

SENATE BILL NO. 365
INTRODUCED BY BECK, CAMPBELL
BY REQUEST OF THE ATTORNEY GENERAL

IN THE SENATE

FEBRUARY 7, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY.
	FIRST READING.
FEBRUARY 13, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 14, 1989	PRINTING REPORT.
FEBRUARY 15, 1989	SECOND READING, DO PASS.
FEBRUARY 16, 1989	ENGROSSING REPORT.
FEBRUARY 17, 1989	THIRD READING, PASSED. AYES, 49; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT.
FEBRUARY 20, 1989	FIRST READING.
MARCH 3, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	CONSIDERATION PASSED FOR THE DAY.
MARCH 6, 1989	SECOND READING, CONCURRED IN.
MARCH 7, 1989	THIRD READING, CONCURRED IN. AYES, 92; NOES, 3.
	RETURNED TO SENATE.

MARCH 8, 1989

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. 365
2 INTRODUCED BY *Mr. J. Campbell*
3 BY REQUEST OF THE ATTORNEY GENERAL
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
6 FILING OF SECURITY INTERESTS FOR BOATS; AND AMENDING
7 SECTIONS 23-2-508 AND 30-9-203, MCA."
8

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

10 **Section 1.** Section 23-2-508, MCA, is amended to read:

11 "**23-2-508. Certificate of ownership -- filing of**
12 **security interests.** (1) Except as provided in subsection
13 (9), no a motorboat or sailboat 12 feet in length or longer
14 may not be operated upon the waters of the state unless a
15 certificate of ownership has first been obtained from the
16 department of justice in accordance with the laws of this
17 state.

18 (2) The owner of a motorboat or sailboat 12 feet in
19 length or longer shall apply for a certificate of ownership
20 and a certificate of number with the county treasurer of the
21 county in which the owner resides, upon forms furnished by
22 the department of justice. The forms must require the
23 following information:

24 (a) name of the owner;

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

1 (c) business or home address of the owner;
2 (d) name and address of any lienholder;
3 (e) amount due under any contract or lien;
4 (f) name of the manufacturer;
5 (g) model number or name;
6 (h) identification number;
7 (i) name and address of the dealer or other person from
8 whom acquired, if known; and
9 (j) such other information as the department of justice
10 may require.

11 (3) The application is to be accompanied by
12 documentation of ownership, such as an invoice, bill of
13 sale, foreign title, official certificate of boat number,
14 fee in lieu of tax receipt, or a certificate of ownership of
15 a trailer purchased with the motorboat or sailboat. An
16 applicant who fails to provide such proof of ownership shall
17 provide a certified statement describing how the motorboat
18 or sailboat 12 feet in length or longer was acquired, from
19 whom acquired if known, and other information requested by
20 the department of justice.

21 (4) If a certificate of ownership has previously been
22 issued under the provisions of this part, the application
23 for a new certificate must be accompanied by the immediately
24 previous certificate. This subsection does not apply to
25 motorboats or sailboats 12 feet in length or longer that are

1 purchased as new and unused vessels or that were operated
2 when the provisions of this part were not in force and
3 effect.

4 (5) Any motorboat or sailboat 12 feet in length or
5 longer that does not have a manufacturer's or other
6 identifying number thereon must be assigned an
7 identification number by the department of fish, wildlife,
8 and parks. A fee of \$1 must be paid to the department for an
9 assignment of number.

10 (6) Upon completion of the application, the county
11 treasurer shall issue to the applicant two copies of the
12 certificate of number application, one of which must be
13 marked "file copy". The treasurer shall forward one copy and
14 the original application for a certificate of ownership to
15 the department of justice, which shall enter the information
16 contained in the application upon the corresponding records
17 of its office, and shall furnish the applicant a certificate
18 of ownership containing that information in the application
19 considered necessary by the department and a permanent boat
20 number. The certificate of ownership need not be renewed
21 annually and is valid as long as the person holding it owns
22 the vessel.

23 (7) The owner shall at all times retain possession of
24 the certificate of ownership, except when it is being
25 transmitted to and from the department of justice for

1 endorsement or cancellation.

2 (8) Upon application for a certificate of ownership, a
3 fee of \$6 must be paid to the county treasurer, \$4 of which
4 must be forwarded by the county treasurer to the department
5 of justice and deposited in the motor vehicle recording
6 account of the state special revenue fund.

7 (9) A person who, on July 1, 1988, is the owner of a
8 motorboat or sailboat 12 feet in length or longer with a
9 valid certificate of number issued by the state is not
10 required to file an application for a certificate of
11 ownership for the motorboat or sailboat unless he transfers
12 a part of his interest in the motorboat or sailboat or he
13 renews the certificate of number for the motorboat or
14 sailboat.

