

HOUSE BILL NO. 165
INTRODUCED BY ELLISON, WALLIN

IN THE HOUSE

JANUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
JANUARY 14, 1989	FIRST READING.
FEBRUARY 8, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 9, 1989	PRINTING REPORT.
FEBRUARY 10, 1989	SECOND READING, DO PASS. ENGROSSING REPORT.
FEBRUARY 13, 1989	THIRD READING, PASSED. AYES, 70; NOES, 25. TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 14, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION. FIRST READING.
MARCH 9, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 10, 1989	PASS CONSIDERATION.
MARCH 13, 1989	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 15, 1989	THIRD READING, CONCURRED IN. AYES, 45; NOES, 2. RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 16, 1989

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

MARCH 17, 1989

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

MARCH 21, 1989

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 10, 1989

CONFERENCE COMMITTEE REPORTED.

IN THE SENATE

APRIL 10, 1989

CONFERENCE COMMITTEE REPORTED.

IN THE HOUSE

APRIL 11, 1989

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 11, 1989

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 12, 1989

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 165
 2 INTRODUCED BY Ellison Wilson
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PAYMENT OF
 5 REGISTRATION AND DECAL FEES FOR OFF-HIGHWAY VEHICLES;
 6 REQUIRING A CERTIFICATE OF OWNERSHIP; PROVIDING FOR
 7 LICENSING OF OFF-HIGHWAY VEHICLE DEALERS; CREATING AN
 8 OFF-HIGHWAY VEHICLE RECREATIONAL USE ACCOUNT; AMENDING
 9 SECTIONS 23-2-801, 23-2-803, 23-2-804, 23-2-806, AND
 10 23-2-807, MCA; REPEALING SECTION 23-2-805, MCA; AND
 11 PROVIDING A DELAYED EFFECTIVE DATE."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 23-2-801, MCA, is amended to read:

15 "23-2-801. Definitions. As used in this part, unless
 16 the context clearly indicates otherwise, the following
 17 definitions apply:

18 (1) (a) "Off-highway vehicle" means a self-propelled
 19 vehicle used for recreation or cross-country travel on
 20 public lands, trails, easements, lakes, rivers, or streams.
 21 The term includes but is not limited to motorcycles,
 22 quadricycles, dune buggies, amphibious vehicles, air cushion
 23 vehicles, and any other means of land transportation
 24 deriving motive power from any source other than muscle or
 25 wind.

1 (b) Off-highway vehicle does not include:
 2 (i) vehicles designed primarily for travel on, over,
 3 or in the water;
 4 (ii) snowmobiles; or
 5 (iii) except as provided in [section 7], vehicles
 6 otherwise licensed under the laws of the state.
 7 (2) "Department" ~~means the department of fish,~~
 8 ~~wildlife, and parks~~ "Certificate of ownership" means a
 9 document issued by the department of justice as prima facie
 10 evidence of ownership as provided in [section 2]."

11 **NEW SECTION. Section 2.** Certificate of ownership --
 12 procedure -- fee. (1) No off-highway vehicle may be operated
 13 upon any public lands, trails, easements, lakes, rivers, or
 14 streams unless a certificate of ownership has first been
 15 obtained from the department of justice.

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

21 (a) the name of the owner;
 22 (b) the residence of the owner, by town and county;
 23 (c) the business address and home mailing address of
 24 the owner;
 25 (d) the name and address of any lienholder;

(e) the amount due under any contract, mortgage, or lien;

(f) the name of the manufacturer;

(g) the model number or name;

(h) the identification number; and

(i) the name and address of the dealer or other person from whom the off-highway vehicle was acquired.

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

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

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

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

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

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

(a) \$3 must be forwarded to the department of justice for deposit in the motor vehicle recording account of the state special revenue fund; and

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

NEW SECTION. Section 3. Transfer of interest. (1) To transfer a certificate of ownership for an off-highway vehicle registered under [section 6], the person whose title or interest is to be transferred shall endorse the certificate of ownership in the appropriate space on the reverse side of the certificate and have his signature acknowledged before a notary public.

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

(i) transfer of the endorsed certificate of ownership;

(ii) registration of the off-highway vehicle; and

(iii) issuance of a decal as required by 23-2-804.

(b) The county treasurer shall forward the application and the original certificate of ownership to the department of justice, which shall file the application upon receipt.

(c) A certificate of ownership may not be issued by the department until the outstanding certificates are surrendered to that office or their loss is established.

(d) The county treasurer shall collect a fee of \$4 for each application for transfer of ownership, of which:

(i) \$3 must be forwarded to the department of justice for deposit in the motor vehicle recording account of the state special revenue fund; and

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

(3) (a) A person who purchases a new or used off-highway vehicle from an off-highway vehicle dealer licensed under [section 10] shall, within 20 calendar days after the purchase date, apply to the county treasurer of the county in which he resides for:

(i) a certificate of ownership;

(ii) registration of the off-highway vehicle; and

(iii) a decal as required by 23-2-804.

(b) During this period the sticker provided for in subsection (5) must remain affixed to the off-highway

vehicle.

(4) It is not a violation of this part for a purchaser to operate a newly acquired off-highway vehicle without a certificate of ownership, a certificate of registration, and a decal during the first 20 days of ownership.

(5) Prior to the delivery of the off-highway vehicle to the purchaser, the dealer shall issue and affix to the off-highway vehicle a sticker, in a form to be prescribed by the department of justice, containing the name and address of the purchaser, the date of sale, the name and address of the dealer, and a description of the off-highway vehicle, including its identification number. The dealer shall keep a copy of the sticker for his records and shall send a copy of the sticker to the department of justice.

(6) The provisions of subsection (2) do not apply to the transfer of an off-highway vehicle to an off-highway vehicle dealer licensed under [section 10] who intends to resell the vehicle and who operates it only for demonstration purposes. Every dealer, upon a transfer of interest, shall deliver the certificate of ownership to the department of justice with an application for a new certificate executed by the new owner. The department of justice, upon receipt of the certificate of ownership and application for a new certificate, together with the conditional sales contract or other lien, if any, shall

1 issue a new certificate of ownership showing the name of the
2 lienholder and the amount due under the contract, mortgage,
3 or lien as required by [section 2(2)(d) and (2)(e)].

4 **NEW SECTION. Section 4.** Lost or mutilated
5 certificate. If a certificate of ownership is lost or
6 mutilated or becomes illegible, the person to whom it was
7 issued shall immediately apply for and obtain a duplicate
8 certificate upon payment of a fee of \$4 to the county
9 treasurer.

10 **Section 5.** Section 23-2-803, MCA, is amended to read:

11 "23-2-803. Fee in lieu of tax on off-highway vehicles
12 -- exception -- disposition of fees. (1) There is a fee in
13 lieu of tax on off-highway vehicles, other than off-highway
14 vehicles constituting the inventory of a dealership licensed
15 under [section 10], to be paid to the county treasurer of
16 the county in which the owner of the off-highway vehicle
17 resides.

18 (a) The fee for an off-highway vehicle less than 3
19 years old is \$25 \$18. In all other cases the fee is \$15 \$8.

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

23 (2) The county treasurer shall distribute all fees in
24 lieu of tax collected on off-highway vehicles pursuant to
25 this section in the relative proportions required by the

1 levies for state, county, school district, and municipal
2 purposes in the same manner as personal property taxes are
3 distributed."

4 **NEW SECTION. Section 6.** Registration fee --
5 application and issuance -- disposition. (1) Each
6 off-highway vehicle is subject to an annual registration fee
7 of \$21.

8 (2) The county treasurer shall collect the annual fee
9 when the fee in lieu of tax is collected.

10 (3) Application for registration must be made to the
11 county treasurer of the county in which the owner resides,
12 on a form furnished by the department of justice for that
13 purpose. The application must contain:

14 (a) the name and home mailing address of the owner;

15 (b) the certificate of ownership number;

16 (c) the name of the manufacturer of the off-highway
17 vehicle;

18 (d) the model number or name;

19 (e) the year of manufacture;

20 (f) a statement evidencing payment of the fee in lieu
21 of property tax; and

22 (g) such other information as the department of
23 justice may require.

24 (4) If the off-highway vehicle was previously
25 registered, the application must be accompanied by the

1 registration certificate for the most recent year in which
 2 it was registered. Upon payment of the registration fee, the
 3 county treasurer shall sign the application and issue a
 4 registration receipt, which must contain the information
 5 considered necessary by the department of justice and a
 6 listing of the fees paid. The owner shall retain possession
 7 of the registration receipt until it is surrendered to the
 8 county treasurer for reregistration or to a purchaser or
 9 subsequent owner pursuant to a transfer of ownership.

10 (5) All registration fees collected must be forwarded
 11 to the department of justice and deposited in the motor
 12 vehicle recording account of the state special revenue fund.

13 **Section 7.** Section 23-2-804, MCA, is amended to read:

14 "23-2-804. Decal required -- fee -- disposition. (1)
 15 Except as provided in 23-2-802, no off-highway vehicle may
 16 be operated by any person for recreation on public lands in
 17 Montana unless there is displayed in a conspicuous place a
 18 decal, in a form prescribed by the department of fish,
 19 wildlife, and parks and issued by the county treasurer, as
 20 visual proof that the following fees have been paid for the
 21 current year:

22 (a) the fee in lieu of tax provided for in 23-2-803;
 23 ~~has-been-paid-for-the-current-year;~~

24 (b) (i) the registration fee provided for in [section
 25 6]; or

1 (ii) when the vehicle will be used as provided in this
 2 section, the registration and taxation fees for motorcycles
 3 and quadricycles subject to licensure under 61-3-321, as
 4 evidenced by presentation of an owner's certificate of
 5 registration and payment receipt; and

6 (c) the off-highway decal fee provided for in this
 7 section.

