 renewal fees must be deposited in the motor vehicle
2 recording account of the earmarked revenue fund.

3 NEW SECTION. Section 13. Enforcement. The
4 department's enforcement personnel, the sheriffs and their
5 deputies, the Montana highway patrol, and the police of each
6 municipality shall enforce the provisions of [sections 7 and
7 9].

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

14 (2) The failure to display the nonresident
15 temporary-use permit as required under [section 7] or the
16 making of false statements in obtaining such permit is a
17 misdemeanor, punishable by a fine of not less than \$25 or
18 more than \$100.

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

24 Section 16. Section 15-6-146, MCA, is amended to read:
25 "15-6-146. Class sixteen property -- description --

1 taxable percentage. (1) Class sixteen property includes:

2 (a) watercraft;

3 ~~(b) all-terrain vehicles not registered under~~
4 ~~61-3-301;~~

5 ~~(c)~~ (b) harness, saddlery, and other tack equipment;

6 ~~(d)~~ (c) all other property used for noncommercial
7 purposes which is not real property or an improvement to
8 real property and which is not included in another class or
9 exempt from taxation under Title 15, chapter 6, part 2.

10 (2) Class sixteen property is taxed at 11% of its
11 market value."

12 NEW SECTION. Section 17. Extension of authority. Any
13 existing authority of the department of fish, wildlife, and
14 parks or the department of justice to make rules on the
15 subject of the provisions of this act is extended to the
16 provisions of this act.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB518, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act defining all-terrain vehicles; providing for the reporting of stolen vehicles; providing for certification and owner and dealer registration, a nonresident use permit, and a fee in lieu of tax; and amending section 15-6-146, MCA.

ASSUMPTIONS:

1. The proposed fee in lieu of tax will apply to 22,500 all-terrain vehicles that currently are not registered or property taxes paid on. (Estimates by recreational vehicle manufacturers and the motor vehicle division).
2. One half, or 11,250, of these ATV's will register in FY88 and an additional 1,500, or 12,750, ATV's will register in FY89.
3. Half the ATV's are less than four years old; half are over four years old.
4. A 4% violation rate (based on the number of snowmobile registration violations). The minimum fine will be levied.
5. No non-resident permits are issued.
6. The proposed law will require two additional wardens and related operating costs for enforcement. The education and safety program will be comparable to the snowmobile program.
7. There are 73 all terrain vehicle dealers in Montana. The application fee of \$5 is paid the first year and the \$5 registration fee is paid each year after that.
8. The certificate of ownership fee is \$3.00. Distribution is \$2 to the motor vehicle recording account; \$1 retained by the county.
9. A decal fee of \$2 to be distributed to the Department of Fish, Wildlife and Parks for enforcement.
10. A registration fee of \$.50 to be distributed to the motor vehicle recording account.
11. Distribution of dealer application fees to the Department of Fish, Wildlife and Parks for all-terrain vehicle safety and education program.
12. Distribution of dealer registration and renewal fees to the motor vehicle recording account.
13. Distribution of fines to Fish, Wildlife and Parks for all-terrain vehicle safety and education program.
14. The taxable value of the state will be \$1,997,193,000 in FY88 and \$2,024,661,000 in FY89 (REAC).
15. This proposal would become effective on October 1, 1987. Since there is no provision for prorating fees in this proposal, all ATV's not currently licensed would be subject to the proposed fee system and removed from property tax rolls in FY88 and FY89.
16. There are 2,849 ATV's (primarily golf carts) in class 16 property that would be affected by this proposal. 33% of these ATV's are less than 4 years old; 67% are 4 years old or over.
17. The taxable value of class 16 ATV's is \$668,000 (1986 actual taxable value).

David L. Hunter DATE 2/3/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Ed Grady DATE _____
 ED GRADY, PRIMARY SPONSOR

Fiscal Note for HB518, as introduced.

HB 518

ASSUMPTIONS (continued):

18. Motor vehicle fees and taxes are distributed as follows: School Foundation Program- 14.9230% in FY88 and 14.3261% in FY89; University- 1.9896% in FY88 and 1.9100% in FY89.
19. The average state mill levy will be 302 mills in FY88 and 314 mills in FY89 for this type of property.

FISCAL IMPACT:

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenues:</u>						
Property Tax and Fee in Lieu of Tax:						
University Levy	\$ 11,983,158	\$ 11,984,334	\$ 1,176	\$ 12,147,966	\$ 12,149,472	\$ 1,506
School Equalization	89,873,685	89,882,504	8,819	91,109,745	91,121,038	11,293
TOTAL	\$101,856,843	\$101,866,838	\$ 9,995	\$103,257,711	\$103,270,510	\$ 12,799
<u>Other Fees:</u>						
Certificate of Ownership	\$ 0	\$ 22,500	\$ 22,500	\$ 0	\$ 23,250	\$ 23,250
Decal Fee	0	22,500	22,500	0	23,250	23,250
Registration Fee	0	5,625	5,625	0	6,375	6,375
Dealer Registration	0	730	730	0	365	365
Fines	0	4,500	4,500	0	4,650	4,650
TOTAL OTHER FEES	\$ 0	\$ 55,855	\$ 55,855	\$ 0	\$ 57,890	\$ 57,890
<u>Expenditures:*</u>						
Department of Fish, Wildlife, & Parks						
Wildlife, & Parks	\$ 0	\$ 73,900	\$ 73,900	\$ 0	\$ 73,900	\$ 73,900
Department of Justice						
Department of Justice	\$ 0	\$ 54,100	\$ 54,100	\$ 0	\$ 44,600	\$ 44,600
<u>Fund Information:</u>						
Earmarked Revenue Fund (Other Fees)						
Motor Vehicle						
Recording Account	\$ 0	\$ 28,490	\$ 28,490	\$ 0	\$ 29,990	\$ 29,900
F, W & P -						
Enforcement	\$ 0	\$ 22,500	\$ 22,500	\$ 0	\$ 23,250	\$ 23,250
Safety & Education	\$ 0	\$ 4,865	\$ 4,865	\$ 0	\$ 4,650	\$ 4,650

*Revenues generated from the proposed legislation would not fund an all-terrain vehicle program and enforcement program in the Department of Fish, Wildlife and Parks. Revenues from the proposal would also be inadequate for the Department of Justice expenditures.

Fiscal Note Request, HB518, as introduced.

Form BD-15

Page 3

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Local government revenues will increase as follows:

	<u>FY88</u>	<u>FY89</u>
Current Property Tax	\$ 167,617	\$ 175,697
<u>Proposed Fees</u>	<u>227,968</u>	<u>254,478</u>
Estimated Increase	\$ 60,351	\$ 78,781