

HOUSE BILL NO. 588

INTRODUCED BY MENAHAN, MERCER, KADAS,  
EUDAILY, WHALEN, DRISCOLL, LYNCH

IN THE HOUSE

FEBRUARY 6, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
FEBRUARY 7, 1989	FIRST READING.
MARCH 16, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 17, 1989	PRINTING REPORT.
MARCH 29, 1989	SECOND READING, DO PASS AS AMENDED.
MARCH 30, 1989	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 97; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 31, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 4, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
APRIL 5, 1989	SECOND READING, CONCURRED IN.
APRIL 10, 1989	THIRD READING, CONCURRED IN. AYES, 47; NOES, 2.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 10, 1989	RECEIVED FROM SENATE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *588*  
2 INTRODUCED BY *Menahan Mercer Keadas Eubank*  
3 *Whalen*  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE FEE IN  
5 LIEU OF TAX ON BOATS AND EXTENDING THE FEE TO INCLUDE  
6 MOTORIZED PONTOONS AND PERSONAL WATERCRAFT; PROVIDING A  
7 VARIABLE FEE SCHEDULE; AMENDING SECTIONS 23-2-502, 23-2-512,  
8 AND 23-2-515 THROUGH 23-2-519, MCA; AND PROVIDING AN  
9 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY  
10 DATE."  
11

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

13 **Section 1.** Section 23-2-502, MCA, is amended to read:

14 "23-2-502. Definitions. As used in this part, unless  
15 the context clearly requires a different meaning, the  
16 following definitions apply:

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

22 (2) "Certificate of ownership" means a certificate  
23 issued by the department of justice identifying the owner of  
24 a motorboat or sailboat 12 feet in length or longer.

25 (3) "Dealer" means any person who engages in whole or

1 in part in the business of buying, selling, or exchanging  
2 new and unused vessels or used vessels, or both, either  
3 outright or on conditional sale, bailment, lease, chattel  
4 mortgage, or otherwise, and who has an established place of  
5 business for sale, trade, and display of vessels. A yacht  
6 broker is a dealer.

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

9 (5) "Documented vessel" means a vessel which has and  
10 is required to have a valid marine document as a vessel of  
11 the United States.

12 (6) "Identifying number" means the boat number set  
13 forth in the certificate of number and properly displayed on  
14 the motorboat.

15 (7) "License decals" means the serially numbered  
16 license stickers issued annually by the county treasurer and  
17 displayed as required by law.

18 (8) "Lienholder" means a person holding a security  
19 interest.

20 (9) "Manufacturer" means any person engaged in the  
21 business of manufacturing or importing new and unused  
22 vessels or new and unused outboard motors for the purpose of  
23 sale or trade.

24 (10) "Motorboat" means any vessel, including a canoe,  
25 rubber raft, or pontoon, propelled by any machinery, motor,

1 or engine of any description, whether or not such machinery,  
2 motor, or engine is the principal source of propulsion. The  
3 term includes boats temporarily equipped with detachable  
4 motors or engines but does not include a vessel which has a  
5 valid marine document issued by the U.S. coast guard of the  
6 United States government or any federal agency successor  
7 thereto.

8 (11) "Operate" means to navigate or otherwise use a  
9 motorboat or a vessel.

10 (12) "Operator" means the person who navigates, drives,  
11 or is otherwise in immediate control of a motorboat or  
12 vessel.

13 (13) "Owner" means a person, other than a lien holder,  
14 having the property in or title to a motorboat or vessel.  
15 The term includes a person entitled to the use or possession  
16 of a motorboat or vessel subject to an interest in another  
17 person, reserved or created by an agreement securing payment  
18 or performance of an obligation, but the term excludes a  
19 lessee under a lease not intended as security.

20 (14) "Passenger" means every person carried on board a  
21 vessel other than:

22 (a) the owner or his representative;

23 (b) the operator;

24 (c) bona fide members of the crew engaged in the  
25 business of the vessel who have contributed no consideration

1 for their carriage and who are paid for their services; or  
2 (d) any guest on board a vessel which is being used  
3 exclusively for pleasure purposes who has not contributed  
4 any consideration, directly or indirectly, for his carriage.

5 (15) "Person" means an individual, partnership, firm,  
6 corporation, association, or other entity.

7 (16) "Personal watercraft" means any vessel that uses  
8 an internal combustion engine powering a water jet pump as  
9 its primary source of propulsion and that is designed to be  
10 operated by a person in a sitting, standing, or kneeling  
11 position.

12 (17) "Security interest" means an interest that is  
13 reserved or created by an agreement that secures payment or  
14 performance of an obligation and is valid against third  
15 parties generally.

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

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

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

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

used as a means of transportation on water.

~~{19}~~(20) "Waters of this state" means any waters within the territorial limits of this state. ~~{Subsections--(2)--(3)--(8)--(9)--and--(16)--effective--July--17--1988--sec--87--Ch--433--L--1987--}~~

**Section 2.** Section 23-2-512, MCA, is amended to read:

"23-2-512. Identification number. (1) The owner of each motorboat, or sailboat, or personal watercraft requiring numbering by this state shall file an application for number in the office of the county treasurer where the motorboat, or sailboat, or personal watercraft is owned, on forms prepared and furnished by the department of justice. The application must be signed by the owner of the motorboat, or sailboat, or personal watercraft and be accompanied by a fee of \$2. Any alteration, change, or false statement contained in the application will render the certificate of number void. Upon receipt of the application in approved form, the county treasurer shall issue to the applicant a certificate of number prepared and furnished by the department of justice, stating the number assigned to the motorboat, or sailboat, or personal watercraft and the name and address of the owner.

(2) The applicant, upon the filing of the application, shall pay to the county treasurer the fee in lieu of tax required for a motorboat 10 feet in length or longer, or a

sailboat 12 feet in length or longer, or a personal watercraft for the current year of certification before the application for certification or recertification may be accepted by the county treasurer.

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

(4) If an agency of the United States government has in force a comprehensive system of identification numbering for motorboats in the United States, the numbering system employed pursuant to this part by the department of justice must be in conformity.

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

(6) Certificates of number expire on December 31 of each year and may not be in effect unless renewed under this part.

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

15 (8) A holder of a certificate of number shall notify  
16 the county treasurer within reasonable time if his address  
17 no longer conforms to the address appearing on the  
18 certificate and furnish the county treasurer with his new  
19 address. The department of justice may provide by rule for  
20 the surrender of the certificate bearing the former address  
21 and its replacement with a certificate bearing the new  
22 address or the alteration of an outstanding certificate to  
23 show the new address of the holder.

24 (9) (a) The number assigned must be painted on or  
25 attached to each outboard side of the forward half of the

1 motorboat, or sailboat, or personal watercraft or, if there  
2 are no such sides, at a corresponding location on both  
3 outboard sides of the foredeck of the motorboat, or  
4 sailboat, or personal watercraft. The number assigned must  
5 read from left to right in Arabic numerals and block  
6 characters of good proportion at least 3 inches tall  
7 excluding border or trim of a color that contrasts with the  
8 color of the background and be so maintained as to be  
9 clearly visible and legible. The number may not be placed on  
10 the obscured underside of the flared bow where it cannot be  
11 easily seen from another vessel or ashore. No numerals,  
12 letters, or devices other than those used in connection with  
13 the identifying number issued may be placed in the proximity  
14 of the identifying number. No numerals, letters, or devices  
15 that might interfere with the ready identification of the  
16 motorboat, or sailboat, or personal watercraft by its  
17 identifying number may be carried as to interfere with the  
18 motorboat's, or sailboat's, or personal watercraft's  
19 identification. No number other than the number and license  
20 decal assigned to a motorboat, or sailboat, or personal  
21 watercraft or granted reciprocity under this part may be  
22 painted, attached, or otherwise displayed on either side of  
23 the forward half of the motorboat, or sailboat, or personal  
24 watercraft.