8 (2) The decal will be serially numbered and have the
 9 expiration date of December 31 of the appropriate year
 10 printed thereon.

11 (3) The off-highway decal fee is \$5, which the county
 12 treasurer shall collect and transmit to the state treasurer,
 13 who shall deposit the money in the state special revenue
 14 fund to the credit of the department of fish, wildlife, and
 15 parks, and of which:

16 (a) \$4 must be used to enforce the provisions of this
 17 section; and

18 (b) \$1, plus all interest accruing from the investment
 19 of this portion of the decal fee, must be deposited in the
 20 off-highway vehicle recreational use account created in
 21 [section 11]."

22 **Section 8.** Section 23-2-806, MCA, is amended to read:

23 "23-2-806. Enforcement. The department's department of
 24 fish, wildlife, and parks enforcement personnel, sheriffs
 25 and their deputies, the Montana highway patrol, and the

1 police of each municipality shall enforce the provisions of
2 this part."

3 **Section 9.** Section 23-2-807, MCA, is amended to read:

4 "23-2-807. **Penalty -- disposition.** (1) The failure to
5 display a current decal indicating that the fee in lieu of
6 tax has, registration fees, decal fees, and, when
7 applicable, taxes on licensed vehicles have been paid on the
8 off-highway vehicle for the current year as provided in
9 23-2-804 is a misdemeanor punishable by a fine equal to five
10 times the fee in lieu of tax that is due on the off-highway
11 vehicle for the current year.

12 (2) All fines collected under this section must be
13 transmitted to the state treasurer, who shall deposit the
14 money in the earmarked state special revenue fund to the
15 credit of the department of fish, wildlife, and parks to be
16 used for off-highway vehicle safety and education."

17 **NEW SECTION. Section 10.** Dealer registration
18 certificate -- use of fees. (1) A dealer may not sell
19 off-highway vehicles unless he has first obtained a dealer
20 registration certificate from the department of justice
21 under 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 off-highway identification

1 cards to be carried by the dealer or the dealer's customer
2 when demonstrating the dealer's off-highway vehicles.
3 Additional dealer off-highway vehicle identification cards
4 may be purchased by the dealer from the department of
5 justice for a fee of \$2 each.

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 where he displays and sells merchandise.

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

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

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

16 (c) provide a copy of a new off-highway vehicle
17 franchise or sales agreement that he has with a
18 manufacturer, importer, or distributor.

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

22 (7) (a) The dealer application fees and all interest
23 accruing from use of this money must be deposited in the
24 motor vehicle recording account of the state special revenue
25 fund to be used for off-highway vehicle safety and education

1 programs.

2 (b) All dealer registration fees and renewal fees
3 collected and interest accruing from use of this money must
4 be deposited in the state special revenue fund to the credit
5 of the department of fish, wildlife, and parks to be used
6 for off-highway vehicle safety and education programs.

7 NEW SECTION. **Section 11. Account created.** There is in
8 the state special revenue fund an off-highway vehicle
9 recreational use account into which money is deposited as
10 provided in [section 7] and from which the legislature may
11 appropriate money to develop and implement a comprehensive
12 program and plan appropriate to off-highway vehicle
13 recreational use, provided:

14 (1) that no money may be spent from this account for
15 this purpose before January 1, 1991; and

16 (2) evaluation for development of a program plan will
17 begin January 1, 1991.

18 NEW SECTION. **Section 12. Repealer.** Section 23-2-805,
19 MCA, is repealed.

20 NEW SECTION. **Section 13. Extension of authority.** Any
21 existing authority to make rules on the subject of the
22 provisions of [this act] is extended to the provisions of
23 [this act].

24 NEW SECTION. **Section 14. Codification instruction.**
25 [Sections 2 through 4, 6, 10, and 11] are intended to be

1 codified as an integral part of Title 23, chapter 2, part 8,
2 and the provisions of Title 23, chapter 2, part 8, apply to
3 [sections 2 through 4, 6, 10, and 11].

4 NEW SECTION. **Section 15. Effective date.** [This act]
5 is effective January 1, 1990.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB165, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring payment of registration and decal fees for off-highway vehicles, requiring a certificate of ownership; providing for licensing of off-highway vehicle dealers; creating an off-highway vehicle recreational use account; amending Section 23-2-801, 23-2-803, 23-2-804, 23-2-806, and 23-2-807, MCA; repealing Section 23-2-805, MCA; and providing a delayed effective date.

ASSUMPTIONS:

1. Effective date of legislation is January 1, 1990.
2. According to the Motor Vehicle Registrar's Bureau, there are 10,000 vehicles in Montana registered for on/off highway use. These are primarily motorcycles. It is estimated that there are an additional 15,000 off-highway vehicles that are not registered. It is assumed that 10,000 vehicles would be registered under this legislation, plus half of the 15,000 unregistered vehicles.
3. Eighty dealers would register under this legislation, and membership of that group is relatively static from year to year.
4. Assume that nonresidents are not required to register their off-highway vehicles.
5. Assume enforcement of this act will require 3 additional wardens and related operating costs. The education and safety program would be comparable in scope to the snowmobile program.
6. Assume a 1% noncompliance rate with off-highway vehicle registration requirements.
7. Assume that very little enforcement of this act is presently occurring because no funding is provided.
8. Assume the Department of Fish, Wildlife and Parks will receive the following funding under this legislation: \$5 annual decal fee; fine revenue of 5 times the fee in-lieu of tax; and the \$5 dealer registration fee and \$50 dealer renewal fee.
9. Assume the Justice Department would contract with the Department of Fish, Wildlife, and Parks to provide the safety and education program required under new section 10, part 7(a).
10. Assume fines levied for violation of the decal requirement will be 5 times the average fee in-lieu of tax paid for off-highway vehicles ($\$18 + \$8/2 = \$13$).
11. Assume that it will require \$5,000 to hire a consultant between January 1 and July 1, 1991, to evaluate the feasibility of developing and implementing an off-highway vehicle program.
12. Assume interest earnings are not significant.
13. Assume the increase in the number of new off-highway vehicles each year would not significantly affect the revenue estimate.
14. Assume that the Justice Department would need an additional FTE and operating expenses for the increased work load.



RAY/SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

1/21/89

DATE



ORVAL S. ELLISON, PRIMARY SPONSOR

DATE

Fiscal Note for HB165, as introduced

HB 165

Fiscal Note Request, HB165 as introduced
Form BD-15
Page 2

FISCAL IMPACT:

Fish, Wildlife and Parks

	Current	FY90 Proposed	
Revenue:	Law	Law	Difference
Fines	\$ 300	\$ 5,687	\$ 5,387
Decals	-0-	87,500	87,500
Contract with Justice	-0-	400	400
Dealer Registration Fees	-0-	400	400
Dealer Renewal Fees	-0-	4,000	4,000
Decal Reimbursement	200	400	200
TOTAL	\$ 500	\$ 98,387	\$ 97,887

Expenditures:

Personal Services	\$ -0-	\$ 37,550	\$ 37,550
Operating Expenses	1,000	13,250	12,250
TOTAL	\$ 1,000	\$ 50,800	\$ 49,800

Net Effect:

(\$ 500) \$ 47,587 \$ 48,087

	Current	FY91 Proposed	
Revenue:	Law	Law	Difference
Fines	\$ 300	\$ 11,375	\$ 11,075
Decals	-0-	87,500	87,500
Contract with Justice	-0-	-0-	-0-
Dealer Registration Fees	-0-	-0-	-0-
Dealer Renewal Fees	-0-	4,000	4,000
Decal Reimbursement	200	400	200
TOTAL	\$ 500	\$103,275	\$ 102,775

Personal Services	\$ -0-	\$ 75,100	\$ 75,100
Operating Expenses	1,000	29,750	28,750
TOTAL	\$ 1,000	\$104,850	\$ 103,850

(\$ 500) (\$ 1,575) (\$ 1,075)

Department of Justice

Revenue:

Titles	\$ -0-	\$ 22,500	\$ 22,500
Registration	-0-	367,500	367,500
TOTAL	\$ -0-	\$390,000	\$ 390,000

Titles	\$ -0-	\$ 7,500	\$ 7,500
Registration	-0-	367,500	367,500
TOTAL	\$ -0-	\$375,000	\$ 375,000

Expenditures:

Personal Services	\$ -0-	\$ 7,600	\$ 7,600
Operating Expenses	-0-	9,250	9,250
Equipment	-0-	1,650	1,650
TOTAL	\$ -0-	\$ 18,500	\$ 18,500

Personal Services	\$ -0-	\$ 15,200	\$ 15,200
Operating Expenses	-0-	4,200	4,200
Equipment	-0-	-0-	-0-
TOTAL	\$ -0-	\$ 19,400	\$ 19,400

Net Effect:

\$ -0- \$371,500 \$ 371,500

\$ -0- \$355,600 \$ 355,600

HB 165

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The counties will receive \$1 for each title certification and transfer. This will cover their related administrative costs. The counties will also receive the annual fee in-lieu of tax of either \$18 or \$8. The current fee in-lieu of tax received by the counties is \$25 or \$15. It is assumed that the drop in fee in-lieu of tax will be offset by the increase in the number of vehicles that will be registered under this act.

