

HOUSE BILL NO. 281

INTRODUCED BY GRADY, FORRESTER, LARSON

IN THE HOUSE

JANUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
FEBRUARY 4, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 5, 1993	PRINTING REPORT.
FEBRUARY 8, 1993	SECOND READING, DO PASS.
FEBRUARY 9, 1993	ENGROSSING REPORT.
FEBRUARY 10, 1993	THIRD READING, PASSED. AYES, 74; NOES, 24.
FEBRUARY 11, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 12, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
MARCH 10, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 11, 1993	SECOND READING, CONCURRED IN.
MARCH 12, 1993	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 2, 1993	THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 281  
 2 INTRODUCED BY Shady L. Lomster  
 3 Jason  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 5 LAWS RELATING TO SNOWMOBILES; ADOPTING ALCOHOL CONCENTRATION  
 6 STANDARDS APPLICABLE TO DRIVING A SNOWMOBILE WHILE UNDER THE  
 7 INFLUENCE OF ALCOHOL; EXEMPTING RACING SNOWMOBILES FROM  
 8 CERTIFICATION AND REGISTRATION REQUIREMENTS; AMENDING  
 9 SECTIONS 23-2-602, 23-2-611, 23-2-615, 23-2-616, 23-2-619,  
 10 23-2-632, 23-2-634, 23-2-635, 23-2-641, 23-2-642, AND  
 11 23-2-654, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

14 **Section 1.** Section 23-2-602, MCA, is amended to read:

15 "23-2-602. Report of stolen and recovered snowmobiles.

16 The sheriff of every county of the state and the chief of  
 17 police or commissioner of police of every city shall make an  
 18 immediate report to the department of justice of all  
 19 snowmobiles reported to--him as stolen or recovered, upon  
 20 forms provided by the department of justice. Upon receipt of  
 21 such the information, the department of justice shall file  
 22 the same report in an index to be known as the "stolen and  
 23 recovered snowmobile index". The department of justice shall  
 24 file reports of stolen and recovered snowmobiles reported to  
 25 it from other states. Once a month the department of justice

1 shall prepare a list of all snowmobiles stolen or recovered  
 2 during the previous month and forward a copy of the same  
 3 list to every sheriff and all police departments in cities  
 4 of the first, second, and third class. Such The list shall  
 5 must also be forwarded to the secretary-of--state--or--other  
 6 proper official in each state of the United States. Before a  
 7 certificate of ownership may be issued under 23-2-601  
 8 through 23-2-644, the motor and serial number on the  
 9 snowmobile for which such the certificate is to be issued  
 10 shall must be checked against the stolen and recovered  
 11 snowmobile index."

12 **Section 2.** Section 23-2-611, MCA, is amended to read:

13 "23-2-611. Certificate of ownership -- filing of  
 14 security interests. (1) A snowmobile may not be operated  
 15 upon any private or public lands, trails, easements, lakes,  
 16 rivers, streams, roadways or shoulders of roadways, streets,  
 17 or highways unless a certificate of ownership has first been  
 18 obtained from the department of justice in accordance with  
 19 the laws of this state. A certificate of ownership is not  
 20 required for a snowmobile purchased prior to [the effective  
 21 date of this act] if use of the snowmobile is restricted to  
 22 private land.

23 (2) The owner of a snowmobile shall apply for a  
 24 certificate of ownership with the county treasurer of the  
 25 county in which the owner resides, upon forms to be

1 furnished for this purpose. The forms must require the  
2 following information:

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

14 (3) The application must be accompanied by  
15 documentation of ownership, such as an invoice, notarized  
16 bill of sale from the immediately previous owner, foreign  
17 title, official certificate of snowmobile number, or fee in  
18 lieu of tax receipt.

19 (4) The application must be signed by at least one  
20 owner or by a properly authorized officer or representative  
21 of the owner.

22 (4)(5) If a certificate of ownership has previously  
23 been issued under the provisions of 23-2-601 through  
24 23-2-644, the application for a new certificate must be  
25 accompanied by the immediately previous certificate. This

1 subsection does not apply to snowmobiles that are purchased  
2 as new and unused machines or that were operated when the  
3 provisions of 23-2-601 through 23-2-644 were not in force  
4 and effect.

5 (5)(6) Upon completion of the application, on forms  
6 furnished by the department of justice, the county treasurer  
7 shall issue to the applicant two copies of the application,  
8 one of which must be marked "file copy". The treasurer shall  
9 forward one copy and the original application to the  
10 department of justice, which shall enter the information  
11 contained in the application upon the corresponding records  
12 of its office and shall furnish the applicant a certificate  
13 of ownership, which must contain that information in the  
14 application considered necessary by the department of  
15 justice, and a permanent ownership number. The certificate  
16 of ownership is not to be renewed annually and is valid as  
17 long as the person holding it owns the snowmobile.

18 (6)(7) The owner shall at all times retain possession  
19 of the certificate of ownership, except when it is being  
20 transmitted to and from the department of justice for  
21 endorsement or cancellation.

22 (7)(8) Upon application for a certificate of ownership,  
23 a fee of \$5 must be paid to the county treasurer, \$3.50 of  
24 which must be forwarded by the county treasurer to the  
25 department of justice and deposited in the general fund.

1        ~~(8)~~(9) A security interest in a snowmobile is not valid  
 2 as against creditors, subsequent purchasers, or  
 3 encumbrancers unless a lien notice, showing that a security  
 4 interest has been created, has been perfected as provided in  
 5 this section. The lien notice must be filed on a form  
 6 approved by the department of justice. The department of  
 7 justice may not file a security interest or other lien  
 8 unless it is accompanied by or specified in the application  
 9 for a certificate of ownership of the snowmobile encumbered.  
 10 If the lien notice is transmitted to the department of  
 11 justice, the security agreement or other lien instrument  
 12 that creates the security interest must be retained by the  
 13 secured party. A copy of the security agreement is  
 14 sufficient as a lien notice if it contains the name and  
 15 address of the debtor and the secured party, the complete  
 16 snowmobile description, the amount of the lien, and the  
 17 signature of the debtor. The department of justice shall  
 18 file the security interest or lien by entering the name and  
 19 address of the secured party upon the face of the  
 20 certificate of ownership. The department of justice shall  
 21 mail a statement certifying the filing of a security  
 22 interest or lien to the secured party. The department of  
 23 justice shall mail the certificate of ownership to the owner  
 24 at the address given on the certificate; however, if the  
 25 transfer of ownership and filing of the security interest

1 are paid for by a creditor or secured party, the department  
 2 of justice shall return the certificate of ownership to the  
 3 county treasurer of the county in which the snowmobile is to  
 4 be registered. The owner of a snowmobile is the person  
 5 entitled to operate and possess the snowmobile.