25 (b) The certificate of number shall be pocket size and

1 available to federal, state, or local law enforcement  
 2 officers at all reasonable times for inspection on the  
 3 motorboat, or sailboat, or personal watercraft whenever the  
 4 motorboat, or sailboat, or personal watercraft is on waters  
 5 of this state.

6 (c) Boat liveries are not required to have the  
 7 certificate of number on board each motorboat, or sailboat,  
 8 or personal watercraft, but a rental agreement must be  
 9 carried on board livery motorboats, or sailboats, or  
 10 personal watercraft in place of the certificate of number.

11 (10) Fees, other than the fee in lieu of tax, collected  
 12 under this section shall be transmitted to the state  
 13 treasurer, who shall deposit the fees in the motorboat or  
 14 sailboat certificate identification account of the state  
 15 special revenue fund. These fees shall be used only for the  
 16 administration and enforcement of this part, as amended.

17 (11) An owner of a motorboat, or sailboat, or personal  
 18 watercraft must within a reasonable time notify the  
 19 department of justice, giving the motorboat's, or  
 20 sailboat's, or personal watercraft's identifying number and  
 21 the owner's name when the motorboat, or sailboat, or  
 22 personal watercraft is transferred, lost, destroyed,  
 23 abandoned, or frauded or within 60 days after change of  
 24 state of principal use or if a motorboat becomes documented  
 25 as a vessel of the United States."

1 **Section 3.** Section 23-2-515, MCA, is amended to read:

2 **"23-2-515. License decals to be displayed.** (1) Every  
 3 Montana motorboat, or sailboat, or personal watercraft  
 4 numbered in accordance with the provisions of 23-2-512 and  
 5 or 23-2-513 shall be required to display license decals. For  
 6 this purpose the county treasurer, upon proof of payment of  
 7 the fee in lieu of tax as required by 15-16-202 for  
 8 motorboats 10 feet in length or longer, and sailboats 12  
 9 feet in length or longer, as--required--by-15-16-202 or  
 10 personal watercraft, shall issue a pair of decals prepared  
 11 and furnished by the department of justice with all new  
 12 certificates of number and renewals thereof.

13 (2) The decals shall be of a style and design  
 14 prescribed by the department of justice and shall be a color  
 15 differing from the preceding year. The license decal will be  
 16 serially numbered and have the expiration date of December  
 17 31 of the appropriate year printed thereon.

18 (3) License decals shall be displayed only in the  
 19 following manner: one valid license decal on each side of  
 20 the forward half, 3 inches aft of the identifying numbers."

21 **Section 4.** Section 23-2-516, MCA, is amended to read:

22 **"23-2-516. Fee in lieu of tax for motorboats 10 feet**  
 23 **in length or longer, and sailboats 12 feet in length or**  
 24 **longer, personal watercraft, motorized canoes, motorized**  
 25 **rubber rafts, and motorized pontoons. (1) There is a fee in**

lieu of property tax as prescribed in 23-2-517 imposed on motorboats 10 feet in length or longer, and sailboats 12 feet in length or longer, personal watercraft, motorized canoes, motorized rubber rafts, and motorized pontoons. The fee is in addition to the annual fee required by 23-2-512 for filing of the application for a certificate of number.

(2) The fee imposed by subsection (1) need not be paid by a dealer for motorboats, or sailboats, personal watercraft, motorized canoes, motorized rubber rafts, or motorized pontoons that constitute inventory of the dealership. ~~Applicable to motorboats and sailboats registered on or after January 1, 1988.~~

**Section 5.** Section 23-2-517, MCA, is amended to read:

"23-2-517. Fees for motorboats, and sailboats, personal watercraft, motorized canoes, motorized rubber rafts, and motorized pontoons. (1) The owner of a motorboat 10 feet in length or longer or a sailboat 12 feet in length or longer shall pay a fee based on the length and age of the motorboat or sailboat as follows:

(2)(a) The fee schedule for a motorboat at least 10 feet in length but less than 14 feet in length or sailboat at least 12 feet in length but less than 14 feet in length is ~~\$7.50~~ as follows:

(i) for a motorboat or sailboat less than 5 years of age, \$7.50;

(ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$5.65; and

(iii) for a motorboat or sailboat 10 years of age or older, \$3.75.

(3)(b) The fee schedule for a motorboat or sailboat at least 14 feet in length but less than 16 feet in length is ~~\$15~~ as follows:

(i) for a motorboat or sailboat less than 5 years of age, \$15;

(ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$11.25; and

(iii) for a motorboat or sailboat 10 years of age or older, \$7.50.

(4)(c) The fee schedule for a motorboat or sailboat at least 16 feet in length but less than 17 feet in length is ~~\$32~~ as follows:

(i) for a motorboat or sailboat less than 5 years of age, \$32;

(ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$24; and

(iii) for a motorboat or sailboat 10 years of age or older, \$16.

(5)(d) The fee schedule for a motorboat or sailboat at least 17 feet in length but less than 19 feet in length is ~~\$3-a-foot-or-fraction-of-a-foot~~ as follows:



(i) for a motorboat or sailboat less than 5 years of age, \$3 a foot or fraction of a foot;

(ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$2.25 a foot or fraction of a foot; and

(iii) for a motorboat or sailboat 10 years of age or older, \$1.50 a foot or fraction of a foot.

~~(6)(e)~~ The fee schedule for a motorboat or sailboat 19 feet in length or longer is \$4-a-foot-or-fraction-of-a-foot- as follows:

(i) for a motorboat or sailboat less than 5 years of age, \$4 a foot or fraction of a foot;

(ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$3 a foot or fraction of a foot; and

(iii) for a motorboat or sailboat 10 years of age or older, \$2 a foot or fraction of a foot.

(2) The owner of a personal watercraft shall pay a fee based on the age of the watercraft as follows:

(a) The fee for a personal watercraft less than 4 years of age is \$22.

(b) The fee for a personal watercraft 4 years of age or older is \$15.

(3) The fee for a motorized canoe or motorized rubber raft is \$7.50, regardless of its length or age.

(4) The fee for a motorized pontoon is \$20, regardless of its length or age. ~~(Applicable--to--motorboats---and sailboats-registered-on-or-after-January-17-1988-)~~"

**Section 6.** Section 23-2-518, MCA, is amended to read:

"23-2-518. Disposition of fees in lieu of tax. The county treasurer shall distribute all fees in lieu of tax collected on motorboats 10 feet in length or longer, and sailboats 12 feet in length or longer, personal watercraft, motorized canoes, motorized rubber rafts, and motorized pontoons pursuant to 23-2-516 and 23-2-517 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. ~~(Applicable-to motorboats-and-sailboats-registered-on-or-after--January--17, 1988-)~~"

**Section 7.** Section 23-2-519, MCA, is amended to read:

"23-2-519. Penalty -- disposition. (1) Failure to pay the fee in lieu of tax as provided for in 23-2-517 is a misdemeanor, punishable by a fine equal to five times the fee in lieu of tax that is due on the motorboat, or sailboat, personal watercraft, motorized canoe, motorized rubber raft, or motorized pontoon for the current year of registration.