<u>Expenditures:</u>	<u>FY90</u>			<u>FY91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Title Cert & Transfer	\$ -0-	\$ 7,500	\$ 7,500	\$ -0-	\$ 2,500	\$ 2,500
Fee In-Lieu of Tax	70,000	-0-	(70,000)	70,000	-0-	(70,000)
Fee In-Lieu of Tax (new)	-0-	97,500	97,500	-0-	97,000	97,500
TOTAL	\$70,000	\$105,000	\$ 35,000	\$70,000	\$100,000	\$ 30,000

TECHNICAL NOTES:

Section 23-2-804, MCA, does not specify whether the Department of Fish, Wildlife and Parks or the county treasurer is responsible for providing the decal, and what funding source pays for the decal.

Section 23-2-804, MCA, requires owners of all off-highway vehicles operated for recreation on public lands in Montana to purchase and display a decal on their vehicle. This legislation does not however describe how nonresidents obtain a decal for their off-highway vehicles when using them for recreation on public lands in Montana.

HB 165

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

HOUSE BILL NO. 165

INTRODUCED BY ELLISON, WALLIN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PAYMENT OF REGISTRATION, SPECIAL WEED CONTROL, AND DECAL FEES FOR OFF-HIGHWAY VEHICLES; REQUIRING A CERTIFICATE OF OWNERSHIP; PROVIDING FOR LICENSING OF OFF-HIGHWAY VEHICLE DEALERS; CREATING AN OFF-HIGHWAY VEHICLE RECREATIONAL USE ACCOUNT; AMENDING SECTIONS 23-2-801, 23-2-803, 23-2-804, 23-2-806, AND 23-2-807, AND 61-3-510, MCA; REPEALING SECTION 23-2-805, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 23-2-801, MCA, is amended to read:

"23-2-801. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) (a) "Off-highway vehicle" means a self-propelled vehicle used for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, 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.

(b) Off-highway vehicle does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) except as provided in [section 7], vehicles otherwise licensed under the laws of the state.

(2) ~~"Department"---means---the---department---of---fish,~~
~~wildlife, and--parks~~ "Certificate of ownership" means a document issued by the department of justice as prima facie evidence of ownership as provided in [section 2]."

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

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

(a) the name of the owner;

(b) the residence of the owner, by town and county;

(c) the business address and OR home mailing address of the owner;

(d) the name and address of any lienholder;

(e) the amount due under any contract, mortgage, or lien;

(f) the name of the manufacturer;

(g) the model number or name;

(h) the identification number; and

(i) the name and address of the dealer or other person from whom the off-highway vehicle was acquired.

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

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

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

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

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

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

(a) \$3 must be forwarded to the department of justice for deposit in the motor vehicle recording account of the state special revenue fund; and

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

NEW SECTION. Section 3. Transfer of interest. (1) To transfer a certificate of ownership for an off-highway vehicle registered under [section 6], the person whose title or interest is to be transferred shall endorse the certificate of ownership in the appropriate space on the reverse side of the certificate and have his signature acknowledged before a notary public.

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

(i) transfer of the endorsed certificate of ownership;

(ii) registration of the off-highway vehicle; and

(iii) issuance of a decal as required by 23-2-804.

(b) The county treasurer shall forward the application and the original certificate of ownership to the department of justice, which shall file the application upon receipt.

(c) A certificate of ownership may not be issued by the department until the outstanding certificates are surrendered to that office or their loss is established.

(d) The county treasurer shall collect a fee of \$4 for each application for transfer of ownership, of which:

(i) \$3 must be forwarded to the department of justice for deposit in the motor vehicle recording account of the state special revenue fund; and

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

(3) TO EFFECT BY OPERATION OF LAW A TRANSFER OF INTEREST IN AN OFF-HIGHWAY VEHICLE, THE PROVISIONS OF 61-3-201(3) ARE APPLICABLE.

~~(3)~~(4) (a) A person who purchases a new or used off-highway vehicle from an off-highway vehicle dealer licensed under [section ~~10~~ 12] shall, within 20 calendar days after the purchase date, apply to the county treasurer of the county in which he resides for:

(i) a certificate of ownership;

(ii) registration of the off-highway vehicle; and

(iii) a decal as required by 23-2-804.

(b) During this period the sticker provided for in subsection ~~(5)~~ (6) must remain affixed to the off-highway vehicle.

~~(4)~~(5) It is not a violation of this part for a purchaser to operate a newly acquired off-highway vehicle without a certificate of ownership, a certificate of registration, and a decal during the first 20 days of ownership.

~~(5)~~(6) Prior to the delivery of the off-highway vehicle to the purchaser, the dealer shall issue and affix to the off-highway vehicle a sticker, in a form to be prescribed by the department of justice, containing the name and address of the purchaser, the date of sale, the name and address of the dealer, and a description of the off-highway vehicle, including its identification number. The dealer shall keep a copy of the sticker for his records and shall send a copy of the sticker to the department of justice.

~~(6)~~(7) The provisions of subsection (2) do not apply to the transfer of an off-highway vehicle to an off-highway vehicle dealer licensed under [section ~~10~~ 12] who intends to resell the vehicle and who operates it only for demonstration purposes. Every dealer, upon a transfer of interest, shall deliver the certificate of ownership ~~to the department--of--justice~~ with an application for a new

certificate executed by the new owner IN ACCORDANCE WITH THE PROVISIONS OF THIS PART. The department of justice, upon receipt of the certificate of ownership and application for a new certificate, together with the conditional sales contract or other lien, if any, shall issue a new certificate of ownership showing the name of the lienholder and the amount due under the contract, mortgage, or lien as required by [section 2(2)(d) and (2)(e)].

NEW SECTION. Section 4. Lost or mutilated certificate. If a certificate of ownership is lost or mutilated or becomes illegible, the person to whom it was issued shall immediately apply for and obtain a duplicate certificate upon payment of a fee of \$4 to the county treasurer DEPARTMENT OF JUSTICE.

Section 5. Section 23-2-803, MCA, is amended to read:

"23-2-803. Fee in lieu of tax on off-highway vehicles -- exception -- disposition of fees. (1) There is a fee in lieu of tax on off-highway vehicles, other than off-highway vehicles constituting the inventory of a dealership licensed under [section 10 12], to be paid to the county treasurer of the county in which the owner of the off-highway vehicle resides.

(a) The fee for an off-highway vehicle less than 3 years old is ~~\$25~~ \$18. In all other cases the fee is ~~\$15~~ \$8.

(b) The age of an off-highway vehicle is determined by

subtracting the manufacturer's designated model year from the current calendar year.

(2) The county treasurer shall distribute all fees in lieu of tax collected on off-highway vehicles pursuant to this section in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed."

NEW SECTION. Section 6. Registration fee -- application and issuance -- disposition. (1) Each off-highway vehicle is subject to an annual registration fee of ~~\$21~~ \$2.

(2) The county treasurer shall collect the annual fee when the fee in lieu of tax is collected.

(3) Application for registration must be made to the county treasurer of the county in which the owner resides, on a form furnished by the department of justice for that purpose. The application must contain:

(a) the name and home mailing address of the owner;

(b) the certificate of ownership number;

(c) the name of the manufacturer of the off-highway vehicle;

(d) the model number or name;

(e) the year of manufacture;

(f) a statement evidencing payment of the fee in lieu

1 of property tax; and

2 (g) such other information as the department of
3 justice may require.

4 (4) If the off-highway vehicle was previously
5 registered, the application must be accompanied by the
6 registration certificate for the most recent year in which
7 it was registered. Upon payment of the registration fee, the
8 county treasurer shall sign the application and issue a
9 registration receipt, which must contain the information
10 considered necessary by the department of justice and a
11 listing of the fees paid. The owner shall retain possession
12 of the registration receipt until it is surrendered to the
13 county treasurer for reregistration or to a purchaser or
14 subsequent owner pursuant to a transfer of ownership.

15 (5) All registration fees collected must be forwarded
16 to the department of justice and deposited in the motor
17 vehicle recording account of the state special revenue fund.

18 **Section 7.** Section 23-2-804, MCA, is amended to read:

19 "**23-2-804. Decal required -- fee -- disposition.** (1)
20 Except as provided in 23-2-802, no off-highway vehicle may
21 be operated by any person for recreation on public lands in
22 Montana unless there is displayed in a conspicuous place a
23 decal, in a form prescribed by the department of fish,
24 wildlife,--and--parks JUSTICE and issued by the county
25 treasurer, as visual proof that the following fees have been

1 paid for the current year:

2 (a) (I) the fee in lieu of tax provided for in
3 23-2-803; has-been-paid-for-the-current-year; AND

4 (b)--(i)(II) the registration fee provided for in
5 [section 6]; or

6 (ii)(B) when the vehicle will be used as provided in
7 this section, the registration and taxation fees for
8 motorcycles and quadricycles subject to licensure under
9 61-3-321, as evidenced by presentation of an owner's
10 certificate of registration and payment receipt; and

11 (C) THE WEED CONTROL FEE PROVIDED FOR IN 61-3-510; AND

12 (c)(D) the off-highway decal fee provided for in this
13 section.