6        ~~(9)~~(10) A security interest in a snowmobile held as  
 7 inventory by a dealer must be perfected in accordance with  
 8 Title 30, chapter 9, and no endorsement on the certificate  
 9 of title is not necessary for perfection.

10        ~~(10)~~(11) Whenever a security interest or lien is filed  
 11 against a snowmobile that is subject to two security  
 12 interests previously perfected under this section, the  
 13 department of justice shall endorse on the face of the  
 14 certificate of ownership: "NOTICE. This snowmobile is  
 15 subject to additional security interest on file with the  
 16 Department of Justice". ~~No-other~~ Other information regarding  
 17 the additional security interests need not be endorsed on  
 18 the certificate.

19        ~~(11)~~(12) Satisfactions or statements of release filed  
 20 with the department of justice under this part must be  
 21 retained for a period of 8 years after receipt, after which  
 22 they may be destroyed.

23        ~~(12)~~(13) A security interest or other lien as provided  
 24 in this section is perfected on the date the lien notice is  
 25 delivered to the county treasurer. On that date, the county

1 treasurer shall issue to the secured party a receipt  
2 evidencing the perfection. Perfection under this section  
3 constitutes constructive notice to subsequent purchasers or  
4 encumbrancers, from the date of delivery of the lien notice  
5 to the county treasurer, of the existence of the security  
6 interest.

7 ~~{13}~~(14) Upon default under a chattel mortgage or  
8 conditional sales contract covering a snowmobile, the  
9 mortgagee or vendor has the same remedies as in the case of  
10 other personal property. In case of attachment of a  
11 snowmobile, all the provisions of 27-18-413, 27-18-414, and  
12 27-18-804 are applicable, except that deposits must be made  
13 with the department of justice.

14 ~~{14}~~(15) A conditional sales vendor or chattel mortgagee  
15 or assignee who fails to file a satisfaction of a chattel  
16 mortgage, assignment, or conditional sales contract within  
17 15 days after receiving final payment is required to pay the  
18 department of justice the sum of \$1 for each day that he  
19 ~~fails-to-file~~ the satisfaction is not filed.

20 ~~{15}~~(16) Upon receipt of any liens, notice of liens  
21 dependent on possession, or attachments against the record  
22 of any snowmobile registered in this state, the department  
23 of justice shall within 24 hours mail to the owner,  
24 conditional sales vendor, mortgagee, or their assignee a  
25 notice showing the name and address of the lien claimant,

1 the amount of the lien, the date of execution of the lien,  
2 and, in the case of attachment, the full title of the court,  
3 the action, and the name of the attorney for the plaintiff  
4 or the name of the attaching creditor, or both.

5 ~~{16}~~(17) It is not necessary to refile with the  
6 department of justice any instruments on file in the office  
7 of the county clerk and recorder on October 1, 1989.

8 ~~{17}~~(18) A fee of \$4 must be paid to the department of  
9 justice to file any security interest or other lien against  
10 a snowmobile. The \$4 fee must cover the cost of filing a  
11 satisfaction or release of the security interest and the  
12 cost of entering the satisfaction or release on the records  
13 of the department of justice and deleting the endorsement of  
14 the security interest from the face of the certificate of  
15 ownership. A fee of \$4 must be paid to the department of  
16 justice for issuing a certified copy of a certificate of  
17 ownership subject to a security interest or other lien on  
18 file with the department of justice or for filing an  
19 assignment of a security interest or other lien on file with  
20 the department of justice. All fees provided for in this  
21 section must be paid to the county treasurer for deposit in  
22 the general fund in accordance with 15-1-504."

23 **Section 3.** Section 23-2-615, MCA, is amended to read:

24 "23-2-615. Nonresident temporary-use permits -- use of  
25 fees. (1) The requirements pertaining to the nonresident

temporary-snowmobile-use permit are as follows:

(a) Application for the issuance of the permit ~~shall~~ must be made at locations and upon forms prescribed by the department. The forms ~~shall~~ must include but are not limited to:

(i) the applicant's name and permanent address;

(ii) the make, model, year, and serial number of the snowmobile; and

(iii) an affidavit declaring the nonresidency of the applicant.

(b) Upon submission of the application and a fee of \$6, a nonresident temporary-snowmobile-use sticker ~~shall~~ must be issued. The sticker ~~shall~~ must be displayed in a conspicuous manner on the snowmobile.

(2) The temporary permit is valid for a consecutive 30-day period as designated by the permit.

(3) The permit is not proof of ownership, and ~~no~~ a certificate of ownership may not be issued.

(4) A nonresident temporary-snowmobile-use permit is not required for a snowmobile that qualifies as a racing snowmobile under [section 13].

(5) All money collected by payment of fees under this section ~~shall~~ must be turned over to the state treasurer and placed in the state special revenue fund to the credit of the department of fish, wildlife, and parks, with one-half

to be used in administering this section and one-half to be used in the development, maintenance, and operation of snowmobile facilities.

~~(5)~~ (6) The failure to display the permit as required by this section or the making of false statements in obtaining the permit is a misdemeanor, punishable by a fine of not less than \$25 or more than \$100."

**Section 4.** Section 23-2-616, MCA, is amended to read:

"23-2-616. Registration and decals -- application and issuance -- use of certain fees. (1) No A snowmobile may not be operated on public lands by any person in Montana unless it has been registered and there is displayed in a conspicuous place on both sides of the cowl a decal as visual proof that the fee in lieu of property tax has been paid on it for the current year and the immediately previous year as required by 15-16-202.

(2) Application for registration ~~shall~~ must be made to the county treasurer upon forms to be furnished by the department of justice for this purpose, which may be obtained at the county treasurer's office in the county where the owner resides. The application shall contain the following information:

(a) the name and address of the owner;

(b) the certificate of ownership number;

(c) the make of the snowmobile;

1 (d) the model name of the snowmobile;  
 2 (e) the year of manufacture;  
 3 (f) a statement evidencing payment of the fee in lieu  
 4 of property tax as required by 15-16-202; and  
 5 (g) such other information as the department of justice  
 6 may require.

7 (3) The application ~~shall~~ must be accompanied by a  
 8 decal fee of \$2 \$5, a registration fee of 50 cents, and, if  
 9 the snowmobile has previously been registered, by the  
 10 registration certificate for the most recent year in which  
 11 the snowmobile was registered. The treasurer shall sign the  
 12 application and issue a registration receipt ~~which shall~~  
 13 that must contain information considered necessary by the  
 14 department of justice and a listing of fees paid. The owner  
 15 shall retain possession of the registration receipt until it  
 16 is surrendered to the county treasurer for reregistration or  
 17 to a purchaser or subsequent owner pursuant to a transfer of  
 18 ownership.

