

HOUSE BILL 288

Introduced by Ellison, et al.

1/18	Introduced
1/19	Referred to Fish & Game
1/24	Hearing
1/31	Tabled in Committee

1 HOUSE BILL NO. 288
2 INTRODUCED BY Ellison Hays
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT SAILBOARD
5 USERS 12 YEARS OF AGE OR OLDER FROM THE REQUIREMENTS
6 REGARDING LIFE PRESERVERS; CLARIFYING OPERATING PROCEDURES
7 FOR SAILBOARDS; AND AMENDING SECTIONS 23-2-521, 23-2-523,
8 AND 23-2-524, MCA."
9

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

11 **Section 1.** Section 23-2-521, MCA, is amended to read:

12 **"23-2-521. Equipment.** (1) Every motorboat or vessel
13 shall have aboard:

14 (a) one United States coast guard approved personal
15 flotation device in good and serviceable condition for each
16 person on board, provided that any person who has not
17 reached his 12th birthday shall have a United States coast
18 guard approved life preserver properly fastened to his
19 person when occupying a motorboat or vessel under 26 feet in
20 length while such motorboat or vessel is in motion;

21 (b) if carrying or using any inflammable or toxic
22 fluid in any enclosure for any purpose and if the motorboat
23 or vessel is not an entirely open one, an efficient natural
24 or mechanical ventilation system prescribed by the
25 department which shall be used and be capable of removing

1 resulting gases prior to and during the time the motorboat
2 or vessel is occupied by a person;

3 (c) hand portable fire extinguishers approved by the
4 United States coast guard, the number of which is to be
5 determined by the department, or a United States coast guard
6 approved fixed fire extinguishing system, except that
7 motorboats less than 26 feet in length of entirely open
8 construction, propelled by outboard motors, and not carrying
9 passengers for hire need not carry such portable fire
10 extinguishers or fire extinguishing systems.

11 (2) Every motorboat or vessel shall have the
12 carburetor or carburetors of every engine therein (except
13 outboard motors) using gasoline as fuel equipped with an
14 efficient flame arrester, backfire trap, or other similar
15 device.

16 (3) (a) Except as provided in subsection (3)(b), the
17 exhaust of every internal combustion engine used on a
18 motorboat or vessel must be muffled either by discharge
19 underwater or by a functioning muffler capable of muffling
20 exhaust noise at full throttle to 86 dbA or less when
21 measured at a distance of 50 feet. The muffler may not be
22 modified or altered, such as by a cutout. The department may
23 require a test at dockside to determine exhaust noise level.

24 (b) The provisions of subsection (3)(a) do not apply
25 to a motorboat:

(i) competing in a state-sanctioned regatta or boat race while on trial runs between 9 a.m. and 5 p.m. and during a period not more than 48 hours immediately preceding the regatta or boat race; or

(ii) operating under a separate permit issued by the department for the purpose of tuning engines, making test or trial runs, or competing in official trials for speed records other than in connection with regattas or boat races.

(4) (a) Except as provided in subsection (4)(b), no vessel may be equipped with a siren, and no person may use or install a siren on a vessel.

(b) An authorized emergency vessel may be equipped with a siren capable of sound audible under normal conditions from a distance of not less than 500 feet, but the siren may be used only when the vessel is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, and the operator of the vessel shall sound the siren when necessary to warn persons of the vessel's approach.

(5) When in operation or at anchor or moored away from a docking facility between sunset and sunrise, all vessels shall display lights as prescribed by the department.

(6) The department may designate waters where and the time of year on these waters when all persons aboard a

motorboat or vessel must wear approved life preservers at all times.

(7) Vessels, including houseboats and floating cabins, equipped with a galley or toilet shall have a wastewater holding system sealed to prevent the discharge of water-carried waste products, whether treated or untreated, into the surrounding waters.

(8) The department may adopt rules modifying the equipment requirements contained in this section to the extent necessary to keep these requirements in conformity with the provisions of the federal navigation and safety laws or with the navigation and safety rules promulgated by the United States coast guard.