14 (2) The decal will be serially numbered and have the
15 expiration date of December 31 of the appropriate year
16 printed thereon.

17 (3) The off-highway decal fee is \$5, which the county
18 treasurer shall collect and transmit to the state treasurer,
19 who shall deposit the money in AN INTEREST-BEARING ACCOUNT
20 IN the state special revenue fund to the credit of the
21 department of fish, wildlife, and parks,--and--of--which. THE
22 DECAL FEE AND THE INTEREST AND INCOME TO THE ACCOUNT MUST BE
23 SPENT AS FOLLOWS:

24 (a) \$4 must be used to enforce the provisions of this
25 section; and

~~(b) \$17-plus-all-interest-accruing-from-the-investment of-this-portion-of-the-decal-fee,must-be-deposited--in--the off-highway-vehicle--recreational--use--account--created-in {section-ii}~~ MUST BE SPENT TO DEVELOP AND IMPLEMENT A COMPREHENSIVE PROGRAM AND TO PLAN APPROPRIATE OFF-HIGHWAY VEHICLE RECREATION USE EXCEPT THAT:

(I) NO MONEY MAY BE SPENT FOR THIS PURPOSE BEFORE JANUARY 1, 1991; AND

(II) EVALUATION FOR DEVELOPMENT OF A PROGRAM PLAN MUST BEGIN JANUARY 1, 1991."

NEW SECTION. **SECTION 8.** DUPLICATE DECAL. IF A DECAL REQUIRED IN [SECTION 7] INDICATING THAT THE OFF-HIGHWAY VEHICLE FEE HAS BEEN PAID FOR THE CURRENT YEAR IS LOST, MUTILATED, OR BECOMES ILLEGIBLE, THE PERSON TO WHOM IT WAS ISSUED SHALL IMMEDIATELY APPLY FOR AND OBTAIN A DUPLICATE DECAL UPON PAYMENT OF A FEE OF \$5 TO THE COUNTY TREASURER, WHO SHALL DISTRIBUTE THE FEE AS PROVIDED IN 23-2-804(3).

Section 9. Section 23-2-806, MCA, is amended to read:

"23-2-806. Enforcement. The department's department of fish, wildlife, and parks enforcement personnel, sheriffs and their deputies, the Montana highway patrol, and the police of each municipality shall enforce the provisions of this part."

Section 10. Section 23-2-807, MCA, is amended to read:

"23-2-807. Penalty -- disposition. (1) The failure to

display a current decal indicating that the fee in lieu of tax has, registration fees, decal fees, and, when applicable, taxes on licensed vehicles have been paid on the off-highway vehicle for the current year as provided in 23-2-804 is a misdemeanor punishable by a fine equal-to-five times-the-fee-in-lieu-of-tax-that-is-due-on-the--off-highway vehicle-for-the-current-year OF \$50.

(2) All fines collected under this section must be transmitted to the state treasurer, who shall deposit the money in the earmarked state-special revenue-fund-to-the credit-of-the-department of-fish--wildlife--and--parks to ACCOUNT CREATED UNDER 23-2-804(3). THIS MONEY AND THE INTEREST EARNED ON IT MUST be used for off-highway vehicle safety and education."

SECTION 11. SECTION 61-3-510, MCA, IS AMENDED TO READ:

"61-3-510. Weed control fee. (1) A special weed control fee of 50 cents must be assessed on the annual registration or reregistration of each motor vehicle subject to registration. The fee must be collected by the county treasurer.

(2) For purposes of this section, motor vehicle includes:

(a) motor vehicle as defined in 61-1-102;

(b) motorcycle as defined in 61-1-105;

(c) motor-driven cycle as defined in 61-1-106; and

(d) quadricycle as defined in 61-1-133; and
 (e) off-highway vehicle as defined in 23-2-801.

(3) The following vehicles are exempt from the fee:

(a) vehicles owned or controlled by the United States
 or a state, county, or city;

(b) vehicles exempt from payment of registration fees
 by 61-3-321(7); and

(c) vehicles or equipment which is not self-propelled
 or which requires towing when moved upon a highway of this
 state."

NEW SECTION. Section 12. Dealer registration
 certificate -- use of fees. (1) A UNLESS THE DEALER IS
LICENSED UNDER THE PROVISIONS OF 61-4-101, A dealer may not
 sell off-highway vehicles unless he has first obtained a
 dealer registration certificate from the department of
 justice under the provisions of this section.

(2) The dealer application must be accompanied by an
 application fee of \$5 and a registration fee of \$5. Upon
 receipt of the dealer application and payment of fees, the
 dealer must be issued two dealer off-highway identification
 cards to be carried by the dealer or the dealer's customer
 when demonstrating the dealer's off-highway vehicles.
 Additional dealer off-highway vehicle identification cards
 may be purchased by the dealer from the department of
 justice for a fee of \$2 each.

(3) No bond is required of the dealer.

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

(5) An applicant for renewal of an off-highway vehicle
 dealer registration shall:

(a) certify that he has sold three or more off-highway
 vehicles during the preceding year; OR

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

(c) provide a copy of a new off-highway vehicle
 franchise or sales agreement that he has with a
 manufacturer, importer, or distributor.

(6) Dealer registration certificates and
 identification cards expire on ~~June-30~~ DECEMBER 31 following
 the date of issuance.

(7) (a) The dealer application fees and all interest
 accruing from use of this money must be deposited in the
 motor vehicle recording account of the state special revenue
 fund to be used ~~for off-highway vehicle safety and education~~
~~programs~~ BY THE DEPARTMENT OF JUSTICE FOR THE ADMINISTRATION
OF [THIS ACT].

(b) All dealer registration fees and renewal fees
 collected ~~and interest accruing from use of this money must~~
~~be deposited in the state special revenue fund to the credit~~

1 ~~of-the-department-of-fish,-wildlife,-and-parks--to~~ MUST BE
 2 DEPOSITED IN THE ACCOUNT PROVIDED IN 23-2-804(3). THIS
 3 MONEY AND THE INTEREST EARNED ON IT MUST be used for
 4 off-highway vehicle safety and education programs.

5 ~~NEW SECTION. Section 11. Account created. There is~~
 6 ~~in-the-state-special-revenue-fund--an--off-highway--vehicle~~
 7 ~~recreational--use--account--into-which-money-is-deposited-as~~
 8 ~~provided-in-{section-7}-and-from-which-the--legislature--may~~
 9 ~~appropriate--money--to-develop-and-implement-a-comprehensive~~
 10 ~~program--and--plan--appropriate---to---off-highway---vehicle~~
 11 ~~recreational-use,-provided:~~

12 ~~{1}--that--no--money-may-be-spent-from-this-account-for~~
 13 ~~this-purpose-before-January-1,-1991,-and~~

14 ~~{2}--evaluation-for-development-of-a-program-plan--will~~
 15 ~~begin-January-1,-1991:-~~

16 NEW SECTION. Section 13. Repealer. Section 23-2-805,
 17 MCA, is repealed.

18 NEW SECTION. Section 14. Extension of authority. Any
 19 existing authority to make rules on the subject of the
 20 provisions of [this act] is extended to the provisions of
 21 [this act].

22 NEW SECTION. Section 15. Codification instruction.
 23 [Sections 2 through 4, 6, 10, and 11] are intended to be
 24 codified as an integral part of Title 23, chapter 2, part 8,
 25 and the provisions of Title 23, chapter 2, part 8, apply to

1 [sections 2 through 4, 6, 10, and 11].

2 NEW SECTION. SECTION 16. COORDINATION INSTRUCTION.
 3 IF HOUSE BILL NO. 477, INCLUDING AMENDMENTS TO 23-2-803 TO
 4 REQUIRE DEPOSIT OF A PORTION OF THE FEE IN LIEU OF TAX ON
 5 OFF-HIGHWAY VEHICLES IN THE NOXIOUS WEED TRUST FUND, IS
 6 PASSED AND APPROVED, THE FOLLOWING PROVISIONS OF [THIS ACT]
 7 ARE VOID:

8 (1) [SECTION 11]; AND
 9 (2) THOSE AMENDMENTS TO 23-2-804 RELATING TO
 10 IMPOSITION OF WEED CONTROL FEE ON OFF-HIGHWAY VEHICLES.

11 NEW SECTION. Section 17. Effective date. [This act]
 12 is effective January 1, 1990.

-End-

HOUSE BILL NO. 165

INTRODUCED BY ELLISON, WALLIN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PAYMENT OF REGISTRATION, SPECIAL WEED CONTROL, AND DECAL FEES FOR OFF-HIGHWAY VEHICLES; REQUIRING A CERTIFICATE OF OWNERSHIP; PROVIDING FOR LICENSING OF OFF-HIGHWAY VEHICLE DEALERS; CREATING AN OFF-HIGHWAY VEHICLE RECREATIONAL USE ACCOUNT; AMENDING SECTIONS 23-2-801, 23-2-803, 23-2-804, 23-2-806, AND 23-2-807, AND 61-3-510, MCA; REPEALING SECTION 23-2-805, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 23-2-801, MCA, is amended to read:

"23-2-801. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) (a) "Off-highway vehicle" means a self-propelled vehicle used for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, 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.