15 (10) A security interest in a boat is not valid as
16 against creditors, subsequent purchasers, or encumbrancers
17 unless a lien notice, on a form approved by the department
18 of justice, showing that a security interest has been
19 created and has been filed with the department of justice as
20 provided in this section. The department of justice may not
21 file a security interest or other lien unless it is
22 accompanied by or specified in the application for a
23 certificate of ownership of the boat encumbered. If the
24 lien notice is transmitted to the department of justice, the
25 security agreement or other lien instrument that creates the

1 security interest must be retained by the secured party. A
 2 copy of the security agreement is sufficient as a lien
 3 notice if it contains the name and address of the debtor and
 4 the secured party, the complete boat description, the amount
 5 of the lien, and the signature of the debtor. The
 6 department of justice shall file the security interest or
 7 lien by entering the name and address of the secured party
 8 upon the face of the certificate of ownership. The
 9 department of justice shall mail a statement certifying the
 10 filing of a security interest or lien to the secured party.
 11 The department of justice shall mail the certificate of
 12 ownership to the owner at the address given on the
 13 certificate; however, if the transfer of ownership and
 14 filing of the security interest are paid for by a creditor
 15 or secured party, the department of justice shall return the
 16 certificate of ownership to the county treasurer of the
 17 county where the boat is to be registered. The owner of a
 18 boat is the person entitled to operate and possess the boat.

19 (11) A security interest in a boat held as inventory by
 20 a dealer must be perfected in accordance with Title 30,
 21 chapter 9, and no endorsement on the certificate of title is
 22 necessary for perfection.

23 (12) Whenever a security interest or lien is filed
 24 against a boat that is subject to two security interests
 25 previously perfected by filing under this section, the

1 department of justice shall endorse on the face of the
 2 certificate of ownership: "NOTICE. This boat is subject to
 3 additional security interest on file with the Department of
 4 Justice." No other information regarding the additional
 5 security interests need be endorsed on the certificate.

6 (13) Satisfactions or statements of release filed with
 7 the department of justice under this part must be retained
 8 for a period of 8 years after receipt, after which they may
 9 be destroyed.

10 (14) The filing of a security interest or other lien as
 11 herein provided perfects a security interest that has
 12 attached at the time the certificate of ownership noting the
 13 interest is issued. Issuance of a certificate of ownership
 14 constitutes constructive notice to subsequent purchasers or
 15 encumbrancers, from the time of filing, of the existence of
 16 the security interest.

17 (15) Upon default under a chattel mortgage or
 18 conditional sales contract covering a boat, the mortgagee or
 19 vendor has the same remedies as in the case of other
 20 personal property. In case of attachment of a boat all the
 21 provisions of 27-18-413, 27-18-414, and 27-18-804 are
 22 applicable, except that deposits must be made with the
 23 department of justice.

24 (16) A conditional sales vendor or chattel mortgagee or
 25 assignee who fails to file a satisfaction of a chattel

1 mortgage, assignment, or conditional sales contract within
 2 15 days after receiving final payment is required to pay the
 3 department of justice the sum of \$1 for each day that he
 4 fails to file the satisfaction.

5 (17) Upon receipt of any liens, notice of liens
 6 dependent on possession, or attachments against the record
 7 of any boat registered in this state, the department of
 8 justice shall within 24 hours mail to the owner, conditional
 9 sales vendor, mortgagee, or their assignee a notice showing
 10 the name and address of the lien claimant, the amount of the
 11 lien, the date of execution of the lien, and, in the case of
 12 attachment, the full title of the court, the action, and the
 13 name of the attorney for the plaintiff or the name of the
 14 attaching creditor, or both.

15 (18) It is not necessary to refile with the department
 16 of justice any instruments on file in the office of any
 17 county clerk and recorder on [the effective date of this
 18 act].

19 (19) A fee of \$4 must be paid to the department of
 20 justice to file any security interest or other lien against
 21 a boat. The \$4 fee must cover the cost of filing a
 22 satisfaction or release of the security interest and the
 23 cost of entering the satisfaction or release on the records
 24 of the department of justice and deleting the endorsement of
 25 the security interest from the face of the certificate of

1 ownership. A fee of \$4 must be paid to the department of
 2 justice for issuing a certified copy of a certificate of
 3 ownership subject to a security interest or other lien on
 4 file with the department of justice or for filing an
 5 assignment of any security interest or other lien on file
 6 with the department of justice. All fees provided for in
 7 this section must be paid to the county treasurer for
 8 deposit in the motor vehicle recording account of the state
 9 special revenue fund in accordance with 15-1-504."

10 **Section 2.** Section 30-9-203, MCA, is amended to read:

11 **"30-9-203. Attachment and enforceability of security**
 12 **interest -- proceeds, formal requisites. (1) Subject to the**
 13 **provisions of 30-4-208 on the security interest of a**
 14 **collecting bank, 30-8-321 on security interests in**
 15 **securities, and 30-9-113 on a security interest arising**
 16 **under the Chapter on Sales, a security interest is not**
 17 **enforceable against the debtor or third parties with respect**
 18 **to the collateral and does not attach unless:**

19 (a) the collateral is in the possession of the secured
 20 party pursuant to agreement or the debtor has signed a
 21 security agreement which contains a description of the
 22 collateral and in addition, when the security interest
 23 covers crops growing or to be grown or timber to be cut, a
 24 description of the land concerned;

25 (b) value has been given; and

1 (c) the debtor has rights in the collateral.