(2) All fines collected pursuant to subsection (1) must be distributed in the following ratio:

1 (a) 50% to the general fund of the county in which the  
2 motorboat, or sailboat, personal watercraft, motorized  
3 canoe, motorized rubber raft, or motorized pontoon is issued  
4 a certification number; and

5 (b) 50% to the motorboat account of the state special  
6 revenue fund for use by the department in the enforcement of  
7 this part. ~~{Applicable---to---motorboats--and--sailboats~~  
8 ~~registered-on-or-after-January-1,--1988--}~~"

9 NEW SECTION. **Section 8.** Extension of authority. Any  
10 existing authority to make rules on the subject of the  
11 provisions of [this act] is extended to the provisions of  
12 [this act].

13 NEW SECTION. **Section 9.** Retroactive applicability  
14 date. [This act] applies retroactively, within the meaning  
15 of 1-2-109, to taxable years beginning after December 31,  
16 1988.

17 NEW SECTION. **Section 10.** Effective date. [This act]  
18 is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB588, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

HB588 would revise the fee in lieu of tax for certain watercraft and provide for a fee for motorized pontoons and personal watercraft.

ASSUMPTIONS:

1. There would be no fiscal impact on the Dept. of Fish, Wildlife and Parks as a result of the proposed registration of personal watercraft less than ten feet in length and pontoons and the modification in the basis for calculating the fee in lieu of tax on motorized canoes and rafts.
2. The Dept. of Fish, Wildlife and Parks currently receives the \$2 boat decal fee and 50% of the fines collected for violations of the boat registration act. All motorized watercraft, including personal watercraft under ten feet in length, are currently required to display a decal.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The counties will receive some additional revenue from the new registration of personal watercraft under ten feet in length. This legislation proposes a flat fee for motorized canoes and rafts, compared with the current fees which are based upon length. It is likely that the reduced fee the counties will receive for each of these craft will be offset by an increase in the number of such craft that will be registered under the proposed law.



DATE

2/14/89

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

  
WILLIAM A. MENAHAN, PRIMARY SPONSOR

DATE

2/15/89

Fiscal Note for HB588, as introduced

HB 588

APPROVED BY COMMITTEE  
ON TAXATION

1 *HOUSE* BILL NO. *588*  
2 INTRODUCED BY *Menahan Megan Kedes Eubank*  
3 *Whalen Merrill*  
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4 ~~{3},--(8)--(9),--and--(16)--effective--July--1,--1988--sec--8,--Ch--~~  
5 ~~433--B--1987--}~~"

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2 watercraft for the current year of certification before the  
3 application for certification or recertification may be  
4 accepted by the county treasurer.

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10 assignment of number.

11 (4) If an agency of the United States government has  
12 in force a comprehensive system of identification numbering  
13 for motorboats in the United States, the numbering system  
14 employed pursuant to this part by the department of justice  
15 must be in conformity.

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

23 (6) Certificates of number expire on December 31 of  
24 each year and may not be in effect unless renewed under this  
25 part.

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

15 (8) A holder of a certificate of number shall notify  
 16 the county treasurer within reasonable time if his address  
 17 no longer conforms to the address appearing on the  
 18 certificate and furnish the county treasurer with his new  
 19 address. The department of justice may provide by rule for  
 20 the surrender of the certificate bearing the former address  
 21 and its replacement with a certificate bearing the new  
 22 address or the alteration of an outstanding certificate to  
 23 show the new address of the holder.

24 (9) (a) The number assigned must be painted on or  
 25 attached to each outboard side of the forward half of the

1 motorboat, or sailboat, or personal watercraft or, if there  
 2 are no such sides, at a corresponding location on both  
 3 outboard sides of the foredeck of the motorboat, or  
 4 sailboat, or personal watercraft. The number assigned must  
 5 read from left to right in Arabic numerals and block  
 6 characters of good proportion at least 3 inches tall  
 7 excluding border or trim of a color that contrasts with the  
 8 color of the background and be so maintained as to be  
 9 clearly visible and legible. The number may not be placed on  
 10 the obscured underside of the flared bow where it cannot be  
 11 easily seen from another vessel or ashore. No numerals,  
 12 letters, or devices other than those used in connection with  
 13 the identifying number issued may be placed in the proximity  
 14 of the identifying number. No numerals, letters, or devices  
 15 that might interfere with the ready identification of the  
 16 motorboat, or sailboat, or personal watercraft by its  
 17 identifying number may be carried as to interfere with the  
 18 motorboat's, or sailboat's, or personal watercraft's  
 19 identification. No number other than the number and license  
 20 decal assigned to a motorboat, or sailboat, or personal  
 21 watercraft or granted reciprocity under this part may be  
 22 painted, attached, or otherwise displayed on either side of  
 23 the forward half of the motorboat, or sailboat, or personal  
 24 watercraft.

25 (b) The certificate of number shall be pocket size and

1 available to federal, state, or local law enforcement  
 2 officers at all reasonable times for inspection on the  
 3 motorboat, or sailboat, or personal watercraft whenever the  
 4 motorboat, or sailboat, or personal watercraft is on waters  
 5 of this state.

6 (c) Boat liveries are not required to have the  
 7 certificate of number on board each motorboat, or sailboat,  
 8 or personal watercraft, but a rental agreement must be  
 9 carried on board livery motorboats, or sailboats, or  
 10 personal watercraft in place of the certificate of number.

11 (10) Fees, other than the fee in lieu of tax, collected  
 12 under this section shall be transmitted to the state  
 13 treasurer, who shall deposit the fees in the motorboat or  
 14 sailboat certificate identification account of the state  
 15 special revenue fund. These fees shall be used only for the  
 16 administration and enforcement of this part, as amended.

17 (11) An owner of a motorboat, or sailboat, or personal  
 18 watercraft must within a reasonable time notify the  
 19 department of justice, giving the motorboat's, or  
 20 sailboat's, or personal watercraft's identifying number and  
 21 the owner's name when the motorboat, or sailboat, or  
 22 personal watercraft is transferred, lost, destroyed,  
 23 abandoned, or frauded or within 60 days after change of  
 24 state of principal use or if a motorboat becomes documented  
 25 as a vessel of the United States."

1 **Section 3.** Section 23-2-515, MCA, is amended to read:

2 "23-2-515. License decals to be displayed. (1) Every  
 3 Montana motorboat, or sailboat, or personal watercraft  
 4 numbered in accordance with the provisions of 23-2-512 and  
 5 or 23-2-513 shall be required to display license decals. For  
 6 this purpose the county treasurer, upon proof of payment of  
 7 the fee in lieu of tax as required by 15-16-202 for  
 8 motorboats 10 feet in length or longer, and sailboats 12  
 9 feet in length or longer, as--required--by-15-16-202 or  
 10 personal watercraft, shall issue a pair of decals prepared  
 11 and furnished by the department of justice with all new  
 12 certificates of number and renewals thereof.

13 (2) The decals shall be of a style and design  
 14 prescribed by the department of justice and shall be a color  
 15 differing from the preceding year. The license decal will be  
 16 serially numbered and have the expiration date of December  
 17 31 of the appropriate year printed thereon.

18 (3) License decals shall be displayed only in the  
 19 following manner: one valid license decal on each side of  
 20 the forward half, 3 inches aft of the identifying numbers."

21 **Section 4.** Section 23-2-516, MCA, is amended to read:

22 "23-2-516. Fee in lieu of tax for motorboats 10 feet  
 23 in length or longer, and sailboats 12 feet in length or  
 24 longer, personal watercraft, motorized canoes, motorized  
 25 rubber rafts, and motorized pontoons. (1) There is a fee in



lieu of property tax as prescribed in 23-2-517 imposed on motorboats 10 feet in length or longer, and sailboats 12 feet in length or longer, personal watercraft, motorized canoes, motorized rubber rafts, and motorized pontoons. The fee is in addition to the annual fee required by 23-2-512 for filing of the application for a certificate of number.