(b) Off-highway vehicle does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) except as provided in [section 7], vehicles otherwise licensed under the laws of the state.

(2) ~~"Department"---means---the---department---of---fish, wildlife, and---parks~~ "Certificate of ownership" means a document issued by the department of justice as prima facie evidence of ownership as provided in [section 2]."

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

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

(a) the name of the owner;

(b) the residence of the owner, by town and county;

(c) the business address and OR home mailing address of the owner;

(d) the name and address of any lienholder;

1 (e) the amount due under any contract, mortgage, or
2 lien;

3 (f) the name of the manufacturer;

4 (g) the model number or name;

5 (h) the identification number; and

6 (i) the name and address of the dealer or other person
7 from whom the off-highway vehicle was acquired.

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

10 (4) The application for a new certificate of ownership
11 must be accompanied by the immediately previous certificate.
12 This subsection does not apply to off-highway vehicles that
13 are purchased as new and unused machines or that were
14 operated before [the effective date of this act].

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

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

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

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

10 (a) \$3 must be forwarded to the department of justice
11 for deposit in the motor vehicle recording account of the
12 state special revenue fund; and

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

15 **NEW SECTION. Section 3. Transfer of interest.** (1) To
16 transfer a certificate of ownership for an off-highway
17 vehicle registered under [section 6], the person whose title
18 or interest is to be transferred shall endorse the
19 certificate of ownership in the appropriate space on the
20 reverse side of the certificate and have his signature
21 acknowledged before a notary public.

22 (2) (a) Within 20 calendar days after the date of
23 notarization, the transferee shall apply to the county
24 treasurer of the county in which he resides for:

25 (i) transfer of the endorsed certificate of ownership;

(ii) registration of the off-highway vehicle; and

(iii) issuance of a decal as required by 23-2-804.

(b) The county treasurer shall forward the application and the original certificate of ownership to the department of justice, which shall file the application upon receipt.

(c) A certificate of ownership may not be issued by the department until the outstanding certificates are surrendered to that office or their loss is established.

(d) The county treasurer shall collect a fee of \$4 for each application for transfer of ownership, of which:

(i) \$3 must be forwarded to the department of justice for deposit in the motor vehicle recording account of the state special revenue fund; and

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

(3) TO EFFECT BY OPERATION OF LAW A TRANSFER OF INTEREST IN AN OFF-HIGHWAY VEHICLE, THE PROVISIONS OF 61-3-201(3) ARE APPLICABLE.

~~(3)~~(4) (a) A person who purchases a new or used off-highway vehicle from an off-highway vehicle dealer licensed under [section ~~10~~ 12] shall, within 20 calendar days after the purchase date, apply to the county treasurer of the county in which he resides for:

(i) a certificate of ownership;

(ii) registration of the off-highway vehicle; and

(iii) a decal as required by 23-2-804.

(b) During this period the sticker provided for in subsection ~~(5)~~ (6) must remain affixed to the off-highway vehicle.

~~(4)~~(5) It is not a violation of this part for a purchaser to operate a newly acquired off-highway vehicle without a certificate of ownership, a certificate of registration, and a decal during the first 20 days of ownership.

~~(5)~~(6) Prior to the delivery of the off-highway vehicle to the purchaser, the dealer shall issue and affix to the off-highway vehicle a sticker, in a form to be prescribed by the department of justice, containing the name and address of the purchaser, the date of sale, the name and address of the dealer, and a description of the off-highway vehicle, including its identification number. The dealer shall keep a copy of the sticker for his records and shall send a copy of the sticker to the department of justice.

~~(6)~~(7) The provisions of subsection (2) do not apply to the transfer of an off-highway vehicle to an off-highway vehicle dealer licensed under [section ~~10~~ 12] who intends to resell the vehicle and who operates it only for demonstration purposes. Every dealer, upon a transfer of interest, shall deliver the certificate of ownership ~~to the department--of--justice~~ with an application for a new

certificate executed by the new owner IN ACCORDANCE WITH THE PROVISIONS OF THIS PART. The department of justice, upon receipt of the certificate of ownership and application for a new certificate, together with the conditional sales contract or other lien, if any, shall issue a new certificate of ownership showing the name of the lienholder and the amount due under the contract, mortgage, or lien as required by [section 2(2)(d) and (2)(e)].

NEW SECTION. Section 4. Lost or mutilated certificate. If a certificate of ownership is lost or mutilated or becomes illegible, the person to whom it was issued shall immediately apply for and obtain a duplicate certificate upon payment of a fee of \$4 to the county treasurer DEPARTMENT OF JUSTICE.

Section 5. Section 23-2-803, MCA, is amended to read:

"23-2-803. Fee in lieu of tax on off-highway vehicles -- exception -- disposition of fees. (1) There is a fee in lieu of tax on off-highway vehicles, other than off-highway vehicles constituting the inventory of a dealership licensed under [section 10 12], to be paid to the county treasurer of the county in which the owner of the off-highway vehicle resides.

(a) The fee for an off-highway vehicle less than 3 years old is ~~\$25~~ \$18. In all other cases the fee is ~~\$15~~ \$8.

(b) The age of an off-highway vehicle is determined by

subtracting the manufacturer's designated model year from the current calendar year.

(2) The county treasurer shall distribute all fees in lieu of tax collected on off-highway vehicles pursuant to this section in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed."

NEW SECTION. Section 6. Registration fee -- application and issuance -- disposition. (1) Each off-highway vehicle is subject to an annual registration fee of ~~\$21~~ \$2.

(2) The county treasurer shall collect the annual fee when the fee in lieu of tax is collected.

(3) Application for registration must be made to the county treasurer of the county in which the owner resides, on a form furnished by the department of justice for that purpose. The application must contain:

- (a) the name and home mailing address of the owner;
- (b) the certificate of ownership number;
- (c) the name of the manufacturer of the off-highway vehicle;
- (d) the model number or name;
- (e) the year of manufacture;
- (f) a statement evidencing payment of the fee in lieu

1 of property tax; and

2 (g) such other information as the department of
3 justice may require.

4 (4) If the off-highway vehicle was previously
5 registered, the application must be accompanied by the
6 registration certificate for the most recent year in which
7 it was registered. Upon payment of the registration fee, the
8 county treasurer shall sign the application and issue a
9 registration receipt, which must contain the information
10 considered necessary by the department of justice and a
11 listing of the fees paid. The owner shall retain possession
12 of the registration receipt until it is surrendered to the
13 county treasurer for reregistration or to a purchaser or
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15 (5) All registration fees collected must be forwarded
16 to the department of justice and deposited in the motor
17 vehicle recording account of the state special revenue fund.

18 **Section 7.** Section 23-2-804, MCA, is amended to read:

19 "**23-2-804. Decal required -- fee -- disposition.** (1)

20 Except as provided in 23-2-802, no off-highway vehicle may
21 be operated by any person for recreation on public lands in
22 Montana unless there is displayed in a conspicuous place a
23 decal, in a form prescribed by the department of fish,
24 wildlife,--and--parks JUSTICE and issued by the county
25 treasurer, as visual proof that the following fees have been

1 paid for the current year:

2 (a) (I) the fee in lieu of tax provided for in
3 23-2-803; has-been-paid-for-the-current-year; AND

4 (b)--(i)(II) the registration fee provided for in
5 [section 6]; or

6 (ii)(B) when the vehicle will be used as provided in
7 this section, the registration and taxation fees for
8 motorcycles and quadricycles subject to licensure under
9 61-3-321, as evidenced by presentation of an owner's
10 certificate of registration and payment receipt; and

11 (C) THE WEED CONTROL FEE PROVIDED FOR IN 61-3-510; AND

12 (c)(D) the off-highway decal fee provided for in this
13 section.

14 (2) The decal will be serially numbered and have the
15 expiration date of December 31 of the appropriate year
16 printed thereon.

17 (3) The off-highway decal fee is \$5, which the county
18 treasurer shall collect and transmit to the state treasurer,
19 who shall deposit the money in AN INTEREST-BEARING ACCOUNT
20 IN the state special revenue fund to the credit of the
21 department of fish, wildlife, and parks,--and-of--which. THE
22 DECAL FEE AND THE INTEREST AND INCOME TO THE ACCOUNT MUST BE
23 SPENT AS FOLLOWS:

24 (a) \$4 must be used to enforce the provisions of this
25 section; and

~~(b) \$17-plus-all-interest-accruing-from-the-investment of-this-portion-of-the-decal-fee,-must-be-deposited--in--the off-highway--vehicle--recreational--use--account--created-in {section-ii} MUST BE SPENT TO DEVELOP AND IMPLEMENT A COMPREHENSIVE PROGRAM AND TO PLAN APPROPRIATE OFF-HIGHWAY VEHICLE RECREATION USE EXCEPT THAT:~~

~~(I) NO MONEY MAY BE SPENT FOR THIS PURPOSE BEFORE JANUARY 1, 1991; AND~~

~~(II) EVALUATION FOR DEVELOPMENT OF A PROGRAM PLAN MUST BEGIN JANUARY 1, 1991."~~

NEW SECTION. SECTION 8. DUPLICATE DECAL. IF A DECAL REQUIRED IN [SECTION 7] INDICATING THAT THE OFF-HIGHWAY VEHICLE FEE HAS BEEN PAID FOR THE CURRENT YEAR IS LOST, MUTILATED, OR BECOMES ILLEGIBLE, THE PERSON TO WHOM IT WAS ISSUED SHALL IMMEDIATELY APPLY FOR AND OBTAIN A DUPLICATE DECAL UPON PAYMENT OF A FEE OF \$5 TO THE COUNTY TREASURER, WHO SHALL DISTRIBUTE THE FEE AS PROVIDED IN 23-2-804(3).