2 (2) A security interest attaches when it becomes
3 enforceable against the debtor with respect to the
4 collateral. Attachment occurs as soon as all of the events
5 specified in subsection (1) have taken place unless explicit
6 agreement postpones the time of attaching.

7 (3) Unless otherwise agreed a security agreement gives
8 the secured party the rights to proceeds provided by
9 30-9-306.

10 (4) A transaction, although subject to this chapter, is
11 also subject to Title 23, chapter 2, part 5, to Title 32,
12 chapter 5, as enacted by Chapter 283, Laws of Montana 1959,
13 to Title 31, chapter 1, part 2, as enacted by Chapter 282,
14 Laws of Montana 1959, and to 81-8-301 through 81-8-305,
15 Title 61, chapter 3, Title 16, chapters 1 through 6, and
16 Title 31, chapter 1, part 4, as amended, and in the case of
17 conflict between the provisions of this chapter and any such
18 statute, the provisions of such statute control. Failure to
19 comply with any applicable statute has only the effect which
20 is specified therein."

21 NEW SECTION. **Section 3.** Extension of authority. Any
22 existing authority to make rules on the subject of the
23 provisions of [this act] is extended to the provisions of
24 [this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB365, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act to provide for the filing of security interests for boats; and amending Sections 23-2-508 and 30-9-203, MCA.

ASSUMPTIONS:

2,700 boat titles will be processed each year of the biennium, with 40% requiring the filing of a security interest.

FISCAL IMPACT:

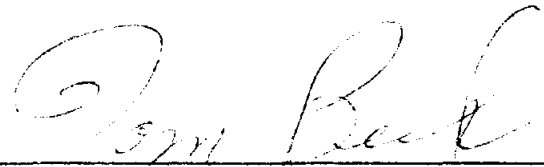
	Current	FY90 Proposed		Current	FY91 Proposed	
Revenue:	Law	Law	Difference	Law	Law	Difference
Motor Vehicle Account	\$ -0-	\$4,300	\$4,300	\$ -0-	\$4,300	\$4,300



DATE

2/14/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING



DATE

2/14/89

TOM BECK, PRIMARY SPONSOR

Fiscal Note for SB365, as introduced

SB 365

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

SENATE BILL NO. 365

INTRODUCED BY BECK, CAMPBELL

BY REQUEST OF THE ATTORNEY GENERAL

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
FILING OF SECURITY INTERESTS FOR BOATS; AND AMENDING
SECTIONS 23-2-508 AND 30-9-203, MCA."

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

Section 1. Section 23-2-508, MCA, is amended to read:

"23-2-508. Certificate of ownership -- filing of
security interests. (1) Except as provided in subsection
(9), no a motorboat or sailboat 12 feet in length or longer
may not be operated upon the waters of the state unless a
certificate of ownership has first been obtained from the
department of justice in accordance with the laws of this
state.

(2) The owner of a motorboat or sailboat 12 feet in
length or longer shall apply for a certificate of ownership
and a certificate of number with the county treasurer of the
county in which the owner resides, upon forms furnished by
the department of justice. The forms must require the
following information:

(a) name of the owner;

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

(c) business or home address of the owner;

(d) name and address of any lienholder;

(e) amount due under any contract or lien;

(f) name of the manufacturer;

(g) model number or name;

(h) identification number;

(i) name and address of the dealer or other person
from whom acquired, if known; and

(j) such other information as the department of
justice may require.

(3) The application is to be accompanied by
documentation of ownership, such as an invoice, bill of
sale, foreign title, official certificate of boat number,
fee in lieu of tax receipt, or a certificate of ownership of
a trailer purchased with the motorboat or sailboat. An
applicant who fails to provide such proof of ownership shall
provide a certified statement describing how the motorboat
or sailboat 12 feet in length or longer was acquired, from
whom acquired if known, and other information requested by
the department of justice.

(4) If a certificate of ownership has previously been
issued under the provisions of this part, the application
for a new certificate must be accompanied by the immediately
previous certificate. This subsection does not apply to
motorboats or sailboats 12 feet in length or longer that are

1 purchased as new and unused vessels or that were operated
2 when the provisions of this part were not in force and
3 effect.

4 (5) Any motorboat or sailboat 12 feet in length or
5 longer that does not have a manufacturer's or other
6 identifying number thereon must be assigned an
7 identification number by the department of fish, wildlife,
8 and parks. A fee of \$1 must be paid to the department for an
9 assignment of number.

10 (6) Upon completion of the application, the county
11 treasurer shall issue to the applicant two copies of the
12 certificate of number application, one of which must be
13 marked "file copy". The treasurer shall forward one copy and
14 the original application for a certificate of ownership to
15 the department of justice, which shall enter the information
16 contained in the application upon the corresponding records
17 of its office, and shall furnish the applicant a certificate
18 of ownership containing that information in the application
19 considered necessary by the department and a permanent boat
20 number. The certificate of ownership need not be renewed
21 annually and is valid as long as the person holding it owns
22 the vessel.

23 (7) The owner shall at all times retain possession of
24 the certificate of ownership, except when it is being
25 transmitted to and from the department of justice for

1 endorsement or cancellation.