(2) The fee imposed by subsection (1) need not be paid by a dealer for motorboats, or sailboats, personal watercraft, motorized canoes, motorized rubber rafts, or motorized pontoons that constitute inventory of the dealership. ~~(Applicable--to---motorboats---and---sailboats registered-on-or-after-January-1,-1988-.)~~

**Section 5.** Section 23-2-517, MCA, is amended to read:

"23-2-517. Fees for motorboats, and sailboats, personal watercraft, motorized canoes, motorized rubber rafts, and motorized pontoons. (1) The owner of a motorboat 10 feet in length or longer or a sailboat 12 feet in length or longer shall pay a fee based on the length and age of the motorboat or sailboat as follows:

~~(2)(a)~~ The fee schedule for a motorboat at least 10 feet in length but less than 14 feet in length or sailboat at least 12 feet in length but less than 14 feet in length is ~~\$7-50-~~ as follows:

(i) for a motorboat or sailboat less than 5 years of age, \$7.50;

(ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$5.65; and

(iii) for a motorboat or sailboat 10 years of age or older, \$3.75.

~~(3)(b)~~ The fee schedule for a motorboat or sailboat at least 14 feet in length but less than 16 feet in length is ~~\$15-~~ as follows:

(i) for a motorboat or sailboat less than 5 years of age, \$15;

(ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$11.25; and

(iii) for a motorboat or sailboat 10 years of age or older, \$7.50.

~~(4)(c)~~ The fee schedule for a motorboat or sailboat at least 16 feet in length but less than 17 feet in length is ~~\$32-~~ as follows:

(i) for a motorboat or sailboat less than 5 years of age, \$32;

(ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$24; and

(iii) for a motorboat or sailboat 10 years of age or older, \$16.

~~(5)(d)~~ The fee schedule for a motorboat or sailboat at least 17 feet in length but less than 19 feet in length is ~~\$3-a-foot-or-fraction-of-a-foot-~~ as follows:

1 (i) for a motorboat or sailboat less than 5 years of  
2 age, \$3 a foot or fraction of a foot;

3 (ii) for a motorboat or sailboat 5 years of age or  
4 older but less than 10 years of age, \$2.25 a foot or  
5 fraction of a foot; and

6 (iii) for a motorboat or sailboat 10 years of age or  
7 older, \$1.50 a foot or fraction of a foot.

8 ~~†6†~~(e) The fee schedule for a motorboat or sailboat 19  
9 feet in length or longer is ~~\$4-a-foot-or-fraction-of-a-foot-~~  
10 as follows:

11 (i) for a motorboat or sailboat less than 5 years of  
12 age, \$4 a foot or fraction of a foot;

13 (ii) for a motorboat or sailboat 5 years of age or  
14 older but less than 10 years of age, \$3 a foot or fraction  
15 of a foot; and

16 (iii) for a motorboat or sailboat 10 years of age or  
17 older, \$2 a foot or fraction of a foot.

18 (2) The owner of a personal watercraft shall pay a fee  
19 based on the age of the watercraft as follows:

20 (a) The fee for a personal watercraft less than 4  
21 years of age is \$22.

22 (b) The fee for a personal watercraft 4 years of age  
23 or older is \$15.

24 (3) The fee for a motorized canoe or motorized rubber  
25 raft is \$7.50, regardless of its length or age.

1 (4) The fee for a motorized pontoon is \$20, regardless  
2 of its length or age. †Applicable--to--motorboats---and  
3 sailboats-registered-on-or-after-January-17-1988-†"

4 **Section 6.** Section 23-2-518, MCA, is amended to read:

5 "23-2-518. Disposition of fees in lieu of tax. The  
6 county treasurer shall distribute all fees in lieu of tax  
7 collected on motorboats 10 feet in length or longer, and  
8 sailboats 12 feet in length or longer, personal watercraft,  
9 motorized canoes, motorized rubber rafts, and motorized  
10 pontoons pursuant to 23-2-516 and 23-2-517 in the relative  
11 proportions required by the levies for state, county, school  
12 district, and municipal purposes in the same manner as  
13 personal property taxes are distributed. †Applicable-to  
14 motorboats-and-sailboats-registered-on-or-after--January--17,  
15 1988-†"

16 **Section 7.** Section 23-2-519, MCA, is amended to read:

17 "23-2-519. Penalty -- disposition. (1) Failure to pay  
18 the fee in lieu of tax as provided for in 23-2-517 is a  
19 misdemeanor, punishable by a fine equal to five times the  
20 fee in lieu of tax that is due on the motorboat, or  
21 sailboat, personal watercraft, motorized canoe, motorized  
22 rubber raft, or motorized pontoon for the current year of  
23 registration.

24 (2) All fines collected pursuant to subsection (1)  
25 must be distributed in the following ratio:

1       (a) 50% to the general fund of the county in which the  
2       motorboat, or sailboat, personal watercraft, motorized  
3       canoe, motorized rubber raft, or motorized pontoon is issued  
4       a certification number; and

5       (b) 50% to the motorboat account of the state special  
6       revenue fund for use by the department in the enforcement of  
7       this part. ~~{Applicable---to--motorboats--and--sailboats~~  
8       ~~registered-on-or-after-January-17-1988-}~~"

9       **NEW SECTION. Section 8.** Extension of authority. Any  
10      existing authority to make rules on the subject of the  
11      provisions of [this act] is extended to the provisions of  
12      [this act].

13      **NEW SECTION. Section 9.** Retroactive applicability  
14      date. [This act] applies retroactively, within the meaning  
15      of 1-2-109, to taxable years beginning after December 31,  
16      1988.

17      **NEW SECTION. Section 10.** Effective date. [This act]  
18      is effective on passage and approval.

-End-

## 1 HOUSE BILL NO. 588

2 INTRODUCED BY MENAHAN, MERCER, KADAS,  
3 EUDAILY, WHALEN, DRISCOLL, LYNCH  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE FEE IN  
6 LIEU OF TAX ON BOATS AND EXTENDING THE FEE TO INCLUDE  
7 MOTORIZED PONTOONS AND PERSONAL WATERCRAFT; PROVIDING A  
8 VARIABLE FEE SCHEDULE; AMENDING SECTIONS 23-2-502, 23-2-512,  
9 AND 23-2-515 THROUGH 23-2-519, MCA; AND PROVIDING AN  
10 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY  
11 DATE."  
12

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

14 **Section 1.** Section 23-2-502, MCA, is amended to read:

15 **"23-2-502. Definitions.** As used in this part, unless  
16 the context clearly requires a different meaning, the  
17 following definitions apply:

18 (1) "Certificate of number" means the certificate  
19 issued annually by the county treasurer to the owner of a  
20 motorboat or by the department of justice to dealers or  
21 manufacturers, assigning such motorboat an identifying  
22 number and containing such information as required.

23 (2) "Certificate of ownership" means a certificate  
24 issued by the department of justice identifying the owner of  
25 a motorboat or sailboat 12 feet in length or longer.

1 (3) "Dealer" means any person who engages in whole or  
2 in part in the business of buying, selling, or exchanging  
3 new and unused vessels or used vessels, or both, either  
4 outright or on conditional sale, bailment, lease, chattel  
5 mortgage, or otherwise, and who has an established place of  
6 business for sale, trade, and display of vessels. A yacht  
7 broker is a dealer.

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

10 (5) "Documented vessel" means a vessel which has and  
11 is required to have a valid marine document as a vessel of  
12 the United States.

13 (6) "Identifying number" means the boat number set  
14 forth in the certificate of number and properly displayed on  
15 the motorboat.