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Section 10. Section 23-2-807, MCA, is amended to read:

"23-2-807. Penalty -- disposition. (1) The failure to

display a current decal indicating that the fee in lieu of tax has, registration fees, decal fees, and, when applicable, taxes on licensed vehicles have been paid on the off-highway vehicle for the current year as provided in 23-2-804 is a misdemeanor punishable by a fine equal-to-five times-the-fee-in-lieu-of-tax-that-is-due-on-the--off-highway vehicle-for-the-current-year OF \$50.

(2) All fines collected under this section must be transmitted to the state treasurer, who shall deposit the money in the earmarked state-special revenue-fund-to-the credit-of-the-department of-fish--wildlife--and--parks to ACCOUNT CREATED UNDER 23-2-804(3). THIS MONEY AND THE INTEREST EARNED ON IT MUST be used for off-highway vehicle safety and education."

SECTION 11. SECTION 61-3-510, MCA, IS AMENDED TO READ:

"61-3-510. Weed control fee. (1) A special weed control fee of 50 cents must be assessed on the annual registration or reregistration of each motor vehicle subject to registration. The fee must be collected by the county treasurer.

(2) For purposes of this section, motor vehicle includes:

(a) motor vehicle as defined in 61-1-102;

(b) motorcycle as defined in 61-1-105;

(c) motor-driven cycle as defined in 61-1-106; and

(d) quadricycle as defined in 61-1-133; and

(e) off-highway vehicle as defined in 23-2-801.

(3) The following vehicles are exempt from the fee:

(a) vehicles owned or controlled by the United States or a state, county, or city;

(b) vehicles exempt from payment of registration fees by 61-3-321(7); and

(c) vehicles or equipment which is not self-propelled or which requires towing when moved upon a highway of this state."

NEW SECTION. Section 12. Dealer registration certificate -- use of fees. (1) A UNLESS THE DEALER IS LICENSED UNDER THE PROVISIONS OF 61-4-101, A dealer may not sell off-highway vehicles unless he has first obtained a dealer registration certificate from the department of justice under the provisions of this section.

(2) The dealer application must be accompanied by an application fee of \$5 and a registration fee of \$5. Upon receipt of the dealer application and payment of fees, the dealer must be issued two dealer off-highway identification cards to be carried by the dealer or the dealer's customer when demonstrating the dealer's off-highway vehicles. Additional dealer off-highway vehicle identification cards may be purchased by the dealer from the department of justice for a fee of \$2 each.

(3) No bond is required of the dealer.

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

(5) An applicant for renewal of an off-highway vehicle dealer registration shall:

(a) certify that he has sold three or more off-highway vehicles during the preceding year; OR

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

(c) provide a copy of a new off-highway vehicle franchise or sales agreement that he has with a manufacturer, importer, or distributor.

(6) Dealer registration certificates and identification cards expire on ~~June-30~~ DECEMBER 31 following the date of issuance.

(7) (a) The dealer application fees and all interest accruing from use of this money must be deposited in the motor vehicle recording account of the state special revenue fund to be used for-off-highway-vehicle-safety-and-education programs BY THE DEPARTMENT OF JUSTICE FOR THE ADMINISTRATION OF [THIS ACT].

(b) All dealer registration fees and renewal fees collected and-interest-accruing-from-use-of-this-money-must-be-deposited-in-the-state-special-revenue-fund-to-the-credit

of-the-department-of-fish,-wildlife,-and-parks--to MUST BE
DEPOSITED IN THE ACCOUNT PROVIDED IN 23-2-804(3). THIS
MONEY AND THE INTEREST EARNED ON IT MUST be used for
 off-highway vehicle safety and education programs.

NEW SECTION. Section 11. Account--created:---There is
 in-the-state-special-revenue-fund--an--off-highway--vehicle
 recreational--use--account--into-which-money-is-deposited-as
 provided-in-[section-7]-and-from-which-the--legislature--may
 appropriate--money--to-develop-and-implement-a-comprehensive
 program--and--plan--appropriate---to---off-highway---vehicle
 recreational-use,-provided:

{1}--that--no--money--may-be-spent-from-this-account-for
 this-purpose-before-January-1,-1991;-and

{2}--evaluation-for-development-of-a-program-plan--will
 begin-January-1,-1991;.

NEW SECTION. Section 13. Repealer. Section 23-2-805,
 MCA, is repealed.

NEW SECTION. Section 14. Extension of authority. Any
 existing authority to make rules on the subject of the
 provisions of [this act] is extended to the provisions of
 [this act].

NEW SECTION. Section 15. Codification instruction.
 [Sections 2 through 4, 6, 10, and 11 12] are intended to be
 codified as an integral part of Title 23, chapter 2, part 8,
 and the provisions of Title 23, chapter 2, part 8, apply to

[sections 2 through 4, 6, 10, and 11 12].

NEW SECTION. SECTION 16. COORDINATION INSTRUCTION.
 IF HOUSE BILL NO. 477, INCLUDING AMENDMENTS TO 23-2-803 TO
 REQUIRE DEPOSIT OF A PORTION OF THE FEE IN LIEU OF TAX ON
 OFF-HIGHWAY VEHICLES IN THE NOXIOUS WEED TRUST FUND, IS
 PASSED AND APPROVED, THE FOLLOWING PROVISIONS OF [THIS ACT]
 ARE VOID:

(1) [SECTION 11]; AND

(2) THOSE AMENDMENTS TO 23-2-804 RELATING TO
 IMPOSITION OF WEED CONTROL FEE ON OFF-HIGHWAY VEHICLES.

NEW SECTION. Section 17. Effective date. [This act]
 is effective January 1, 1990.

-End-

SENATE STANDING COMMITTEE REPORT

March 9, 1989

MR. PRESIDENT:

We, your committee on Highways and Transportation, having had under consideration HB 165 (third reading copy -- blue), respectfully report that HB 165 be amended and as so amended be concurred in:

Sponsor: Ellison ^{GAGE} ~~(HB 165)~~

1. Page 10, line 24.
Strike: "\$4"
Insert: "\$1"

2. Page 11, line 1.
Strike: "\$1"
Insert: "\$4"

3. Page 15, line 23.
Following: "6,"
Insert: "8,"

4. Page 16, line 1.
Following: "6,"
Insert: "8,"

AND AS AMENDED BE CONCURRED IN

Signed: Sen. Tveit
Larry J. Tveit, Chairman

SENATE
HB 165

SENATE COMMITTEE OF THE WHOLE AMENDMENT

page 1
March 13, 1989 8:57 am

Senate Committee of the Whole, Hb 165
Page 2
March 13, 1989

Mr. Chairman: I move to amend the Senate Committee on Highways and Transportation amendments to HB 165 dated March 9, 1989, as follows:

Amendment No. 1

1. Page 10, line 24.

Strike: "\$1"

Insert: "40%"

Amendment No. 2

2. Page 11, line 1.

Strike: "\$4"

Insert: "60%"

Mr. Chairman: I move to amend HB 165 (third reading copy -- blue) as follows:

3. Page 12, line 12.

Following: "1"

Insert: "50% of"

4. Page 12, line 14.

Following: "."

Insert: "The remaining 50% of the money and the interest earned on it must be used for enforcement."

5. Page 13, line 17.

Following: "application"

Insert: "for registration or renewal of registration"

6. Page 13, line 18.

Following: "application"

Insert: "or renewal"

Following: "."

Insert: "To qualify for the fees in this subsection the applicant for renewal shall certify that he has sold three or more off-highway vehicles during the preceding year. "

7. Page 13, line 19.

Following: "application"

Insert: "or renewal"

8. Page 14, line 8.

Following: "registration"

Insert: "who does not qualify under subsection (2)"

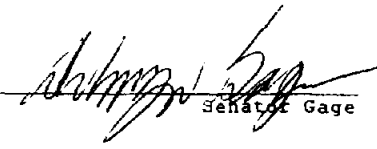
9. Page 14, lines 7 and 8.

Strike: "(a)" on line 7 through "OR" on line 8

Re-number: subsequent subsections

ADOPT

REJECT

Signed: 

Senator Gage

continued

cwnb165.313

cwnb165.313

HB 165
SENATE

Conference Committee
on HOUSE BILL 165
Report No. 1, April 6, 1989

Page 1 of 1

Mr. Speaker:

We, the Conference Committee on HOUSE BILL 165 met and considered: House Bill 165 (third reading -- blue copy) and the Senate amendments attached to it (pink sheet).


We recommend that HOUSE BILL 165 (reference copy -- salmon) be amended as follows:


Accept the Senate amendments in their entirety.

And that this Conference Committee Report be adopted.