19 (4) The county treasurer shall forward the signed  
 20 application to the department of justice and shall issue to  
 21 the applicant a decal in the style and design prescribed by  
 22 the department of justice and of a different color than the  
 23 preceding year, numbered in sequence.

24 (5) The county treasurer may not accept any application  
 25 under this section until the applicant has paid the decal

1 and registration fees and the fee in lieu of property tax on  
 2 the snowmobile for the current year and the immediately  
 3 previous year as required by 15-16-202.

4 (6) All money collected from payment of the decal fees  
 5 and all interest accruing from use of this money ~~shall~~ must  
 6 be forwarded to the state treasurer and placed in the state  
 7 special revenue fund to the credit of the department, with  
 8 \$1 \$2.50 designated for use in enforcing the purposes of  
 9 23-2-601 through 23-2-644 and \$1 \$2.50 designated for use in  
 10 the development, maintenance, and operation of snowmobile  
 11 facilities. All money collected from payment of the  
 12 registration fee ~~shall~~ must be forwarded to the state  
 13 treasurer and deposited in the general fund.

14 (7) The county treasurer shall credit all fees in lieu  
 15 of tax collected on snowmobiles to the county motor vehicle  
 16 suspense fund provided for in 61-3-509."

17 **Section 5.** Section 23-2-619, MCA, is amended to read:  
 18 "23-2-619. Dealer registration certificate -- use of  
 19 fees. (1) A dealer registration certificate ~~shall~~ must be  
 20 issued in accordance with 23-2-601 through 23-2-644.

21 (2) The dealer application ~~shall~~ must be accompanied by  
 22 an application fee of \$5 and a registration fee of \$5. Upon  
 23 receipt of the dealer application and payment of fees, the  
 24 dealer shall be issued two dealer snowmobile identification  
 25 cards ~~which shall~~ that must be carried by the dealer or the



1 dealer's customer when demonstrating the dealer's  
2 snowmobiles.

3 (3) No A bond is not required of the dealer.

4 (4) The dealer shall have a principal place of business  
5 where he the dealer shall maintain all his business records  
6 and display and sell merchandise.

7 (5) An applicant for renewal of a snowmobile dealer  
8 registration shall certify that he the applicant has sold 3  
9 5 or more snowmobiles during the preceding year or pay an  
10 additional \$50 renewal registration fee or provide a copy of  
11 a written new snowmobile franchise or sales agreement that  
12 the applicant has with a manufacturer, importer, or  
13 distributor.

14 (6) Additional dealer snowmobile identification cards  
15 as required by need justified to the department of justice  
16 may be purchased by the dealer for a fee of \$2.

17 (7) Dealer registration certificates and identification  
18 cards expire on June 30 following the date of issuance.

19 (8) (a) The dealer application fees and all interest  
20 accruing from use of this money shall must be deposited in  
21 the state special revenue fund to the credit of the  
22 department, with one-half designated for use in enforcing  
23 the purposes of 23-2-601 through 23-2-644 and one-half  
24 designated for use in the development, maintenance, and  
25 operation of snowmobile facilities.

1 (b) All money collected from dealer registration and  
2 renewal registration fees shall must be deposited in the  
3 general fund."

4 **Section 6.** Section 23-2-632, MCA, is amended to read:

5 "23-2-632. Unlawful operation on-streets-and-highways  
6 of snowmobiles. (1) It is unlawful for a person to operate a  
7 snowmobile on a public street, or public highway,  
8 established snowmobile trail, public snowmobile area on  
9 public lands or waters, or lands or waters under easement or  
10 lease for snowmobiling and adjacent snowmobiling areas on  
11 private lands or waters where public snowmobiling is  
12 permitted:

13 (a) at a rate of speed greater than provided by law for  
14 motor vehicles;

15 (b) while under the influence of intoxicating liquor in  
16 violation of the alcohol concentration standards established  
17 in [section 12] or while under the influence of narcotics or  
18 habit-forming drugs;

19 (c) in a careless or reckless manner so as to endanger  
20 the person or property of another or to cause injury or  
21 damage to either; or

22 (d) if that person by reason of age or mental or  
23 physical disability is incapable of operating the snowmobile  
24 safely under the prevailing circumstances.

25 (2) It is unlawful to permit the operation of a

snowmobile on--a--public--street-or-highway in violation of subsection (1) by a person who by reason of age or physical or mental disability is incapable of operating the snowmobile safely under the prevailing circumstances."

**Section 7.** Section 23-2-634, MCA, is amended to read:

"23-2-634. Regulation of snowmobile noise. (1) Except as provided in this section, every snowmobile ~~shall~~ must be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order and in constant operation. No A snowmobile may not be modified by any person in any manner that will amplify or otherwise increase total noise emissions to a level greater than that emitted by the snowmobile as originally constructed, regardless of date of manufacture.

(2) Every person who owns or operates a snowmobile manufactured after June 30, 1972, but prior to June 30, 1975, shall maintain his the machine in such a manner that it will not exceed a sound level limitation of 82 dbA measured at 50 feet.

(3) No-new A snowmobile manufactured after June 30, 1975, except snowmobiles designated for competition purposes only, may not be sold or offered for sale unless that machine has been certified by the manufacturer as being able to conform to a sound level limitation of not more than 78 dbA measured at 50 feet. Every person who owns or operates a

snowmobile manufactured after June 30, 1975, shall maintain his the machine in such a manner that it will not exceed a sound level limitation of 78 dbA measured at 50 feet.

(4) A manufacturer who certifies that a new snowmobile can comply with the noise limitation requirements of 23-2-601 through 23-2-644 shall affix a permanent notice of that certification to every snowmobile offered for sale in the state of Montana.

(5) In certifying that a new snowmobile can comply with the noise limitation requirements of 23-2-601 through 23-2-644, a manufacturer shall make ~~such-a~~ the certification based upon measurements made in accordance with SAE recommended practice J192, as amended. The department, in enforcing the provisions of this section, shall make measurements of snowmobile noise in accordance with applicable practices outlined in the "Procedure for Sound Level Measurements of Snowmobiles" (January, 1969), as amended, used by the international snowmobile industry association or with such other standards for measurement of sound level as the department may adopt.

(6) This section does not apply to organized races or similar competitive events held on:

(a) private lands or waters, with the permission of the owner, lessee, or custodian of the land or waters; or

(b) public lands or waters, with the consent of the

public agency having the authority to grant such consent, provided--that-total-sound-produced-by-such-an-event-may-not exceed-50-dBA-at-any-point-50-feet-or-more-outside-the--area under-the-control-of-the-sponsoring-entity."