16 (7) "License decals" means the serially numbered  
17 license stickers issued annually by the county treasurer and  
18 displayed as required by law.

19 (8) "Lienholder" means a person holding a security  
20 interest.

21 (9) "Manufacturer" means any person engaged in the  
22 business of manufacturing or importing new and unused  
23 vessels or new and unused outboard motors for the purpose of  
24 sale or trade.

25 (10) "Motorboat" means any vessel, including a canoe,

1 KAYAK, rubber raft, or pontoon, propelled by any machinery,  
2 motor, or engine of any description, whether or not such  
3 machinery, motor, or engine is the principal source of  
4 propulsion. The term includes boats temporarily equipped  
5 with detachable motors or engines but does not include a  
6 vessel which has a valid marine document issued by the U.S.  
7 coast guard of the United States government or any federal  
8 agency successor thereto.

9 (11) "Operate" means to navigate or otherwise use a  
10 motorboat or a vessel.

11 (12) "Operator" means the person who navigates, drives,  
12 or is otherwise in immediate control of a motorboat or  
13 vessel.

14 (13) "Owner" means a person, other than a lien holder,  
15 having the property in or title to a motorboat or vessel.  
16 The term includes a person entitled to the use or possession  
17 of a motorboat or vessel subject to an interest in another  
18 person, reserved or created by an agreement securing payment  
19 or performance of an obligation, but the term excludes a  
20 lessee under a lease not intended as security.

21 (14) "Passenger" means every person carried on board a  
22 vessel other than:

- 23 (a) the owner or his representative;
- 24 (b) the operator;
- 25 (c) bona fide members of the crew engaged in the

1 business of the vessel who have contributed no consideration  
2 for their carriage and who are paid for their services; or

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

6 (15) "Person" means an individual, partnership, firm,  
7 corporation, association, or other entity.

8 (16) "Personal watercraft" means any vessel 12 FEET IN  
9 LENGTH OR LESS that uses an internal combustion engine  
10 powering a water jet pump as its primary source of  
11 propulsion and that is designed to be operated by a person  
12 in a sitting, standing, or kneeling position.

13 ~~(16)~~ (17) "Security interest" means an interest that is  
14 reserved or created by an agreement that secures payment or  
15 performance of an obligation and is valid against third  
16 parties generally.

17 ~~(17)~~ (18) "Uniform state waterway marking system" means  
18 one of two categories:

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

21 (b) a system of regulatory markers to warn a vessel  
22 operator of dangers or to provide general information and  
23 directions.

24 ~~(18)~~ (19) "Vessel" means every description of  
25 watercraft, unless otherwise defined by the department,

other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~{19}(20)~~ "Waters of this state" means any waters within the territorial limits of this state. ~~{Subsections-{2}, {3}, {8}, {9}, and {16}-effective-July-1, 1988--sec-8--Ch-433--b--1987--}~~"

**Section 2.** Section 23-2-512, MCA, is amended to read:

"23-2-512. Identification number. (1) The owner of each motorboat, or sailboat, or personal watercraft requiring numbering by this state shall file an application for number in the office of the county treasurer where the motorboat, or sailboat, or personal watercraft is owned, on forms prepared and furnished by the department of justice. The application must be signed by the owner of the motorboat, or sailboat, or personal watercraft and be accompanied by a fee of \$2. Any alteration, change, or false statement contained in the application will render the certificate of number void. Upon receipt of the application in approved form, the county treasurer shall issue to the applicant a certificate of number prepared and furnished by the department of justice, stating the number assigned to the motorboat, or sailboat, or personal watercraft and the name and address of the owner.

(2) The applicant, upon the filing of the application, shall pay to the county treasurer the fee in lieu of tax

required for a motorboat 10 feet in length or longer, or a sailboat 12 feet in length or longer, or a personal watercraft for the current year of certification before the application for certification or recertification may be accepted by the county treasurer.

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

(4) If an agency of the United States government has in force a comprehensive system of identification numbering for motorboats in the United States, the numbering system employed pursuant to this part by the department of justice must be in conformity.

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

(6) Certificates of number expire on December 31 of each year and may not be in effect unless renewed under this

1 part.

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

16 (8) A holder of a certificate of number shall notify  
17 the county treasurer within reasonable time if his address  
18 no longer conforms to the address appearing on the  
19 certificate and furnish the county treasurer with his new  
20 address. The department of justice may provide by rule for  
21 the surrender of the certificate bearing the former address  
22 and its replacement with a certificate bearing the new  
23 address or the alteration of an outstanding certificate to  
24 show the new address of the holder.

25 (9) (a) The number assigned must be painted on or

1 attached to each outboard side of the forward half of the  
2 motorboat, or sailboat, or personal watercraft or, if there  
3 are no such sides, at a corresponding location on both  
4 outboard sides of the foredeck of the motorboat, or  
5 sailboat, or personal watercraft. The number assigned must  
6 read from left to right in Arabic numerals and block  
7 characters of good proportion at least 3 inches tall  
8 excluding border or trim of a color that contrasts with the  
9 color of the background and be so maintained as to be  
10 clearly visible and legible. The number may not be placed on  
11 the obscured underside of the flared bow where it cannot be  
12 easily seen from another vessel or ashore. No numerals,  
13 letters, or devices other than those used in connection with  
14 the identifying number issued may be placed in the proximity  
15 of the identifying number. No numerals, letters, or devices  
16 that might interfere with the ready identification of the  
17 motorboat, or sailboat, or personal watercraft by its  
18 identifying number may be carried as to interfere with the  
19 motorboat's, or sailboat's, or personal watercraft's  
20 identification. No number other than the number and license  
21 decal assigned to a motorboat, or sailboat, or personal  
22 watercraft or granted reciprocity under this part may be  
23 painted, attached, or otherwise displayed on either side of  
24 the forward half of the motorboat, or sailboat, or personal  
25 watercraft.

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

(c) Boat liveries are not required to have the certificate of number on board each motorboat, or sailboat, or personal watercraft, but a rental agreement must be carried on board livery motorboats, or sailboats, or personal watercraft in place of the certificate of number.

(10) Fees, other than the fee in lieu of tax, collected under this section shall be transmitted to the state treasurer, who shall deposit the fees in the motorboat or sailboat certificate identification account of the state special revenue fund. These fees shall be used only for the administration and enforcement of this part, as amended.

(11) An owner of a motorboat, or sailboat, or personal watercraft must within a reasonable time notify the department of justice, giving the motorboat's, or sailboat's, or personal watercraft's identifying number and the owner's name when the motorboat, or sailboat, or personal watercraft is transferred, lost, destroyed, abandoned, or frauded or within 60 days after change of state of principal use or if a motorboat becomes documented

as a vessel of the United States."

**Section 3.** Section 23-2-515, MCA, is amended to read:

"23-2-515. License decals to be displayed. (1) Every Montana motorboat, or sailboat, or personal watercraft numbered in accordance with the provisions of 23-2-512 and or 23-2-513 shall be required to display license decals. For this purpose the county treasurer, upon proof of payment of the fee in lieu of tax as required by 15-16-202 for motorboats 10 feet in length or longer, and sailboats 12 feet in length or longer, ~~as--required--by--15-16-202~~ or personal watercraft, shall issue a pair of decals prepared and furnished by the department of justice with all new certificates of number and renewals thereof.

(2) The decals shall be of a style and design prescribed by the department of justice and shall be a color differing from the preceding year. The license decal will be serially numbered and have the expiration date of December 31 of the appropriate year printed thereon.

(3) License decals shall be displayed only in the following manner: one valid license decal on each side of the forward half, 3 inches aft of the identifying numbers."