2 (8) Upon application for a certificate of ownership, a
3 fee of \$6 must be paid to the county treasurer, \$4 of which
4 must be forwarded by the county treasurer to the department
5 of justice and deposited in the motor vehicle recording
6 account of the state special revenue fund.

7 (9) A person who, on July 1, 1988, is the owner of a
8 motorboat or sailboat 12 feet in length or longer with a
9 valid certificate of number issued by the state is not
10 required to file an application for a certificate of
11 ownership for the motorboat or sailboat unless he transfers
12 a part of his interest in the motorboat or sailboat or he
13 renews the certificate of number for the motorboat or
14 sailboat.

15 (10) A security interest in a boat is not valid as
16 against creditors, subsequent purchasers, or encumbrancers
17 unless a lien notice, on-a-form-approved-by-the-department
18 of-justice, showing that a security interest has been
19 created, and has been filed with the department of justice
20 as provided in this section. THE LIEN NOTICE MUST BE FILED
21 ON A FORM APPROVED BY THE DEPARTMENT. The department of
22 justice may not file a security interest or other lien
23 unless it is accompanied by or specified in the application
24 for a certificate of ownership of the boat encumbered. If
25 the lien notice is transmitted to the department of justice,

1 the security agreement or other lien instrument that creates
 2 the security interest must be retained by the secured party.
 3 A copy of the security agreement is sufficient as a lien
 4 notice if it contains the name and address of the debtor and
 5 the secured party, the complete boat description, the amount
 6 of the lien, and the signature of the debtor. The department
 7 of justice shall file the security interest or lien by
 8 entering the name and address of the secured party upon the
 9 face of the certificate of ownership. The department of
 10 justice shall mail a statement certifying the filing of a
 11 security interest or lien to the secured party. The
 12 department of justice shall mail the certificate of
 13 ownership to the owner at the address given on the
 14 certificate; however, if the transfer of ownership and
 15 filing of the security interest are paid for by a creditor
 16 or secured party, the department of justice shall return the
 17 certificate of ownership to the county treasurer of the
 18 county where the boat is to be registered. The owner of a
 19 boat is the person entitled to operate and possess the boat.

20 (11) A security interest in a boat held as inventory by
 21 a dealer must be perfected in accordance with Title 30,
 22 chapter 9, and no endorsement on the certificate of title is
 23 necessary for perfection.

24 (12) Whenever a security interest or lien is filed
 25 against a boat that is subject to two security interests

1 previously perfected by filing under this section, the
 2 department of justice shall endorse on the face of the
 3 certificate of ownership: "NOTICE. This boat is subject to
 4 additional security interest on file with the Department of
 5 Justice." No other information regarding the additional
 6 security interests need be endorsed on the certificate.

7 (13) Satisfactions or statements of release filed with
 8 the department of justice under this part must be retained
 9 for a period of 8 years after receipt, after which they may
 10 be destroyed.

11 (14) The filing of a security interest or other lien as
 12 herein provided perfects a security interest that has
 13 attached at the time the certificate of ownership noting the
 14 interest is issued. Issuance of a certificate of ownership
 15 constitutes constructive notice to subsequent purchasers or
 16 encumbrancers, from the time of filing, of the existence of
 17 the security interest.

18 (15) Upon default under a chattel mortgage or
 19 conditional sales contract covering a boat, the mortgagee or
 20 vendor has the same remedies as in the case of other
 21 personal property. In case of attachment of a boat all the
 22 provisions of 27-18-413, 27-18-414, and 27-18-804 are
 23 applicable, except that deposits must be made with the
 24 department of justice.

25 (16) A conditional sales vendor or chattel mortgagee or

assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of \$1 for each day that he fails to file the satisfaction.

(17) Upon receipt of any liens, notice of liens dependent on possession, or attachments against the record of any boat registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both.

(18) It is not necessary to refile with the department of justice any instruments on file in the office of any county clerk and recorder on [the effective date of this act].

(19) A fee of \$4 must be paid to the department of justice to file any security interest or other lien against a boat. The \$4 fee must cover the cost of filing a satisfaction or release of the security interest and the cost of entering the satisfaction or release on the records of the department of justice and deleting the endorsement of

the security interest from the face of the certificate of ownership. A fee of \$4 must be paid to the department of justice for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file with the department of justice or for filing an assignment of any security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in the motor vehicle recording account of the state special revenue fund in accordance with 15-1-504."

Section 2. Section 30-9-203, MCA, is amended to read:

"30-9-203. Attachment and enforceability of security interest -- proceeds, formal requisites. (1) Subject to the provisions of 30-4-208 on the security interest of a collecting bank, 30-8-321 on security interests in securities, and 30-9-113 on a security interest arising under the Chapter on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

(a) the collateral is in the possession of the secured party pursuant to agreement or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned;

1 (b) value has been given; and

2 (c) the debtor has rights in the collateral.

3 (2) A security interest attaches when it becomes
4 enforceable against the debtor with respect to the
5 collateral. Attachment occurs as soon as all of the events
6 specified in subsection (1) have taken place unless explicit
7 agreement postpones the time of attaching.