For the House:


Rep. Barry Stang, Chairman



Rep. Bob Bachini


Rep. Orval Ellison

For the Senate:


Sen. Del Gage, Chairman


Sen. John Harp


Sen. Cecil Weeding

ADOPT
REJECT

HB 165
HOUSE

1 HOUSE BILL NO. 165

2 INTRODUCED BY ELLISON, WALLIN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PAYMENT OF
5 REGISTRATION, SPECIAL WEED CONTROL, AND DECAL FEES FOR
6 OFF-HIGHWAY VEHICLES; REQUIRING A CERTIFICATE OF OWNERSHIP;
7 PROVIDING FOR LICENSING OF OFF-HIGHWAY VEHICLE DEALERS;
8 CREATING AN OFF-HIGHWAY VEHICLE RECREATIONAL USE ACCOUNT;
9 AMENDING SECTIONS 23-2-801, 23-2-803, 23-2-804, 23-2-806,
10 AND 23-2-807, AND 61-3-510, MCA; REPEALING SECTION 23-2-805,
11 MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 23-2-801, MCA, is amended to read:

15 "23-2-801. Definitions. As used in this part, unless
16 the context clearly indicates otherwise, the following
17 definitions apply:

18 (1) (a) "Off-highway vehicle" means a self-propelled
19 vehicle used for recreation or cross-country travel on
20 public lands, trails, easements, lakes, rivers, or streams.
21 The term includes but is not limited to motorcycles,
22 quadricycles, dune buggies, amphibious vehicles, air cushion
23 vehicles, and any other means of land transportation
24 deriving motive power from any source other than muscle or
25 wind.

1 (b) Off-highway vehicle does not include:

2 (i) vehicles designed primarily for travel on, over,
3 or in the water;

4 (ii) snowmobiles; or

5 (iii) except as provided in [section 7], vehicles
6 otherwise licensed under the laws of the state.

7 (2) ~~"Department"---means---the---department---of---fish,~~
8 ~~wildlife, and--parks~~ "Certificate of ownership" means a
9 document issued by the department of justice as prima facie
10 evidence of ownership as provided in [section 2]."

11 NEW SECTION. Section 2. Certificate of ownership --
12 procedure -- fee. (1) No off-highway vehicle may be operated
13 upon any public lands, trails, easements, lakes, rivers, or
14 streams unless a certificate of ownership has first been
15 obtained from the department of justice.

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

21 (a) the name of the owner;

22 (b) the residence of the owner, by town and county;

23 (c) the business address and OR home mailing address
24 of the owner;

25 (d) the name and address of any lienholder;

1 (e) the amount due under any contract, mortgage, or
 2 lien;
 3 (f) the name of the manufacturer;
 4 (g) the model number or name;
 5 (h) the identification number; and
 6 (i) the name and address of the dealer or other person
 7 from whom the off-highway vehicle was acquired.
 8 (3) The application must be signed by at least one
 9 owner or by a properly authorized agent of the owner.
 10 (4) The application for a new certificate of ownership
 11 must be accompanied by the immediately previous certificate.
 12 This subsection does not apply to off-highway vehicles that
 13 are purchased as new and unused machines or that were
 14 operated before [the effective date of this act].
 15 (5) (a) After the owner completes the application
 16 form, the county treasurer shall issue to the applicant two
 17 copies of the completed application, with one marked "file
 18 copy", and shall forward one copy and the original
 19 application to the department of justice. The department of
 20 justice shall enter the information contained in the
 21 application upon the corresponding records of its office and
 22 shall send the applicant a certificate of ownership
 23 containing a permanent ownership number and information from
 24 the application considered necessary by the department of
 25 justice.

1 (b) The certificate of ownership is not required to be
 2 renewed annually and is valid as long as the person holding
 3 it owns the off-highway vehicle.
 4 (6) The owner shall at all times retain possession of
 5 the certificate of ownership, except when it is being
 6 transmitted to and from the department of justice for
 7 endorsement or cancellation.
 8 (7) Upon application for a certificate of ownership, a
 9 fee of \$4 must be paid to the county treasurer, of which:
 10 (a) \$3 must be forwarded to the department of justice
 11 for deposit in the motor vehicle recording account of the
 12 state special revenue fund; and
 13 (b) \$1 must be retained by the county treasurer for
 14 the cost of administering this section.
 15 NEW SECTION. **Section 3. Transfer of interest.** (1) To
 16 transfer a certificate of ownership for an off-highway
 17 vehicle registered under [section 6], the person whose title
 18 or interest is to be transferred shall endorse the
 19 certificate of ownership in the appropriate space on the
 20 reverse side of the certificate and have his signature
 21 acknowledged before a notary public.
 22 (2) (a) Within 20 calendar days after the date of
 23 notarization, the transferee shall apply to the county
 24 treasurer of the county in which he resides for:
 25 (i) transfer of the endorsed certificate of ownership;

(ii) registration of the off-highway vehicle; and

(iii) issuance of a decal as required by 23-2-804.

(b) The county treasurer shall forward the application and the original certificate of ownership to the department of justice, which shall file the application upon receipt.

(c) A certificate of ownership may not be issued by the department until the outstanding certificates are surrendered to that office or their loss is established.

(d) The county treasurer shall collect a fee of \$4 for each application for transfer of ownership, of which:

(i) \$3 must be forwarded to the department of justice for deposit in the motor vehicle recording account of the state special revenue fund; and

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

(3) TO EFFECT BY OPERATION OF LAW A TRANSFER OF INTEREST IN AN OFF-HIGHWAY VEHICLE, THE PROVISIONS OF 61-3-201(3) ARE APPLICABLE.

~~†3†~~(4) (a) A person who purchases a new or used off-highway vehicle from an off-highway vehicle dealer licensed under [section ~~10~~ 12] shall, within 20 calendar days after the purchase date, apply to the county treasurer of the county in which he resides for:

(i) a certificate of ownership;

(ii) registration of the off-highway vehicle; and

(iii) a decal as required by 23-2-804.

(b) During this period the sticker provided for in subsection ~~†5†~~ (6) must remain affixed to the off-highway vehicle.

~~†4†~~(5) It is not a violation of this part for a purchaser to operate a newly acquired off-highway vehicle without a certificate of ownership, a certificate of registration, and a decal during the first 20 days of ownership.

~~†5†~~(6) Prior to the delivery of the off-highway vehicle to the purchaser, the dealer shall issue and affix to the off-highway vehicle a sticker, in a form to be prescribed by the department of justice, containing the name and address of the purchaser, the date of sale, the name and address of the dealer, and a description of the off-highway vehicle, including its identification number. The dealer shall keep a copy of the sticker for his records and shall send a copy of the sticker to the department of justice.

~~†6†~~(7) The provisions of subsection (2) do not apply to the transfer of an off-highway vehicle to an off-highway vehicle dealer licensed under [section ~~10~~ 12] who intends to resell the vehicle and who operates it only for demonstration purposes. Every dealer, upon a transfer of interest, shall deliver the certificate of ownership to the department--of--justice with an application for a new

certificate executed by the new owner IN ACCORDANCE WITH THE PROVISIONS OF THIS PART. The department of justice, upon receipt of the certificate of ownership and application for a new certificate, together with the conditional sales contract or other lien, if any, shall issue a new certificate of ownership showing the name of the lienholder and the amount due under the contract, mortgage, or lien as required by [section 2(2)(d) and (2)(e)].

NEW SECTION. Section 4. Lost or mutilated certificate. If a certificate of ownership is lost or mutilated or becomes illegible, the person to whom it was issued shall immediately apply for and obtain a duplicate certificate upon payment of a fee of \$4 to the county treasurer DEPARTMENT OF JUSTICE.

Section 5. Section 23-2-803, MCA, is amended to read:

"23-2-803. Fee in lieu of tax on off-highway vehicles -- exception -- disposition of fees. (1) There is a fee in lieu of tax on off-highway vehicles, other than off-highway vehicles constituting the inventory of a dealership licensed under [section 10 12], to be paid to the county treasurer of the county in which the owner of the off-highway vehicle resides.

(a) The fee for an off-highway vehicle less than 3 years old is ~~\$25~~ \$18. In all other cases the fee is ~~\$15~~ \$8.

(b) The age of an off-highway vehicle is determined by

subtracting the manufacturer's designated model year from the current calendar year.

(2) The county treasurer shall distribute all fees in lieu of tax collected on off-highway vehicles pursuant to this section in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed."

NEW SECTION. Section 6. Registration fee -- application and issuance -- disposition. (1) Each off-highway vehicle is subject to an annual registration fee of ~~\$21~~ \$2.

(2) The county treasurer shall collect the annual fee when the fee in lieu of tax is collected.

(3) Application for registration must be made to the county treasurer of the county in which the owner resides, on a form furnished by the department of justice for that purpose. The application must contain:

- (a) the name and home mailing address of the owner;
- (b) the certificate of ownership number;
- (c) the name of the manufacturer of the off-highway vehicle;
- (d) the model number or name;
- (e) the year of manufacture;
- (f) a statement evidencing payment of the fee in lieu

1 of property tax; and

2 (g) such other information as the department of
3 justice may require.

4 (4) If the off-highway vehicle was previously
5 registered, the application must be accompanied by the
6 registration certificate for the most recent year in which
7 it was registered. Upon payment of the registration fee, the
8 county treasurer shall sign the application and issue a
9 registration receipt, which must contain the information
10 considered necessary by the department of justice and a
11 listing of the fees paid. The owner shall retain possession
12 of the registration receipt until it is surrendered to the
13 county treasurer for reregistration or to a purchaser or
14 subsequent owner pursuant to a transfer of ownership.