**Section 4.** Section 23-2-516, MCA, is amended to read:

"23-2-516. Fee in lieu of tax for motorboats 10 feet in length or longer, and sailboats 12 feet in length or longer, personal watercraft, motorized canoes, motorized



1 rubber rafts, and motorized pontoons. (1) There is a fee in  
 2 lieu of property tax as prescribed in 23-2-517 imposed on  
 3 motorboats 10 feet in length or longer, and sailboats 12  
 4 feet in length or longer, personal watercraft, motorized  
 5 canoes, motorized rubber rafts, and motorized pontoons. The  
 6 fee is in addition to the annual fee required by 23-2-512  
 7 for filing of the application for a certificate of number.

8 (2) The fee imposed by subsection (1) need not be paid  
 9 by a dealer for motorboats, or sailboats, personal  
 10 watercraft, motorized canoes, motorized rubber rafts, or  
 11 motorized pontoons that constitute inventory of the  
 12 dealership. ~~{Applicable---to---motorboats---and---sailboats~~  
 13 ~~registered-on-or-after-January-1,-1988-}~~"

14 **Section 5.** Section 23-2-517, MCA, is amended to read:

15 "23-2-517. Fees for motorboats, and sailboats,  
 16 personal watercraft, motorized canoes, motorized rubber  
 17 rafts, and motorized pontoons. (1) The owner of a motorboat  
 18 10 feet in length or longer or a sailboat 12 feet in length  
 19 or longer shall pay a fee based on the length and age of the  
 20 motorboat or sailboat: as follows:

21 ~~{2}~~(a) The fee schedule for a motorboat at least 10  
 22 feet in length but less than 14 feet in length or sailboat  
 23 at least 12 feet in length but less than 14 feet in length  
 24 is ~~\$7.50-~~ as follows:

25 (i) for a motorboat or sailboat less than 5 years of

1 age, \$7.50;

2 (ii) for a motorboat or sailboat 5 years of age or  
 3 older but less than 10 years of age, \$5.65; and

4 (iii) for a motorboat or sailboat 10 years of age or  
 5 older, \$3.75.

6 ~~{3}~~(b) The fee schedule for a motorboat or sailboat at  
 7 least 14 feet in length but less than 16 feet in length is  
 8 ~~\$15-~~ as follows:

9 (i) for a motorboat or sailboat less than 5 years of  
 10 age, \$15;

11 (ii) for a motorboat or sailboat 5 years of age or  
 12 older but less than 10 years of age, \$11.25; and

13 (iii) for a motorboat or sailboat 10 years of age or  
 14 older, \$7.50.

15 ~~{4}~~(c) The fee schedule for a motorboat or sailboat at  
 16 least 16 feet in length but less than 17 feet in length is  
 17 ~~\$32-~~ as follows:

18 (i) for a motorboat or sailboat less than 5 years of  
 19 age, \$32;

20 (ii) for a motorboat or sailboat 5 years of age or  
 21 older but less than 10 years of age, \$24; and

22 (iii) for a motorboat or sailboat 10 years of age or  
 23 older, \$16.

24 ~~{5}~~(d) The fee schedule for a motorboat or sailboat at  
 25 least 17 feet in length but less than 19 feet in length is

\$3-a-foot-or-fraction-of-a-foot, as follows:

(i) for a motorboat or sailboat less than 5 years of age, \$3 a foot or fraction of a foot;

(ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$2.25 a foot or fraction of a foot; and

(iii) for a motorboat or sailboat 10 years of age or older, \$1.50 a foot or fraction of a foot.

†6†(e) The fee schedule for a motorboat or sailboat 19 feet in length or longer is \$4-a-foot-or-fraction-of-a-foot, as follows:

(i) for a motorboat or sailboat less than 5 years of age, \$4 a foot or fraction of a foot;

(ii) for a motorboat or sailboat 5 years of age or older but less than 10 years of age, \$3 a foot or fraction of a foot; and

(iii) for a motorboat or sailboat 10 years of age or older, \$2 a foot or fraction of a foot.

(2) The owner of a personal watercraft shall pay a fee based on the age of the watercraft as follows:

(a) The fee for a personal watercraft less than 4 years of age is \$22.

(b) The fee for a personal watercraft 4 years of age or older is \$15.

(3) The fee for a motorized canoe, A CANOE OR KAYAK

PROPELLED BY WIND, or A motorized rubber raft is \$7.50, regardless of its length or age.

(4) The fee for a motorized pontoon is \$20, regardless of its length or age. †Applicable--to--motorboats---and sailboats-registered-on-or-after-January-17-1988.†"

**Section 6.** Section 23-2-518, MCA, is amended to read:

**"23-2-518. Disposition of fees in lieu of tax.** The county treasurer shall distribute all fees in lieu of tax collected on motorboats 10 feet in length or longer, and sailboats 12 feet in length or longer, personal watercraft, motorized canoes, motorized rubber rafts, and motorized pontoons pursuant to 23-2-516 and 23-2-517 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. †Applicable-to motorboats-and-sailboats-registered-on-or-after-January-17-1988.†"

**Section 7.** Section 23-2-519, MCA, is amended to read:

**"23-2-519. Penalty -- disposition.** (1) Failure to pay the fee in lieu of tax as provided for in 23-2-517 is a misdemeanor, punishable by a fine equal to five times the fee in lieu of tax that is due on the motorboat, or sailboat, personal watercraft, motorized canoe, motorized rubber raft, or motorized pontoon for the current year of registration.

(2) All fines collected pursuant to subsection (1) must be distributed in the following ratio:

(a) 50% to the general fund of the county in which the motorboat, or sailboat, personal watercraft, motorized canoe, motorized rubber raft, or motorized pontoon is issued a certification number; and

(b) 50% to the motorboat account of the state special revenue fund for use by the department in the enforcement of this part. ~~{Applicable---to---motorboats---and---sailboats registered-on-or-after-January-17-1988-}~~"

NEW SECTION. **Section 8.** 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 9.** Retroactive applicability date. [This act] applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1988.

NEW SECTION. **Section 10.** Effective date. [This act] is effective on passage and approval.

-End-

## 1 HOUSE BILL NO. 588

2 INTRODUCED BY MENAHAN, MERCER, KADAS,

3 EUDAILY, WHALEN, DRISCOLL, LYNCH

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE FEE IN  
6 LIEU OF TAX ON BOATS AND EXTENDING THE FEE TO INCLUDE  
7 MOTORIZED PONTOONS AND PERSONAL WATERCRAFT; PROVIDING A  
8 VARIABLE FEE SCHEDULE; AMENDING SECTIONS 23-2-502, 23-2-512,  
9 AND 23-2-515 THROUGH 23-2-519, MCA; AND PROVIDING AN  
10 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY  
11 DATE."  
12

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

14 Section 1. Section 23-2-502, MCA, is amended to read:

15 "23-2-502. Definitions. As used in this part, unless  
16 the context clearly requires a different meaning, the  
17 following definitions apply:

18 (1) "Certificate of number" means the certificate  
19 issued annually by the county treasurer to the owner of a  
20 motorboat or by the department of justice to dealers or  
21 manufacturers, assigning such motorboat an identifying  
22 number and containing such information as required.

23 (2) "Certificate of ownership" means a certificate  
24 issued by the department of justice identifying the owner of  
25 a motorboat or sailboat 12 feet in length or longer.

1 (3) "Dealer" means any person who engages in whole or  
2 in part in the business of buying, selling, or exchanging  
3 new and unused vessels or used vessels, or both, either  
4 outright or on conditional sale, bailment, lease, chattel  
5 mortgage, or otherwise, and who has an established place of  
6 business for sale, trade, and display of vessels. A yacht  
7 broker is a dealer.