8 (3) Unless otherwise agreed a security agreement gives
9 the secured party the rights to proceeds provided by
10 30-9-306.

11 (4) A transaction, although subject to this chapter,
12 is also subject to Title 23, chapter 2, part 5, to Title 32,
13 chapter 5, as enacted by Chapter 283, Laws of Montana 1959,
14 to Title 31, chapter 1, part 2, as enacted by Chapter 282,
15 Laws of Montana 1959, and to 81-8-301 through 81-8-305,
16 Title 61, chapter 3, Title 16, chapters 1 through 6, and
17 Title 31, chapter 1, part 4, as amended, and in the case of
18 conflict between the provisions of this chapter and any such
19 statute, the provisions of such statute control. Failure to
20 comply with any applicable statute has only the effect which
21 is specified therein."

22 NEW SECTION. **Section 3. Extension of authority.** Any
23 existing authority to make rules on the subject of the
24 provisions of [this act] is extended to the provisions of
25 [this act].

-End-

SENATE BILL NO. 365

INTRODUCED BY BECK, CAMPBELL

BY REQUEST OF THE ATTORNEY GENERAL

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
FILING OF SECURITY INTERESTS FOR BOATS; AND AMENDING
SECTIONS 23-2-508 AND 30-9-203, MCA."

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

Section 1. Section 23-2-508, MCA, is amended to read:

"23-2-508. Certificate of ownership -- filing of security interests. (1) Except as provided in subsection (9), no a motorboat or sailboat 12 feet in length or longer may not be operated upon the waters of the state unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state.

(2) The owner of a motorboat or sailboat 12 feet in length or longer shall apply for a certificate of ownership and a certificate of number with the county treasurer of the county in which the owner resides, upon forms furnished by the department of justice. The forms must require the following information:

(a) name of the owner;

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

(c) business or home address of the owner;

(d) name and address of any lienholder;

(e) amount due under any contract or lien;

(f) name of the manufacturer;

(g) model number or name;

(h) identification number;

(i) name and address of the dealer or other person
from whom acquired, if known; and

(j) such other information as the department of
justice may require.

(3) The application is to be accompanied by documentation of ownership, such as an invoice, bill of sale, foreign title, official certificate of boat number, fee in lieu of tax receipt, or a certificate of ownership of a trailer purchased with the motorboat or sailboat. An applicant who fails to provide such proof of ownership shall provide a certified statement describing how the motorboat or sailboat 12 feet in length or longer was acquired, from whom acquired if known, and other information requested by the department of justice.

(4) If a certificate of ownership has previously been issued under the provisions of this part, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to motorboats or sailboats 12 feet in length or longer that are

1 purchased as new and unused vessels or that were operated
2 when the provisions of this part were not in force and
3 effect.

4 (5) Any motorboat or sailboat 12 feet in length or
5 longer that does not have a manufacturer's or other
6 identifying number thereon must be assigned an
7 identification number by the department of fish, wildlife,
8 and parks. A fee of \$1 must be paid to the department for an
9 assignment of number.

10 (6) Upon completion of the application, the county
11 treasurer shall issue to the applicant two copies of the
12 certificate of number application, one of which must be
13 marked "file copy". The treasurer shall forward one copy and
14 the original application for a certificate of ownership to
15 the department of justice, which shall enter the information
16 contained in the application upon the corresponding records
17 of its office, and shall furnish the applicant a certificate
18 of ownership containing that information in the application
19 considered necessary by the department and a permanent boat
20 number. The certificate of ownership need not be renewed
21 annually and is valid as long as the person holding it owns
22 the vessel.

23 (7) The owner shall at all times retain possession of
24 the certificate of ownership, except when it is being
25 transmitted to and from the department of justice for

1 endorsement or cancellation.

2 (8) Upon application for a certificate of ownership, a
3 fee of \$6 must be paid to the county treasurer, \$4 of which
4 must be forwarded by the county treasurer to the department
5 of justice and deposited in the motor vehicle recording
6 account of the state special revenue fund.

7 (9) A person who, on July 1, 1988, is the owner of a
8 motorboat or sailboat 12 feet in length or longer with a
9 valid certificate of number issued by the state is not
10 required to file an application for a certificate of
11 ownership for the motorboat or sailboat unless he transfers
12 a part of his interest in the motorboat or sailboat or he
13 renews the certificate of number for the motorboat or
14 sailboat.