**Section 8.** Section 23-2-635, MCA, is amended to read:

"23-2-635. Accidents involving snowmobiles. The owner or operator of a snowmobile, ~~which~~ that is involved in any accident, collision, or upset upon--a--public--street-or highway-where in which personal injury occurs to any person or where in which property damage exceeds \$100 ~~\$750~~, shall report the accident or occurrence to a-state--or--local the nearest law enforcement agency responsible-for-collecting reports-of-accidents-involving-motor-vehicles. An accident involving property damage only must be reported within 48 hours of the occurrence. An accident involving personal injury or a fatality must be reported immediately or as soon as practicable."

**Section 9.** Section 23-2-641, MCA, is amended to read:

"23-2-641. Enforcement. (1) ~~The-following-persons-may enforce-the-provisions-of--23-2-601--through--23-2-644;--the enforcement--officers--employed-by-the--department;--with respect--to--violations--relating--to--wildlife--or--birds; discharging--firearms;--or-sound-level-limitations;--However, with~~ With respect to the sale of any new snowmobile which that is subject to the provisions of 23-2-601 through

23-2-644, the attorney general ~~of--the--state--of--Montana~~ shall, upon the request of the department, sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order or temporary or permanent injunction against a person who sells or offers to sell a new snowmobile that does not satisfy the sound level limitations imposed by 23-2-601 through 23-2-644.

(2) (a) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(i) of search, seizure, and arrest;

(ii) to investigate activities in this state regulated by this part and rules of the department and the fish, wildlife, and parks commission; and

(iii) to report violations to the county attorney of the county in which they occur.

(b) Sheriffs and their deputies of the various counties of the state, the Montana highway patrol, authorized officers of the department, and the police of each municipality shall enforce the provisions of 23-2-601 through-23-2-644 this part."

**Section 10.** Section 23-2-642, MCA, is amended to read:

"23-2-642. Penalties. (1) The failure to display a

current decal indicating that the fee in lieu of property tax has been paid on the snowmobile for the current year during the time provided in 23-2-601 through 23-2-644 is a misdemeanor, punishable by a fine of ~~not less than \$10 or more than \$50~~ in an amount equal to five times the applicable fee in lieu of tax payable under 23-2-615.1.

(2) A person who violates any other provision of 23-2-601 through 23-2-644 or a rule adopted pursuant thereto to those sections shall pay a civil penalty of not less than \$15 or more than \$500 for each separate violation.

~~(3) A person who willfully violates any other provision of 23-2-601 through 23-2-644 or a rule adopted pursuant thereto~~ If the violation is willful, the person shall pay a civil penalty of not less than \$50 or more than \$1,000 for each separate violation.

~~(4)~~ (3) A manufacturer who certifies that a new snowmobile can meet the sound level limitations imposed by 23-2-601 through 23-2-644 ~~shall be~~ is subject to the penalty provisions of subsections subsection (2) and ~~(3)~~ if any machine so certified does not meet the appropriate sound level limitation. For the purposes of this section, every sale of a new snowmobile that does not meet the sound level limitations imposed by 23-2-601 through 23-2-644 constitutes a separate violation."

**Section 11.** Section 23-2-654, MCA, is amended to read:

"23-2-654. Snowmobiler's assumption of responsibility -- duties. (1) A snowmobiler ~~assumes the risk and shall accept~~ all legal responsibility for ~~death or injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of snowmobiling and has the duty to regulate personal conduct at all times so that injury to himself self or other persons or property that results from the risks inherent in the sport of snowmobiling is avoided.~~ The assumption of risk includes but is not limited to death or injury caused by the following risks inherent in the sport of snowmobiling include variations in terrain, surface or subsurface snow or ice conditions, cornices, avalanches, poor visibility, bare spots, rocks, trees, other forms of forest growth or debris, and plainly marked trail maintenance equipment.

(2) A snowmobiler is responsible for:

(a) knowing the range of his the snowmobiler's own ability to snowmobile any slope, trail, or area and for snowmobiling within the limits of his the snowmobiler's ability considering the conditions;

(b) maintaining control of his speed and course at all times while snowmobiling;

(c) heeding all posted warnings; and

(d) refraining from acting in a manner that may cause or contribute to the injury of anyone.

(3) The provisions of this section do not affect a products liability cause of action based upon the design or manufacture of snowmobile equipment or products or safety equipment used incidental to the operation of a snowmobile."

NEW SECTION. **Section 12.** Alcohol concentration standards -- evidence admissible -- administration of tests.

(1) The inferences contained in 61-8-401(4) apply to any criminal action or proceeding arising out of acts alleged to have been committed in violation of 23-2-632(1)(b).

(2) Evidence of any measured amount or detected presence of alcohol in a person at the time of the act alleged, as shown by analysis of the person's blood, breath, or urine, and any other competent evidence bearing on the question of whether the person was under the influence of alcohol, drugs, or a combination of the two at the time of the act alleged is admissible in any criminal action or proceeding arising out of acts alleged to have been committed in violation of 23-2-632(1)(b).

(3) If a person charged with violation of 23-2-632(1)(b) refuses to submit to a test of blood, breath, or urine for the purpose of determining any measured amount or detected presence of alcohol, none will be given, but proof of refusal is admissible in any criminal action or proceeding arising out of acts alleged to have been committed in violation of 23-2-632(1)(b).

(4) The provisions relating to administration of tests provided in 61-8-405 and the definition of alcohol concentration provided in 61-8-407 apply to any testing done to a person charged with violation of 23-2-632(1)(b).

(5) As used in 23-2-632(1)(b), the term "under the influence" has the meaning provided in 61-8-401(3).

NEW SECTION. **Section 13.** Registration of racing snowmobile not required. A snowmobile built or used exclusively for racing in sanctioned competitive events or organized races, including testing areas designated by the sponsoring entity, is exempt from the certificate of ownership requirements of 23-6-611 and registration under 23-2-616.

NEW SECTION. **Section 14.** Effective date. [This act] 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 HB0281, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the laws relating to snowmobiles, adopting alcohol concentration standards applicable to driving a snowmobile under the influence of alcohol, and exempting racing snowmobiles from certification and registration requirements effective immediately.

ASSUMPTIONS:

1. Based on information from the Department of Justice Motor Vehicle Division, the average number of registered snowmobiles in Montana is 15,000 and the total number of snowmobiles is approximately 50,000.
2. Department of Fish, Wildlife and Parks (FWP) wardens currently are trained to enforce alcohol concentration standards on boats. The fiscal impact to enforce these standards on snowmobiles will be negligible.
3. Operating and equipment costs in the FWP may increase but the estimated amount is undeterminable. This is based upon the assumption that more warden time is spent on enforcing these new provisions.
4. The bill requires that snowmobiles purchased after the effective date of this act and operated upon private lands must have a certificate of ownership. Of the \$5 certificate of ownership fee, \$3.50 is deposited in the state general fund and the remaining \$1.50 is retained by the county treasurer. This change may increase general fund and county revenues but the amount is not subject to reasonable estimate.