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

10 (5) "Documented vessel" means a vessel which has and  
11 is required to have a valid marine document as a vessel of  
12 the United States.

13 (6) "Identifying number" means the boat number set  
14 forth in the certificate of number and properly displayed on  
15 the motorboat.

16 (7) "License decals" means the serially numbered  
17 license stickers issued annually by the county treasurer and  
18 displayed as required by law.

19 (8) "Lienholder" means a person holding a security  
20 interest.

21 (9) "Manufacturer" means any person engaged in the  
22 business of manufacturing or importing new and unused  
23 vessels or new and unused outboard motors for the purpose of  
24 sale or trade.

25 (10) "Motorboat" means any vessel, including a canoe,

1 KAYAK, rubber raft, or pontoon, propelled by any machinery,  
 2 motor, or engine of any description, whether or not such  
 3 machinery, motor, or engine is the principal source of  
 4 propulsion. The term includes boats temporarily equipped  
 5 with detachable motors or engines but does not include a  
 6 vessel which has a valid marine document issued by the U.S.  
 7 coast guard of the United States government or any federal  
 8 agency successor thereto.

9 (11) "Operate" means to navigate or otherwise use a  
 10 motorboat or a vessel.

11 (12) "Operator" means the person who navigates, drives,  
 12 or is otherwise in immediate control of a motorboat or  
 13 vessel.

14 (13) "Owner" means a person, other than a lien holder,  
 15 having the property in or title to a motorboat or vessel.  
 16 The term includes a person entitled to the use or possession  
 17 of a motorboat or vessel subject to an interest in another  
 18 person, reserved or created by an agreement securing payment  
 19 or performance of an obligation, but the term excludes a  
 20 lessee under a lease not intended as security.

21 (14) "Passenger" means every person carried on board a  
 22 vessel other than:

23 (a) the owner or his representative;

24 (b) the operator;

25 (c) bona fide members of the crew engaged in the

1 business of the vessel who have contributed no consideration  
 2 for their carriage and who are paid for their services; or

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

6 (15) "Person" means an individual, partnership, firm,  
 7 corporation, association, or other entity.

8 (16) "Personal watercraft" means any vessel 12 FEET IN  
 9 LENGTH OR LESS that uses an internal combustion engine  
 10 powering a water jet pump as its primary source of  
 11 propulsion and that is designed to be operated by a person  
 12 in a sitting, standing, or kneeling position.

13 ~~(16)~~(17) "Security interest" means an interest that is  
 14 reserved or created by an agreement that secures payment or  
 15 performance of an obligation and is valid against third  
 16 parties generally.

17 ~~(17)~~(18) "Uniform state waterway marking system" means  
 18 one of two categories:

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

21 (b) a system of regulatory markers to warn a vessel  
 22 operator of dangers or to provide general information and  
 23 directions.

24 ~~(18)~~(19) "Vessel" means every description of  
 25 watercraft, unless otherwise defined by the department,

other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~{19}~~(20) "Waters of this state" means any waters within the territorial limits of this state. ~~{Subsections-{2}-{3}-{4}-{5}-{6}-{7}-{8}-{9}-and-{16}-effective-July-1, 1988--sec-8,--Ch-433,--B,--1987-}~~"

**Section 2.** Section 23-2-512, MCA, is amended to read:

"23-2-512. Identification number. (1) The owner of each motorboat, or sailboat, or personal watercraft requiring numbering by this state shall file an application for number in the office of the county treasurer where the motorboat, or sailboat, or personal watercraft is owned, on forms prepared and furnished by the department of justice. The application must be signed by the owner of the motorboat, or sailboat, or personal watercraft and be accompanied by a fee of \$2. Any alteration, change, or false statement contained in the application will render the certificate of number void. Upon receipt of the application in approved form, the county treasurer shall issue to the applicant a certificate of number prepared and furnished by the department of justice, stating the number assigned to the motorboat, or sailboat, or personal watercraft and the name and address of the owner.

(2) The applicant, upon the filing of the application, shall pay to the county treasurer the fee in lieu of tax

required for a motorboat 10 feet in length or longer, or a sailboat 12 feet in length or longer, or a personal watercraft for the current year of certification before the application for certification or recertification may be accepted by the county treasurer.

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

(4) If an agency of the United States government has in force a comprehensive system of identification numbering for motorboats in the United States, the numbering system employed pursuant to this part by the department of justice must be in conformity.

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

(6) Certificates of number expire on December 31 of each year and may not be in effect unless renewed under this

1 part.

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

16 (8) A holder of a certificate of number shall notify  
17 the county treasurer within reasonable time if his address  
18 no longer conforms to the address appearing on the  
19 certificate and furnish the county treasurer with his new  
20 address. The department of justice may provide by rule for  
21 the surrender of the certificate bearing the former address  
22 and its replacement with a certificate bearing the new  
23 address or the alteration of an outstanding certificate to  
24 show the new address of the holder.

25 (9) (a) The number assigned must be painted on or

1 attached to each outboard side of the forward half of the  
2 motorboat, or sailboat, or personal watercraft or, if there  
3 are no such sides, at a corresponding location on both  
4 outboard sides of the foredeck of the motorboat, or  
5 sailboat, or personal watercraft. The number assigned must  
6 read from left to right in Arabic numerals and block  
7 characters of good proportion at least 3 inches tall  
8 excluding border or trim of a color that contrasts with the  
9 color of the background and be so maintained as to be  
10 clearly visible and legible. The number may not be placed on  
11 the obscured underside of the flared bow where it cannot be  
12 easily seen from another vessel or ashore. No numerals,  
13 letters, or devices other than those used in connection with  
14 the identifying number issued may be placed in the proximity  
15 of the identifying number. No numerals, letters, or devices  
16 that might interfere with the ready identification of the  
17 motorboat, or sailboat, or personal watercraft by its  
18 identifying number may be carried as to interfere with the  
19 motorboat's, or sailboat's, or personal watercraft's  
20 identification. No number other than the number and license  
21 decal assigned to a motorboat, or sailboat, or personal  
22 watercraft or granted reciprocity under this part may be  
23 painted, attached, or otherwise displayed on either side of  
24 the forward half of the motorboat, or sailboat, or personal  
25 watercraft.

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

(c) Boat liveries are not required to have the certificate of number on board each motorboat, or sailboat, or personal watercraft, but a rental agreement must be carried on board livery motorboats, or sailboats, or personal watercraft in place of the certificate of number.

(10) Fees, other than the fee in lieu of tax, collected under this section shall be transmitted to the state treasurer, who shall deposit the fees in the motorboat or sailboat certificate identification account of the state special revenue fund. These fees shall be used only for the administration and enforcement of this part, as amended.

(11) An owner of a motorboat, or sailboat, or personal watercraft must within a reasonable time notify the department of justice, giving the motorboat's, or sailboat's, or personal watercraft's identifying number and the owner's name when the motorboat, or sailboat, or personal watercraft is transferred, lost, destroyed, abandoned, or frauded or within 60 days after change of state of principal use or if a motorboat becomes documented

as a vessel of the United States."

**Section 3.** Section 23-2-515, MCA, is amended to read:

"23-2-515. License decals to be displayed. (1) Every Montana motorboat, or sailboat, or personal watercraft numbered in accordance with the provisions of 23-2-512 and or 23-2-513 shall be required to display license decals. For this purpose the county treasurer, upon proof of payment of the fee in lieu of tax as required by 15-16-202 for motorboats 10 feet in length or longer, and sailboats 12 feet in length or longer, as--required--by--15-16-202 or personal watercraft, shall issue a pair of decals prepared and furnished by the department of justice with all new certificates of number and renewals thereof.