15 (10) A security interest in a boat is not valid as
16 against creditors, subsequent purchasers, or encumbrancers
17 unless a lien notice, on-a-form-approved-by-the-department
18 of-justice, showing that a security interest has been
19 created, and has been filed with the department of justice
20 as provided in this section. THE LIEN NOTICE MUST BE FILED
21 ON A FORM APPROVED BY THE DEPARTMENT. The department of
22 justice may not file a security interest or other lien
23 unless it is accompanied by or specified in the application
24 for a certificate of ownership of the boat encumbered. If
25 the lien notice is transmitted to the department of justice,

1 the security agreement or other lien instrument that creates
 2 the security interest must be retained by the secured party.
 3 A copy of the security agreement is sufficient as a lien
 4 notice if it contains the name and address of the debtor and
 5 the secured party, the complete boat description, the amount
 6 of the lien, and the signature of the debtor. The department
 7 of justice shall file the security interest or lien by
 8 entering the name and address of the secured party upon the
 9 face of the certificate of ownership. The department of
 10 justice shall mail a statement certifying the filing of a
 11 security interest or lien to the secured party. The
 12 department of justice shall mail the certificate of
 13 ownership to the owner at the address given on the
 14 certificate; however, if the transfer of ownership and
 15 filing of the security interest are paid for by a creditor
 16 or secured party, the department of justice shall return the
 17 certificate of ownership to the county treasurer of the
 18 county where the boat is to be registered. The owner of a
 19 boat is the person entitled to operate and possess the boat.

20 (11) A security interest in a boat held as inventory by
 21 a dealer must be perfected in accordance with Title 30,
 22 chapter 9, and no endorsement on the certificate of title is
 23 necessary for perfection.

24 (12) Whenever a security interest or lien is filed
 25 against a boat that is subject to two security interests

1 previously perfected by filing under this section, the
 2 department of justice shall endorse on the face of the
 3 certificate of ownership: "NOTICE. This boat is subject to
 4 additional security interest on file with the Department of
 5 Justice." No other information regarding the additional
 6 security interests need be endorsed on the certificate.

7 (13) Satisfactions or statements of release filed with
 8 the department of justice under this part must be retained
 9 for a period of 8 years after receipt, after which they may
 10 be destroyed.

11 (14) The filing of a security interest or other lien as
 12 herein provided perfects a security interest that has
 13 attached at the time the certificate of ownership noting the
 14 interest is issued. Issuance of a certificate of ownership
 15 constitutes constructive notice to subsequent purchasers or
 16 encumbrancers, from the time of filing, of the existence of
 17 the security interest.

18 (15) Upon default under a chattel mortgage or
 19 conditional sales contract covering a boat, the mortgagee or
 20 vendor has the same remedies as in the case of other
 21 personal property. In case of attachment of a boat all the
 22 provisions of 27-18-413, 27-18-414, and 27-18-804 are
 23 applicable, except that deposits must be made with the
 24 department of justice.

25 (16) A conditional sales vendor or chattel mortgagee or

assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department of justice the sum of \$1 for each day that he fails to file the satisfaction.

(17) Upon receipt of any liens, notice of liens dependent on possession, or attachments against the record of any boat registered in this state, the department of justice shall within 24 hours mail to the owner, conditional sales vendor, mortgagee, or their assignee a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court, the action, and the name of the attorney for the plaintiff or the name of the attaching creditor, or both.

(18) It is not necessary to refile with the department of justice any instruments on file in the office of any county clerk and recorder on [the effective date of this act].

(19) A fee of \$4 must be paid to the department of justice to file any security interest or other lien against a boat. The \$4 fee must cover the cost of filing a satisfaction or release of the security interest and the cost of entering the satisfaction or release on the records of the department of justice and deleting the endorsement of

the security interest from the face of the certificate of ownership. A fee of \$4 must be paid to the department of justice for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file with the department of justice or for filing an assignment of any security interest or other lien on file with the department of justice. All fees provided for in this section must be paid to the county treasurer for deposit in the motor vehicle recording account of the state special revenue fund in accordance with 15-1-504."

Section 2. Section 30-9-203, MCA, is amended to read:

"30-9-203. Attachment and enforceability of security interest -- proceeds, formal requisites. (1) Subject to the provisions of 30-4-208 on the security interest of a collecting bank, 30-8-321 on security interests in securities, and 30-9-113 on a security interest arising under the Chapter on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

(a) the collateral is in the possession of the secured party pursuant to agreement or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned;

1 (b) value has been given; and

2 (c) the debtor has rights in the collateral.

3 (2) A security interest attaches when it becomes
4 enforceable against the debtor with respect to the
5 collateral. Attachment occurs as soon as all of the events
6 specified in subsection (1) have taken place unless explicit
7 agreement postpones the time of attaching.

8 (3) Unless otherwise agreed a security agreement gives
9 the secured party the rights to proceeds provided by
10 30-9-306.

11 (4) A transaction, although subject to this chapter,
12 is also subject to Title 23, chapter 2, part 5, to Title 32,
13 chapter 5, as enacted by Chapter 283, Laws of Montana 1959,
14 to Title 31, chapter 1, part 2, as enacted by Chapter 282,
15 Laws of Montana 1959, and to 81-8-301 through 81-8-305,
16 Title 61, chapter 3, Title 16, chapters 1 through 6, and
17 Title 31, chapter 1, part 4, as amended, and in the case of
18 conflict between the provisions of this chapter and any such
19 statute, the provisions of such statute control. Failure to
20 comply with any applicable statute has only the effect which
21 is specified therein."

22 NEW SECTION. **Section 3. Extension of authority.** Any
23 existing authority to make rules on the subject of the
24 provisions of [this act] is extended to the provisions of
25 [this act].