(9) A person may not operate or give permission for the operation of a vessel which is not equipped as required by this section.

(10) The provisions of subsection (1)(a) do not apply to a person who operates a sailboard, as the term is commonly understood, whether with or without attached sails. For purposes of subsection (1)(a), a sailboard is considered a personal flotation device; therefore, no additional requirements for flotation devices or wearing apparel are prescribed. However, a person who has not reached his 12th birthday shall have a United States coast guard approved life preserver properly fastened to his person when

1 occupying a sailboard."

2 **Section 2.** Section 23-2-523, MCA, is amended to read:

3 **"23-2-523. Prohibited operation and mooring --**
4 **enforcement.** (1) No person may operate or knowingly permit
5 any person to operate any motorboat or vessel or manipulate
6 any water skis, surfboard, or similar device or other
7 contrivance in a reckless or negligent manner so as to
8 endanger the life, limb, or property of any person.

9 (2) No person may operate any motorboat, including a
10 sailboat propelled by a motor of any kind, or manipulate any
11 water skis, surfboard, or similar device attached to a
12 motorboat while under the influence of alcohol or drugs.

13 (3) It is unlawful for the owner of any motorboat or
14 vessel or any person having such in charge or in control to
15 authorize or knowingly permit the same to be operated by any
16 person who by reason of physical or mental disability is
17 incapable of operating such watercraft under the prevailing
18 circumstances.

19 (4) No person may operate or knowingly permit any
20 person to operate any motorboat or vessel at a rate of speed
21 greater than will permit such person, in the exercise of
22 reasonable care, to bring the vessel to a stop within the
23 assured clear distance ahead. However, nothing in this part
24 is intended to prevent the operator of a vessel actually
25 competing in a regatta which is sanctioned by an appropriate

1 governmental unit from attempting to attain high speeds on a
2 marked racing course.

3 (5) No person may make a reckless approach to,
4 departure from, or passage by a dock, ramp, diving board, or
5 float.

6 (6) Skiers being pulled by motorboats must have on
7 their person a life preserver, buoyant vest, or ski belt.

8 (7) No person may moor a vessel to any of the buoys or
9 beacons placed in any waters of this state by the authority
10 of the United States, an agency of the United States, or the
11 department or in any manner hang on with a vessel to such
12 buoy or beacon, except in the act of maintenance work on
13 such buoy or beacon, nor may any person deface, remove, or
14 destroy any such buoy, beacon, or other authorized
15 navigational marker maintained in the waters of this state.

16 (8) A person who operates a sailboard is exempt from
17 the use of personal flotation devices, except as specified
18 in 23-2-521(10).

19 ~~(8)~~(9) If an officer whose duty it is to enforce the
20 sections of this law observes a vessel being used without
21 sufficient lifesaving or firefighting devices or in an
22 overloaded or other unsafe condition and in his judgment
23 such use creates an especially hazardous condition, he may
24 direct the operator to take whatever immediate and
25 reasonable steps would be necessary for the safety of those

1 aboard the vessel, including directing the operator to
2 return to mooring or launching site and to remain there
3 until the situation creating the hazard is corrected or
4 ended."

5 **Section 3.** Section 23-2-524, MCA, is amended to read:

6 "23-2-524. **Passing rule and right-of-way.** (1) When two
7 vessels are approaching each other "head on" or nearly so
8 (so as to involve risk of collision), each vessel shall bear
9 to the right and pass the other vessel on its left side.

10 (2) When vessels approach each other obliquely or at
11 right angles, the vessel approaching on the right side has
12 the right-of-way.

13 (3) One vessel may overtake another on either side but
14 shall grant right-of-way to the overtaken vessel.

15 (4) When a sailboat or sailboard and motorboat are
16 operating as to involve a risk of collision with each other,
17 the motorboat shall yield the right-of-way to the sailboat
18 or sailboard in all cases."

19 **NEW SECTION. Section 4. Extension of authority.** Any
20 existing authority to make rules on the subject of the
21 provisions of [this act] is extended to the provisions of
22 [this act].

-End-