FISCAL IMPACT:


Revenues:

1. The minimum penalty for not displaying a registration decal will be increased from \$10 to \$75. Assuming that non-compliance remains at the current level and judges fine violators twice the previous amount, fine revenue will increase by \$3,300 a year (state special revenue).
2. The decal fee will increase from \$2 to \$5, increasing the FWP decal fee state special revenue from \$30,000 (assuming 15,000 registered snowmobiles) to \$75,000 per year. (state special revenue).

Net Impact: FWP state special revenue from snowmobile decal fees and fines will increase \$48,300 each year.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: County treasurers receive \$1.50 from the \$5.00 fee for certificate of ownership. The total number may increase under provisions of this bill.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: A required certificate of ownership would factually identify the number of snowmobiles owned by Montana residents. Montana's appropriation from the National Recreational Trails Act (NRTA) is, in part, based upon the number of off-highway vehicles (including snowmobiles). In the past the Department of Fish, Wildlife, and Parks has only been able to use the number of registered snowmobiles since this was the only number documentable. Assuming figures from the Department of Justice, an increase in the number of documented snowmobiles in Montana could increase the annual federal appropriation by \$70,000. (The current appropriation is \$129,000.)

 1-26-93  
DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

 1-29-93  
EDWARD J. "ED" GRADY, PRIMARY SPONSOR DATE

Fiscal Note for HB0281, as introduced

HB 281

APPROVED BY COMM.  
ON FISH AND GAME

HOUSE BILL NO. 281

INTRODUCED BY GRADY, FORRESTER, LARSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO SNOWMOBILES; ADOPTING ALCOHOL CONCENTRATION STANDARDS APPLICABLE TO DRIVING A SNOWMOBILE WHILE UNDER THE INFLUENCE OF ALCOHOL; PROVIDING ENFORCEMENT EXCEPTIONS FOR CERTAIN EX OFFICIO WARDENS; EXEMPTING RACING SNOWMOBILES FROM CERTIFICATION AND REGISTRATION REQUIREMENTS; PROVIDING FOR REGISTRATION OF A SNOWMOBILE OWNED AND OPERATED SOLELY AS A COLLECTOR'S ITEM; AMENDING SECTIONS 23-2-602, 23-2-611, 23-2-615, 23-2-616, 23-2-619, 23-2-632, 23-2-634, 23-2-635, 23-2-641, 23-2-642, AND 23-2-654, AND 87-1-503, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 23-2-602, MCA, is amended to read:

"23-2-602. Report of stolen and recovered snowmobiles. The sheriff of every county of the state and the chief of police or commissioner of police of every city shall make an immediate report to the department of justice of all snowmobiles reported to him as stolen or recovered, upon forms provided by the department of justice. Upon receipt of such the information, the department of justice shall file the same report in an index to be known as the "stolen and

recovered snowmobile index". The department of justice shall file reports of stolen and recovered snowmobiles reported to it from other states. Once a month the department of justice shall prepare a list of all snowmobiles stolen or recovered during the previous month and forward a copy of the same list to every sheriff and all police departments in cities of the first, second, and third class. Such The list shall must also be forwarded to the secretary of state or other proper official in each state of the United States. Before a certificate of ownership may be issued under 23-2-601 through 23-2-644, the motor and serial number on the snowmobile for which such the certificate is to be issued shall must be checked against the stolen and recovered snowmobile index. THE REPORTING OF STOLEN AND RECOVERED SNOWMOBILES MUST BE CONDUCTED IN THE SAME MANNER AS THE REPORTING OF STOLEN AND RECOVERED MOTOR VEHICLES PROVIDED FOR IN 61-3-106."

**Section 2.** Section 23-2-611, MCA, is amended to read:

"23-2-611. Certificate of ownership -- filing of security interests. (1) A snowmobile may not be operated upon any private or public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state. A certificate of ownership is not

1 required for a snowmobile purchased prior to [the effective  
 2 date of this act] if use of the snowmobile is restricted to  
 3 private land.

4 (2) The owner of a snowmobile shall apply for a  
 5 certificate of ownership with the county treasurer of the  
 6 county in which the owner resides, upon forms to be  
 7 furnished for this purpose. The forms must require the  
 8 following information:

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

20 (3) The application must be accompanied by  
 21 documentation of ownership, such as an invoice, notarized  
 22 bill of sale from the immediately previous owner, foreign  
 23 title, official certificate of snowmobile number, or fee in  
 24 lieu of tax receipt.

25 (4) The application must be signed by at least one

1 owner or by a properly authorized officer or representative,  
 2 of the owner.

3 ~~†4†~~(5) If a certificate of ownership has previously  
 4 been issued under the provisions of 23-2-601 through  
 5 23-2-644, the application for a new certificate must be  
 6 accompanied by the immediately previous certificate. This  
 7 subsection does not apply to snowmobiles that are purchased  
 8 as new and unused machines or that were operated when the  
 9 provisions of 23-2-601 through 23-2-644 were not in force  
 10 and effect.

11 ~~†5†~~(6) Upon completion of the application, on forms  
 12 furnished by the department of justice, the county treasurer  
 13 shall issue to the applicant two copies of the application,  
 14 one of which must be marked "file copy". The treasurer shall  
 15 forward one copy and the original application to the  
 16 department of justice, which shall enter the information  
 17 contained in the application upon the corresponding records  
 18 of its office and shall furnish the applicant a certificate  
 19 of ownership, which must contain that information in the  
 20 application considered necessary by the department of  
 21 justice, and a permanent ownership number. The certificate  
 22 of ownership is not to be renewed annually and is valid as  
 23 long as the person holding it owns the snowmobile.

24 ~~†6†~~(7) The owner shall at all times retain possession  
 25 of the certificate of ownership, except when it is being



transmitted to and from the department of justice for endorsement or cancellation.

~~(7)~~(8) Upon application for a certificate of ownership, a fee of \$5 must be paid to the county treasurer, \$3.50 of which must be forwarded by the county treasurer to the department of justice and deposited in the general fund.

~~(8)~~(9) A security interest in a snowmobile is not valid as against creditors, subsequent purchasers, or encumbrancers unless a lien notice, showing that a security interest has been created, has been perfected as provided in this section. The lien notice must be filed on a form approved by the department of justice. The department of justice may not file a security interest or other lien unless it is accompanied by or specified in the application for a certificate of ownership of the snowmobile encumbered. If the lien notice is transmitted to the department of justice, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete snowmobile description, the amount of the lien, and the signature of the debtor. The department of justice shall file the security interest or lien by entering the name and address of the secured party upon the face of the

certificate of ownership. The department of justice shall mail a statement certifying the filing of a security interest or lien to the secured party. The department of justice shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department of justice shall return the certificate of ownership to the county treasurer of the county in which the snowmobile is to be registered. The owner of a snowmobile is the person entitled to operate and possess the snowmobile.