-End-

-9-

SB 365

SENATE BILL NO. 365

INTRODUCED BY BECK, CAMPBELL

BY REQUEST OF THE ATTORNEY GENERAL

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE FILING OF SECURITY INTERESTS FOR BOATS; AND AMENDING SECTIONS 23-2-508 AND 30-9-203, MCA."

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

Section 1. Section 23-2-508, MCA, is amended to read:

"23-2-508. Certificate of ownership -- filing of security interests. (1) Except as provided in subsection (9), no a motorboat or sailboat 12 feet in length or longer may not be operated upon the waters of the state unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state.

(2) The owner of a motorboat or sailboat 12 feet in length or longer shall apply for a certificate of ownership and a certificate of number with the county treasurer of the county in which the owner resides, upon forms furnished by the department of justice. The forms must require the following information:

(a) name of the owner;

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

(c) business or home address of the owner;

(d) name and address of any lienholder;

(e) amount due under any contract or lien;

(f) name of the manufacturer;

(g) model number or name;

(h) identification number;

(i) name and address of the dealer or other person from whom acquired, if known; and

(j) such other information as the department of justice may require.

(3) The application is to be accompanied by documentation of ownership, such as an invoice, bill of sale, foreign title, official certificate of boat number, fee in lieu of tax receipt, or a certificate of ownership of a trailer purchased with the motorboat or sailboat. An applicant who fails to provide such proof of ownership shall provide a certified statement describing how the motorboat or sailboat 12 feet in length or longer was acquired, from whom acquired if known, and other information requested by the department of justice.

(4) If a certificate of ownership has previously been issued under the provisions of this part, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to motorboats or sailboats 12 feet in length or longer that are

1 purchased as new and unused vessels or that were operated
2 when the provisions of this part were not in force and
3 effect.

4 (5) Any motorboat or sailboat 12 feet in length or
5 longer that does not have a manufacturer's or other
6 identifying number thereon must be assigned an
7 identification number by the department of fish, wildlife,
8 and parks. A fee of \$1 must be paid to the department for an
9 assignment of number.

10 (6) Upon completion of the application, the county
11 treasurer shall issue to the applicant two copies of the
12 certificate of number application, one of which must be
13 marked "file copy". The treasurer shall forward one copy and
14 the original application for a certificate of ownership to
15 the department of justice, which shall enter the information
16 contained in the application upon the corresponding records
17 of its office, and shall furnish the applicant a certificate
18 of ownership containing that information in the application
19 considered necessary by the department and a permanent boat
20 number. The certificate of ownership need not be renewed
21 annually and is valid as long as the person holding it owns
22 the vessel.

23 (7) The owner shall at all times retain possession of
24 the certificate of ownership, except when it is being
25 transmitted to and from the department of justice for

1 endorsement or cancellation.

2 (8) Upon application for a certificate of ownership, a
3 fee of \$6 must be paid to the county treasurer, \$4 of which
4 must be forwarded by the county treasurer to the department
5 of justice and deposited in the motor vehicle recording
6 account of the state special revenue fund.

7 (9) A person who, on July 1, 1988, is the owner of a
8 motorboat or sailboat 12 feet in length or longer with a
9 valid certificate of number issued by the state is not
10 required to file an application for a certificate of
11 ownership for the motorboat or sailboat unless he transfers
12 a part of his interest in the motorboat or sailboat or he
13 renews the certificate of number for the motorboat or
14 sailboat.

15 (10) A security interest in a boat is not valid as
16 against creditors, subsequent purchasers, or encumbrancers
17 unless a lien notice, on-a-form-approved-by-the-department
18 of-justice, showing that a security interest has been
19 created, and has been filed with the department of justice
20 as provided in this section. THE LIEN NOTICE MUST BE FILED
21 ON A FORM APPROVED BY THE DEPARTMENT. The department of
22 justice may not file a security interest or other lien
23 unless it is accompanied by or specified in the application
24 for a certificate of ownership of the boat encumbered. If
25 the lien notice is transmitted to the department of justice,

1 the security agreement or other lien instrument that creates
 2 the security interest must be retained by the secured party.
 3 A copy of the security agreement is sufficient as a lien
 4 notice if it contains the name and address of the debtor and
 5 the secured party, the complete boat description, the amount
 6 of the lien, and the signature of the debtor. The department
 7 of justice shall file the security interest or lien by
 8 entering the name and address of the secured party upon the
 9 face of the certificate of ownership. The department of
 10 justice shall mail a statement certifying the filing of a
 11 security interest or lien to the secured party. The
 12 department of justice shall mail the certificate of
 13 ownership to the owner at the address given on the
 14 certificate; however, if the transfer of ownership and
 15 filing of the security interest are paid for by a creditor
 16 or secured party, the department of justice shall return the
 17 certificate of ownership to the county treasurer of the
 18 county where the boat is to be registered. The owner of a
 19 boat is the person entitled to operate and possess the boat.

20 (11) A security interest in a boat held as inventory by
 21 a dealer must be perfected in accordance with Title 30,
 22 chapter 9, and no endorsement on the certificate of title is
 23 necessary for perfection.