(2) The decals shall be of a style and design prescribed by the department of justice and shall be a color differing from the preceding year. The license decal will be serially numbered and have the expiration date of December 31 of the appropriate year printed thereon.

(3) License decals shall be displayed only in the following manner: one valid license decal on each side of the forward half, 3 inches aft of the identifying numbers."

**Section 4.** Section 23-2-516, MCA, is amended to read:

"23-2-516. Fee in lieu of tax for motorboats 10 feet in length or longer, and sailboats 12 feet in length or longer, personal watercraft, motorized canoes, motorized



1 rubber rafts, and motorized pontoons. (1) There is a fee in  
 2 lieu of property tax as prescribed in 23-2-517 imposed on  
 3 motorboats 10 feet in length or longer, and sailboats 12  
 4 feet in length or longer, personal watercraft, motorized  
 5 canoes, motorized rubber rafts, and motorized pontoons. The  
 6 fee is in addition to the annual fee required by 23-2-512  
 7 for filing of the application for a certificate of number.

8 (2) The fee imposed by subsection (1) need not be paid  
 9 by a dealer for motorboats, or sailboats, personal  
 10 watercraft, motorized canoes, motorized rubber rafts, or  
 11 motorized pontoons that constitute inventory of the  
 12 dealership. ~~(Applicable---to---motorboats---and---sailboats~~  
 13 ~~registered-on-or-after-January-17-1988-.)"~~

14 **Section 5.** Section 23-2-517, MCA, is amended to read:

15 "23-2-517. Fees for motorboats, and sailboats,  
 16 personal watercraft, motorized canoes, motorized rubber  
 17 rafts, and motorized pontoons. (1) The owner of a motorboat  
 18 10 feet in length or longer or a sailboat 12 feet in length  
 19 or longer shall pay a fee based on the length and age of the  
 20 motorboat or sailboat, as follows:

21 ~~(2)(a)~~ The fee schedule for a motorboat at least 10  
 22 feet in length but less than 14 feet in length or sailboat  
 23 at least 12 feet in length but less than 14 feet in length  
 24 is ~~\$7.50~~ as follows:

25 (i) for a motorboat or sailboat less than 5 years of

1 age, \$7.50;

2 (ii) for a motorboat or sailboat 5 years of age or  
 3 older but less than 10 years of age, \$5.65; and

4 (iii) for a motorboat or sailboat 10 years of age or  
 5 older, \$3.75.

6 ~~(3)(b)~~ The fee schedule for a motorboat or sailboat at  
 7 least 14 feet in length but less than 16 feet in length is  
 8 ~~\$15~~ as follows:

9 (i) for a motorboat or sailboat less than 5 years of  
 10 age, \$15;

11 (ii) for a motorboat or sailboat 5 years of age or  
 12 older but less than 10 years of age, \$11.25; and

13 (iii) for a motorboat or sailboat 10 years of age or  
 14 older, \$7.50.

15 ~~(4)(c)~~ The fee schedule for a motorboat or sailboat at  
 16 least 16 feet in length but less than 17 feet in length is  
 17 ~~\$32~~ as follows:

18 (i) for a motorboat or sailboat less than 5 years of  
 19 age, \$32;

20 (ii) for a motorboat or sailboat 5 years of age or  
 21 older but less than 10 years of age, \$24; and

22 (iii) for a motorboat or sailboat 10 years of age or  
 23 older, \$16.

24 ~~(5)(d)~~ The fee schedule for a motorboat or sailboat at  
 25 least 17 feet in length but less than 19 feet in length is

1 \$3-a-foot-or-fraction-of-a-foot, as follows:

2 (i) for a motorboat or sailboat less than 5 years of  
3 age, \$3 a foot or fraction of a foot;

4 (ii) for a motorboat or sailboat 5 years of age or  
5 older but less than 10 years of age, \$2.25 a foot or  
6 fraction of a foot; and

7 (iii) for a motorboat or sailboat 10 years of age or  
8 older, \$1.50 a foot or fraction of a foot.

9 ~~†6†(e)~~ The fee schedule for a motorboat or sailboat 19  
10 feet in length or longer is \$4-a-foot-or-fraction-of-a-foot-  
11 as follows:

12 (i) for a motorboat or sailboat less than 5 years of  
13 age, \$4 a foot or fraction of a foot;

14 (ii) for a motorboat or sailboat 5 years of age or  
15 older but less than 10 years of age, \$3 a foot or fraction  
16 of a foot; and

17 (iii) for a motorboat or sailboat 10 years of age or  
18 older, \$2 a foot or fraction of a foot.

19 (2) The owner of a personal watercraft shall pay a fee  
20 based on the age of the watercraft as follows:

21 (a) The fee for a personal watercraft less than 4  
22 years of age is \$22.

23 (b) The fee for a personal watercraft 4 years of age  
24 or older is \$15.

25 (3) The fee for a motorized canoe, A CANOE OR KAYAK

1 PROPELLED BY WIND, or A motorized rubber raft is \$7.50,  
2 regardless of its length or age.

3 (4) The fee for a motorized pontoon is \$20, regardless  
4 of its length or age. ~~†Applicable-to-motorboats---and~~  
5 ~~sailboats-registered-on-or-after-January-1,-1988.†~~

6 Section 6. Section 23-2-518, MCA, is amended to read:

7 "23-2-518. Disposition of fees in lieu of tax. The  
8 county treasurer shall distribute all fees in lieu of tax  
9 collected on motorboats 10 feet in length or longer, and  
10 sailboats 12 feet in length or longer, personal watercraft,  
11 motorized canoes, motorized rubber rafts, and motorized  
12 pontoons pursuant to 23-2-516 and 23-2-517 in the relative  
13 proportions required by the levies for state, county, school  
14 district, and municipal purposes in the same manner as  
15 personal property taxes are distributed. ~~†Applicable-to~~  
16 ~~motorboats-and-sailboats-registered-on-or-after-January--1,~~  
17 ~~1988.†~~"

18 Section 7. Section 23-2-519, MCA, is amended to read:

19 "23-2-519. Penalty -- disposition. (1) Failure to pay  
20 the fee in lieu of tax as provided for in 23-2-517 is a  
21 misdemeanor, punishable by a fine equal to five times the  
22 fee in lieu of tax that is due on the motorboat, or  
23 sailboat, personal watercraft, motorized canoe, motorized  
24 rubber raft, or motorized pontoon for the current year of  
25 registration.

1       (2) All fines collected pursuant to subsection (1)  
2 must be distributed in the following ratio:

3       (a) 50% to the general fund of the county in which the  
4 motorboat, or sailboat, personal watercraft, motorized  
5 canoe, motorized rubber raft, or motorized pontoon is issued  
6 a certification number; and

7       (b) 50% to the motorboat account of the state special  
8 revenue fund for use by the department in the enforcement of  
9 this part. ~~{Applicable---to--motorboats--and--sailboats~~  
10 ~~registered-on-or-after-January-1,--1988;}~~"

11       NEW SECTION. Section 8. Extension of authority. Any  
12 existing authority to make rules on the subject of the  
13 provisions of [this act] is extended to the provisions of  
14 [this act].

15       NEW SECTION. Section 9. Retroactive applicability  
16 date. [This act] applies retroactively, within the meaning  
17 of 1-2-109, to taxable years beginning after December 31,  
18 1988.

19       NEW SECTION. Section 10. Effective date. [This act]  
20 is effective on passage and approval.

-End-