~~(9)~~(10) A security interest in a snowmobile held as inventory by a dealer must be perfected in accordance with Title 30, chapter 9, and no endorsement on the certificate of title is not necessary for perfection.

~~(10)~~(11) Whenever a security interest or lien is filed against a snowmobile that is subject to two security interests previously perfected under this section, the department of justice shall endorse on the face of the certificate of ownership: "NOTICE. This snowmobile is subject to additional security interest on file with the Department of Justice". No-other Other information regarding the additional security interests need not be endorsed on the certificate.

~~(11)~~(12) Satisfactions or statements of release filed

1 with the department of justice under this part must be  
2 retained for a period of 8 years after receipt, after which  
3 they may be destroyed.

4 ~~(12)~~(13) A security interest or other lien as provided  
5 in this section is perfected on the date the lien notice is  
6 delivered to the county treasurer. On that date, the county  
7 treasurer shall issue to the secured party a receipt  
8 evidencing the perfection. Perfection under this section  
9 constitutes constructive notice to subsequent purchasers or  
10 encumbrancers, from the date of delivery of the lien notice  
11 to the county treasurer, of the existence of the security  
12 interest.

13 ~~(13)~~(14) Upon default under a chattel mortgage or  
14 conditional sales contract covering a snowmobile, the  
15 mortgagee or vendor has the same remedies as in the case of  
16 other personal property. In case of attachment of a  
17 snowmobile, all the provisions of 27-18-413, 27-18-414, and  
18 27-18-804 are applicable, except that deposits must be made  
19 with the department of justice.

20 ~~(14)~~(15) A conditional sales vendor or chattel mortgagee  
21 or assignee who fails to file a satisfaction of a chattel  
22 mortgage, assignment, or conditional sales contract within  
23 15 days after receiving final payment is required to pay the  
24 department of justice the sum of \$1 for each day that he  
25 ~~fails-to-file~~ the satisfaction is not filed.

1 ~~(15)~~(16) Upon receipt of any liens, notice of liens  
2 dependent on possession, or attachments against the record  
3 of any snowmobile registered in this state, the department  
4 of justice shall within 24 hours mail to the owner,  
5 conditional sales vendor, mortgagee, or their assignee a  
6 notice showing the name and address of the lien claimant,  
7 the amount of the lien, the date of execution of the lien,  
8 and, in the case of attachment, the full title of the court,  
9 the action, and the name of the attorney for the plaintiff  
10 or the name of the attaching creditor, or both.

11 ~~(16)~~(17) It is not necessary to refile with the  
12 department of justice any instruments on file in the office  
13 of the county clerk and recorder on October 1, 1989.

14 ~~(17)~~(18) A fee of \$4 must be paid to the department of  
15 justice to file any security interest or other lien against  
16 a snowmobile. The \$4 fee must cover the cost of filing a  
17 satisfaction or release of the security interest and the  
18 cost of entering the satisfaction or release on the records  
19 of the department of justice and deleting the endorsement of  
20 the security interest from the face of the certificate of  
21 ownership. A fee of \$4 must be paid to the department of  
22 justice for issuing a certified copy of a certificate of  
23 ownership subject to a security interest or other lien on  
24 file with the department of justice or for filing an  
25 assignment of a 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 general fund in accordance with 15-1-504."

**Section 3.** Section 23-2-615, MCA, is amended to read:

"23-2-615. Nonresident temporary-use permits -- use of fees. (1) The requirements pertaining to the nonresident temporary-snowmobile-use permit are as follows:

(a) Application for the issuance of the permit ~~shall~~ must be made at locations and upon forms prescribed by the department. The forms ~~shall~~ must include but are not limited to:

(i) the applicant's name and permanent address;

(ii) the make, model, year, and serial number of the snowmobile; and

(iii) an affidavit declaring the nonresidency of the applicant.

(b) Upon submission of the application and a fee of \$6, a nonresident temporary-snowmobile-use sticker ~~shall~~ must be issued. The sticker ~~shall~~ must be displayed in a conspicuous manner on the snowmobile.

(2) The temporary permit is valid for a consecutive 30-day period as designated by the permit.

(3) The permit is not proof of ownership, and no a certificate of ownership may not be issued.

(4) A nonresident temporary-snowmobile-use permit is

not required for a snowmobile that qualifies as a racing snowmobile under [section 13].

(5) All money collected by payment of fees under this section ~~shall~~ must be turned over to the state treasurer and placed in the state special revenue fund to the credit of the department of fish, wildlife, and parks, with one-half to be used in administering this section and one-half to be used in the development, maintenance, and operation of snowmobile facilities.

~~(5)~~(6) The failure to display the permit as required by this section or the making of false statements in obtaining the permit is a misdemeanor, punishable by a fine of not less than \$25 or more than \$100."

**Section 4.** Section 23-2-616, MCA, is amended to read:

"23-2-616. Registration and decals -- application and issuance -- use of certain fees. (1) No A EXCEPT FOR A SNOWMOBILE REGISTERED UNDER [SECTION 14], A snowmobile may not be operated on public lands by any person in Montana unless it has been registered and there is displayed in a conspicuous place on both sides of the cowl a decal as visual proof that the fee in lieu of property tax has been paid on it for the current year and the immediately previous year as required by 15-16-202.

(2) Application for registration ~~shall~~ must be made to the county treasurer upon forms to be furnished by the

department of justice for this purpose, which may be obtained at the county treasurer's office in the county where the owner resides. The application shall contain the following information:

(a) the name and address of the owner;

(b) the certificate of ownership number;

(c) the make of the snowmobile;

(d) the model name of the snowmobile;

(e) the year of manufacture;

(f) a statement evidencing payment of the fee in lieu of property tax as required by 15-16-202; and

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

(3) The application ~~shall~~ must be accompanied by a decal fee of \$2 \$5, a registration fee of 50 cents, and, if the snowmobile has previously been registered, by the registration certificate for the most recent year in which the snowmobile was registered. The treasurer shall sign the application and issue a registration receipt ~~which--shall~~ that must contain information considered necessary by the department of justice and a listing of fees paid. The owner shall retain possession of the registration receipt until it is surrendered to the county treasurer for reregistration or to a purchaser or subsequent owner pursuant to a transfer of ownership.