15 (5) All registration fees collected must be forwarded
16 to the department of justice and deposited in the motor
17 vehicle recording account of the state special revenue fund.

18 **Section 7.** Section 23-2-804, MCA, is amended to read:

19 **"23-2-804. Decal required -- fee -- disposition. (1)**
20 Except as provided in 23-2-802, no off-highway vehicle may
21 be operated by any person for recreation on public lands in
22 Montana unless there is displayed in a conspicuous place a
23 decal, in a form prescribed by the department of fish,
24 wildlife,--and--parks JUSTICE and issued by the county
25 treasurer, as visual proof that the following fees have been

1 paid for the current year:

2 (a) (I) the fee in lieu of tax provided for in
3 23-2-803; ~~has-been-paid-for-the-current-year; AND~~

4 ~~(b)--(i)(II) the registration fee provided for in~~
5 [section 6]; or

6 ~~(ii)(B) when the vehicle will be used as provided in~~
7 this section, the registration and taxation fees for
8 motorcycles and quadricycles subject to licensure under
9 61-3-321, as evidenced by presentation of an owner's
10 certificate of registration and payment receipt; and

11 (C) THE WEED CONTROL FEE PROVIDED FOR IN 61-3-510; AND

12 ~~(c)(D) the off-highway decal fee provided for in this~~
13 section.

14 (2) The decal will be serially numbered and have the
15 expiration date of December 31 of the appropriate year
16 printed thereon.

17 (3) The off-highway decal fee is \$5, which the county
18 treasurer shall collect and transmit to the state treasurer,
19 who shall deposit the money in AN INTEREST-BEARING ACCOUNT
20 IN the state special revenue fund to the credit of the
21 department of fish, wildlife, and parks,--and--of--which. THE
22 DECAL FEE AND THE INTEREST AND INCOME TO THE ACCOUNT MUST BE
23 SPENT AS FOLLOWS:

24 (a) \$4 \$1 40% must be used to enforce the provisions
25 of this section; and

(b) \$1 \$4 60% plus all interest accruing from the investment of this portion of the decal fee must be deposited in the off-highway vehicle recreational use account created in (section 11) MUST BE SPENT TO DEVELOP AND IMPLEMENT A COMPREHENSIVE PROGRAM AND TO PLAN APPROPRIATE OFF-HIGHWAY VEHICLE RECREATION USE EXCEPT THAT:

(I) NO MONEY MAY BE SPENT FOR THIS PURPOSE BEFORE JANUARY 1, 1991; AND

(II) EVALUATION FOR DEVELOPMENT OF A PROGRAM PLAN MUST BEGIN JANUARY 1, 1991."

NEW SECTION. SECTION 8. DUPLICATE DECAL. IF A DECAL REQUIRED IN [SECTION 7] INDICATING THAT THE OFF-HIGHWAY VEHICLE FEE HAS BEEN PAID FOR THE CURRENT YEAR IS LOST, MUTILATED, OR BECOMES ILLEGIBLE, THE PERSON TO WHOM IT WAS ISSUED SHALL IMMEDIATELY APPLY FOR AND OBTAIN A DUPLICATE DECAL UPON PAYMENT OF A FEE OF \$5 TO THE COUNTY TREASURER, WHO SHALL DISTRIBUTE THE FEE AS PROVIDED IN 23-2-804(3).

Section 9. Section 23-2-806, MCA, is amended to read:

"23-2-806. Enforcement. The ~~department's~~ department of fish, wildlife, and parks enforcement personnel, sheriffs and their deputies, the Montana highway patrol, and the police of each municipality shall enforce the provisions of this part."

Section 10. Section 23-2-807, MCA, is amended to read:

"23-2-807. Penalty -- disposition. (1) The failure to

display a current decal indicating that the fee in lieu of tax has, registration fees, decal fees, and, when applicable, taxes on licensed vehicles have been paid on the off-highway vehicle for the current year as provided in 23-2-804 is a misdemeanor punishable by a fine equal to five times the fee in lieu of tax that is due on the off-highway vehicle for the current year OF \$50.

(2) All fines collected under this section must be transmitted to the state treasurer, who shall deposit the money in the earmarked state special revenue fund to the credit of the department of fish, wildlife, and parks to ACCOUNT CREATED UNDER 23-2-804(3). THIS FIFTY PERCENT OF THIS MONEY AND THE INTEREST EARNED ON IT MUST be used for off-highway vehicle safety and education. THE REMAINING 50% OF THE MONEY AND THE INTEREST EARNED ON IT MUST BE USED FOR ENFORCEMENT."

SECTION 11. SECTION 61-3-510, MCA, IS AMENDED TO READ:

"61-3-510. Weed control fee. (1) A special weed control fee of 50 cents must be assessed on the annual registration or reregistration of each motor vehicle subject to registration. The fee must be collected by the county treasurer.

(2) For purposes of this section, motor vehicle includes:

(a) motor vehicle as defined in 61-1-102;

(b) motorcycle as defined in 61-1-105;

(c) motor-driven cycle as defined in 61-1-106; and

(d) quadricycle as defined in 61-1-133; and

(e) off-highway vehicle as defined in 23-2-801.

(3) The following vehicles are exempt from the fee:

(a) vehicles owned or controlled by the United States or a state, county, or city;

(b) vehicles exempt from payment of registration fees by 61-3-321(7); and

(c) vehicles or equipment which is not self-propelled or which requires towing when moved upon a highway of this state."

NEW SECTION. Section 12. Dealer registration

certificate -- use of fees. (1) A UNLESS THE DEALER IS LICENSED UNDER THE PROVISIONS OF 61-4-101, A dealer may not sell off-highway vehicles unless he has first obtained a dealer registration certificate from the department of justice under the provisions of this section.

(2) The dealer application FOR REGISTRATION OR RENEWAL OF REGISTRATION must be accompanied by an application OR RENEWAL fee of \$5 and a registration fee of \$5. TO QUALIFY FOR THE FEES IN THIS SUBSECTION, THE APPLICANT FOR RENEWAL SHALL CERTIFY THAT HE HAS SOLD THREE OR MORE OFF-HIGHWAY VEHICLES DURING THE PRECEDING YEAR. Upon receipt of the dealer application OR RENEWAL and payment of fees, the

dealer must be issued two dealer off-highway identification cards to be carried by the dealer or the dealer's customer when demonstrating the dealer's off-highway vehicles. Additional dealer off-highway vehicle identification cards may be purchased by the dealer from the department of justice for a fee of \$2 each.

(3) No bond is required of the dealer.

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

(5) An applicant for renewal of an off-highway vehicle dealer registration WHO DOES NOT QUALIFY UNDER SUBSECTION (2) shall:

~~(a)~~ certify that he has sold three or more off-highway vehicles during the preceding year; OR

~~(b)~~ (A) pay an additional \$50 renewal registration fee; and

~~(c)~~ (B) provide a copy of a new off-highway vehicle franchise or sales agreement that he has with a manufacturer, importer, or distributor.

(6) Dealer registration certificates and identification cards expire on ~~June-30~~ DECEMBER 31 following the date of issuance.

(7) (a) The dealer application fees and all interest accruing from use of this money must be deposited in the

motor vehicle recording account of the state special revenue fund to be used ~~for off-highway vehicle safety and education programs~~ BY THE DEPARTMENT OF JUSTICE FOR THE ADMINISTRATION OF [THIS ACT].

(b) All dealer registration fees and renewal fees collected ~~and interest accruing from use of this money must be deposited in the state special revenue fund to the credit of the department of fish, wildlife, and parks to~~ MUST BE DEPOSITED IN THE ACCOUNT PROVIDED IN 23-2-804(3). THIS MONEY AND THE INTEREST EARNED ON IT MUST be used for off-highway vehicle safety and education programs.

~~NEW SECTION. Section 11. Account created. There is in the state special revenue fund an off-highway vehicle recreational use account into which money is deposited as provided in section 7 and from which the legislature may appropriate money to develop and implement a comprehensive program and plan appropriate to off-highway vehicle recreational use, provided:~~

~~{1} that no money may be spent from this account for this purpose before January 1, 1991; and~~

~~{2} evaluation for development of a program plan will begin January 1, 1991.~~

NEW SECTION. Section 13. Repealer. Section 23-2-805, MCA, is repealed.

NEW SECTION. Section 14. Extension of authority. Any

existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 15. Codification instruction. [Sections 2 through 4, 6, 8, 10, and 11 12] are intended to be codified as an integral part of Title 23, chapter 2, part 8, and the provisions of Title 23, chapter 2, part 8, apply to [sections 2 through 4, 6, 8, 10, and 11 12].

NEW SECTION. SECTION 16. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 477, INCLUDING AMENDMENTS TO 23-2-803 TO REQUIRE DEPOSIT OF A PORTION OF THE FEE IN LIEU OF TAX ON OFF-HIGHWAY VEHICLES IN THE NOXIOUS WEED TRUST FUND, IS PASSED AND APPROVED, THE FOLLOWING PROVISIONS OF [THIS ACT] ARE VOID:

(1) [SECTION 11]; AND

(2) THOSE AMENDMENTS TO 23-2-804 RELATING TO IMPOSITION OF WEED CONTROL FEE ON OFF-HIGHWAY VEHICLES.

NEW SECTION. Section 17. Effective date. [This act] is effective January 1, 1990.

-End-