24 (12) Whenever a security interest or lien is filed
 25 against a boat that is subject to two security interests

1 previously perfected by filing under this section, the
 2 department of justice shall endorse on the face of the
 3 certificate of ownership: "NOTICE. This boat is subject to
 4 additional security interest on file with the Department of
 5 Justice." No other information regarding the additional
 6 security interests need be endorsed on the certificate.

7 (13) Satisfactions or statements of release filed with
 8 the department of justice under this part must be retained
 9 for a period of 8 years after receipt, after which they may
 10 be destroyed.

11 (14) The filing of a security interest or other lien as
 12 herein provided perfects a security interest that has
 13 attached at the time the certificate of ownership noting the
 14 interest is issued. Issuance of a certificate of ownership
 15 constitutes constructive notice to subsequent purchasers or
 16 encumbrancers, from the time of filing, of the existence of
 17 the security interest.

18 (15) Upon default under a chattel mortgage or
 19 conditional sales contract covering a boat, the mortgagee or
 20 vendor has the same remedies as in the case of other
 21 personal property. In case of attachment of a boat all the
 22 provisions of 27-18-413, 27-18-414, and 27-18-804 are
 23 applicable, except that deposits must be made with the
 24 department of justice.

25 (16) A conditional sales vendor or chattel mortgagee or

1 assignee who fails to file a satisfaction of a chattel
 2 mortgage, assignment, or conditional sales contract within
 3 15 days after receiving final payment is required to pay the
 4 department of justice the sum of \$1 for each day that he
 5 fails to file the satisfaction.

6 (17) Upon receipt of any liens, notice of liens
 7 dependent on possession, or attachments against the record
 8 of any boat registered in this state, the department of
 9 justice shall within 24 hours mail to the owner, conditional
 10 sales vendor, mortgagee, or their assignee a notice showing
 11 the name and address of the lien claimant, the amount of the
 12 lien, the date of execution of the lien, and, in the case of
 13 attachment, the full title of the court, the action, and the
 14 name of the attorney for the plaintiff or the name of the
 15 attaching creditor, or both.

16 (18) It is not necessary to refile with the department
 17 of justice any instruments on file in the office of any
 18 county clerk and recorder on [the effective date of this
 19 act].

20 (19) A fee of \$4 must be paid to the department of
 21 justice to file any security interest or other lien against
 22 a boat. The \$4 fee must cover the cost of filing a
 23 satisfaction or release of the security interest and the
 24 cost of entering the satisfaction or release on the records
 25 of the department of justice and deleting the endorsement of

1 the security interest from the face of the certificate of
 2 ownership. A fee of \$4 must be paid to the department of
 3 justice for issuing a certified copy of a certificate of
 4 ownership subject to a security interest or other lien on
 5 file with the department of justice or for filing an
 6 assignment of any security interest or other lien on file
 7 with the department of justice. All fees provided for in
 8 this section must be paid to the county treasurer for
 9 deposit in the motor vehicle recording account of the state
 10 special revenue fund in accordance with 15-1-504."

11 **Section 2.** Section 30-9-203, MCA, is amended to read:

12 **"30-9-203. Attachment and enforceability of security**
 13 **interest -- proceeds, formal requisites. (1) Subject to the**
 14 **provisions of 30-4-208 on the security interest of a**
 15 **collecting bank, 30-8-321 on security interests in**
 16 **securities, and 30-9-113 on a security interest arising**
 17 **under the Chapter on Sales, a security interest is not**
 18 **enforceable against the debtor or third parties with respect**
 19 **to the collateral and does not attach unless:**

20 (a) the collateral is in the possession of the secured
 21 party " pursuant to agreement or the debtor has signed a
 22 security agreement which contains a description of the
 23 collateral and in addition, when the security interest
 24 covers crops growing or to be grown or timber to be cut, a
 25 description of the land concerned;

1 (b) value has been given; and

2 (c) the debtor has rights in the collateral.

3 (2) A security interest attaches when it becomes
4 enforceable against the debtor with respect to the
5 collateral. Attachment occurs as soon as all of the events
6 specified in subsection (1) have taken place unless explicit
7 agreement postpones the time of attaching.

8 (3) Unless otherwise agreed a security agreement gives
9 the secured party the rights to proceeds provided by
10 30-9-306.

11 (4) A transaction, although subject to this chapter,
12 is also subject to Title 23, chapter 2, part 5, to Title 32,
13 chapter 5, as enacted by Chapter 283, Laws of Montana 1959,
14 to Title 31, chapter 1, part 2, as enacted by Chapter 282,
15 Laws of Montana 1959, and to 81-8-301 through 81-8-305,
16 Title 61, chapter 3, Title 16, chapters 1 through 6, and
17 Title 31, chapter 1, part 4, as amended, and in the case of
18 conflict between the provisions of this chapter and any such
19 statute, the provisions of such statute control. Failure to
20 comply with any applicable statute has only the effect which
21 is specified therein."

22 NEW SECTION. Section 3. Extension of authority. Any
23 existing authority to make rules on the subject of the
24 provisions of [this act] is extended to the provisions of
25 [this act].

-End-

-9-