(4) The county treasurer shall forward the signed application to the department of justice and shall issue to the applicant a decal in the style and design prescribed by the department of justice and of a different color than the preceding year, numbered in sequence.

(5) The county treasurer may not accept any application under this section until the applicant has paid the decal and registration fees and the fee in lieu of property tax on the snowmobile for the current year and the immediately previous year as required by 15-16-202.

(6) All money collected from payment of the decal fees and all interest accruing from use of this money ~~shall~~ must be forwarded to the state treasurer and placed in the state special revenue fund to the credit of the department, with \$1 \$2.50 designated for use in enforcing the purposes of 23-2-601 through 23-2-644 and \$1 \$2.50 designated for use in the development, maintenance, and operation of snowmobile facilities. All money collected from payment of the registration fee ~~shall~~ must be forwarded to the state treasurer and deposited in the general fund.

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

**Section 5.** Section 23-2-619, MCA, is amended to read:

"23-2-619. Dealer registration certificate -- use of

1 fees. (1) A dealer registration certificate ~~shall~~ must be  
2 issued in accordance with 23-2-601 through 23-2-644.

3 (2) The dealer application ~~shall~~ must be accompanied by  
4 an application fee of \$5 and a registration fee of \$5. Upon  
5 receipt of the dealer application and payment of fees, the  
6 dealer shall be issued two dealer snowmobile identification  
7 cards ~~which shall~~ that must be carried by the dealer or the  
8 dealer's customer when demonstrating the dealer's  
9 snowmobiles.

10 (3) No A bond is not required of the dealer.

11 (4) The dealer shall have a principal place of business  
12 where he the dealer shall maintain all ~~his~~ business records  
13 and display and sell merchandise.

14 (5) An applicant for renewal of a snowmobile dealer  
15 registration shall certify that he the applicant has sold 3  
16 5 or more snowmobiles during the preceding year or pay an  
17 additional \$50 renewal registration fee or provide a copy of  
18 a written new snowmobile franchise or sales agreement that  
19 the applicant has with a manufacturer, importer, or  
20 distributor.

21 (6) Additional dealer snowmobile identification cards  
22 as required by need justified to the department of justice  
23 may be purchased by the dealer for a fee of \$2.

24 (7) Dealer registration certificates and identification  
25 cards expire on June 30 following the date of issuance.

1 (8) (a) The dealer application fees and all interest  
2 accruing from use of this money ~~shall~~ must be deposited in  
3 the state special revenue fund to the credit of the  
4 department, with one-half designated for use in enforcing  
5 the purposes of 23-2-601 through 23-2-644 and one-half  
6 designated for use in the development, maintenance, and  
7 operation of snowmobile facilities.

8 (b) All money collected from dealer registration and  
9 renewal registration fees ~~shall~~ must be deposited in the  
10 general fund."

11 **Section 6.** Section 23-2-632, MCA, is amended to read:

12 **"23-2-632. Unlawful operation on-streets--and--highways**  
13 **of snowmobiles.** (1) It is unlawful for a person to operate a  
14 snowmobile on a public street, or public highway,  
15 established snowmobile trail, public snowmobile area on  
16 public lands or waters, or lands or waters under easement or  
17 lease for snowmobiling and adjacent snowmobiling areas on  
18 private lands or waters where public snowmobiling is  
19 permitted:

20 (a) at a rate of speed greater than provided by law for  
21 motor vehicles, UNLESS TRAVEL ON THE STREET, HIGHWAY, OR  
22 TRAIL HAS BEEN CLOSED TO MOTOR VEHICLE TRAFFIC OR UNLESS  
23 DRIFTING SNOW OR SNOW COVER HAS RENDERED TRAVEL BY MOTOR  
24 VEHICLES IMPRACTICAL OR IMPOSSIBLE;

25 (b) while under the influence of intoxicating liquor in

1 violation of the alcohol concentration standards established  
 2 in [section 12] or while under the influence of narcotics or  
 3 habit-forming drugs;

4 (c) in a careless or reckless manner so as to endanger  
 5 the person or property of another or to cause injury or  
 6 damage to either; or

7 (d) if that person by reason of age or mental or  
 8 physical disability is incapable of operating the snowmobile  
 9 safely under the prevailing circumstances.

10 (2) It is unlawful to permit the operation of a  
 11 snowmobile ~~on--a--public--street--or--highway~~ in violation of  
 12 subsection (1) by a person who by reason of age or physical  
 13 or mental disability is incapable of operating the  
 14 snowmobile safely under the prevailing circumstances."

15 **Section 7.** Section 23-2-634, MCA, is amended to read:

16 "23-2-634. Regulation of snowmobile noise. (1) Except  
 17 as provided in this section, every snowmobile ~~shall~~ must be  
 18 equipped at all times with noise-suppression devices,  
 19 including an exhaust muffler in good working order and in  
 20 constant operation. No A snowmobile may not be modified by  
 21 any person in any manner that will amplify or otherwise  
 22 increase total noise emissions to a level greater than that  
 23 emitted by the snowmobile as originally constructed,  
 24 regardless of date of manufacture.

25 (2) Every person who owns or operates a snowmobile

1 manufactured after June 30, 1972, but prior to June 30,  
 2 1975, shall maintain ~~his~~ the machine in such a manner that  
 3 it will not exceed a sound level limitation of 82 dbA  
 4 measured at 50 feet.

5 (3) No-new A snowmobile manufactured after June 30,  
 6 1975, except snowmobiles designated for competition purposes  
 7 only, may not be sold or offered for sale unless that  
 8 machine has been certified by the manufacturer as being able  
 9 to conform to a sound level limitation of not more than 78  
 10 dbA measured at 50 feet. Every person who owns or operates a  
 11 snowmobile manufactured after June 30, 1975, shall maintain  
 12 ~~his~~ the machine in such a manner that it will not exceed a  
 13 sound level limitation of 78 dbA measured at 50 feet.

14 (4) A manufacturer who certifies that a new snowmobile  
 15 can comply with the noise limitation requirements of  
 16 23-2-601 through 23-2-644 shall affix a permanent notice of  
 17 that certification to every snowmobile offered for sale in  
 18 the state of Montana.

19 (5) In certifying that a new snowmobile can comply with  
 20 the noise limitation requirements of 23-2-601 through  
 21 23-2-644, a manufacturer shall make ~~such-a~~ the certification  
 22 based upon measurements made in accordance with SAE  
 23 recommended practice J192, as amended. The department, in  
 24 enforcing the provisions of this section, shall make  
 25 measurements of snowmobile noise in accordance with

applicable practices outlined in the "Procedure for Sound Level Measurements of Snowmobiles" (January, 1969), as amended, used by the international snowmobile industry association or with such other standards for measurement of sound level as the department may adopt.

(6) This section does not apply to organized races or similar competitive events held on:

(a) private lands or waters, with the permission of the owner, lessee, or custodian of the land or waters; or

(b) public lands or waters, with the consent of the public agency having the authority to grant such consent, ~~provided--that--total--sound--produced--by--such--an--event--may--not--exceed--50--dbA--at--any--point--50--feet--or--more--outside--the--area--under--the--control--of--the--sponsoring--entity.~~

**Section 8.** Section 23-2-635, MCA, is amended to read:

"23-2-635. Accidents involving snowmobiles. The owner or operator of a snowmobile, ~~which~~ that is involved in any accident, collision, or upset ~~upon--a--public--street--or--highway--where~~ in which personal injury occurs to any person or ~~where~~ in which property damage exceeds \$100 \$750, shall report the accident or occurrence to ~~a--state--or--local~~ the nearest law enforcement agency ~~responsible--for--collecting--reports--of--accidents--involving--motor--vehicles.~~ An accident involving property damage only must be reported within 48 hours of the occurrence. An accident involving personal

injury or a fatality must be reported immediately or as soon as practicable."

**Section 9.** Section 23-2-641, MCA, is amended to read:

"23-2-641. Enforcement. (1) ~~The--following--persons--may--enforce--the--provisions--of--23-2-601--through--23-2-644:--the--enforcement--officers--employed--by--the--department,--with--respect--to--violations--relating--to--wildlife--or--birds,--discharging--firearms,--or--sound--level--limitations.~~ However, with With respect to the sale of any new snowmobile which that is subject to the provisions of 23-2-601 through 23-2-644, the attorney general ~~of--the--state--of--Montana~~ shall, upon the request of the department, sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order or temporary or permanent injunction against a person who sells or offers to sell a new snowmobile that does not satisfy the sound level limitations imposed by 23-2-601 through 23-2-644.

(2) (a) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(i) of search, seizure, and arrest;

(ii) to investigate activities in this state regulated by this part and rules of the department and the fish,

wildlife, and parks commission; and

(iii) to report violations to the county attorney of the county in which they occur.

(b) Sheriffs and their deputies of the various counties of the state, the Montana highway patrol, authorized officers of the department, and the police of each municipality shall enforce the provisions of 23-2-601 through 23-2-644 this part."

**Section 10.** Section 23-2-642, MCA, is amended to read:

"23-2-642. Penalties. (1) The failure to display a current decal indicating that the fee in lieu of property tax has been paid on the snowmobile for the current year during the time provided in 23-2-601 through 23-2-644 is a misdemeanor, punishable by a fine of not less than \$10 or more than \$50 in an amount equal to five times the applicable fee in lieu of tax payable under 23-2-615.1.

(2) A person who violates any other provision of 23-2-601 through 23-2-644 or a rule adopted pursuant thereto to those sections shall pay a civil penalty of not less than \$15 or more than \$500 for each separate violation.

~~(3) A person who willfully violates any other provision of 23-2-601 through 23-2-644 or a rule adopted pursuant thereto~~ If the violation is willful, the person shall pay a civil penalty of not less than \$50 or more than \$1,000 for each separate violation.

~~(4)~~ (3) A manufacturer who certifies that a new snowmobile can meet the sound level limitations imposed by 23-2-601 through 23-2-644 ~~shall be~~ is subject to the penalty provisions of subsections subsection (2) and ~~(3)~~ if any machine so certified does not meet the appropriate sound level limitation. For the purposes of this section, every sale of a new snowmobile that does not meet the sound level limitations imposed by 23-2-601 through 23-2-644 constitutes a separate violation."

**Section 11.** Section 23-2-654, MCA, is amended to read:

"23-2-654. Snowmobiler's assumption of responsibility -- duties. (1) A snowmobiler ~~assumes the risk and shall accept~~ assumes the risk and shall accept all legal responsibility for ~~death or injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of snowmobiling and has the duty to regulate personal conduct at all times so that injury to himself self or other persons or property that results from the risks inherent in the sport of snowmobiling is avoided.~~ death or injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of snowmobiling and has the duty to regulate personal conduct at all times so that injury to himself self or other persons or property that results from the risks inherent in the sport of snowmobiling is avoided. The ~~assumption of risk includes but is not limited to death or injury caused by the following:~~ assumption of risk includes but is not limited to death or injury caused by the following: risks inherent in the sport of snowmobiling include variations in terrain, surface or subsurface snow or ice conditions, cornices, avalanches, poor visibility, bare spots, rocks, trees, other forms of forest growth or debris, and plainly marked trail maintenance equipment.



1 (2) A snowmobiler is responsible for:

2 (a) knowing the range of his the snowmobiler's own  
3 ability to snowmobile any slope, trail, or area and for  
4 snowmobiling within the limits of his the snowmobiler's  
5 ability considering the conditions;

6 (b) maintaining control of his speed and course at all  
7 times while snowmobiling;

8 (c) heeding all posted warnings; and

9 (d) refraining from acting in a manner that may cause  
10 or contribute to the injury of anyone.

11 (3) The provisions of this section do not affect a  
12 products liability cause of action based upon the design or  
13 manufacture of snowmobile equipment or products or safety  
14 equipment used incidental to the operation of a snowmobile."

15 NEW SECTION. Section 12. Alcohol concentration  
16 standards -- evidence admissible -- administration of tests.

17 (1) The inferences contained in 61-8-401(4) apply to any  
18 criminal action or proceeding arising out of acts alleged to  
19 have been committed in violation of 23-2-632(1)(b).

20 (2) Evidence of any measured amount or detected  
21 presence of alcohol in a person at the time of the act  
22 alleged, as shown by analysis of the person's blood, breath,  
23 or urine, and any other competent evidence bearing on the  
24 question of whether the person was under the influence of  
25 alcohol, drugs, or a combination of the two at the time of

1 the act alleged is admissible in any criminal action or  
2 proceeding arising out of acts alleged to have been  
3 committed in violation of 23-2-632(1)(b).

4 (3) If a person charged with violation of  
5 23-2-632(1)(b) refuses to submit to a test of blood, breath,  
6 or urine for the purpose of determining any measured amount  
7 or detected presence of alcohol, none will be given, but  
8 proof of refusal is admissible in any criminal action or  
9 proceeding arising out of acts alleged to have been  
10 committed in violation of 23-2-632(1)(b).

11 (4) The provisions relating to administration of tests  
12 provided in 61-8-405 and the definition of alcohol  
13 concentration provided in 61-8-407 apply to any testing done  
14 to a person charged with violation of 23-2-632(1)(b).

15 (5) As used in 23-2-632(1)(b), the term "under the  
16 influence" has the meaning provided in 61-8-401(3).

17 NEW SECTION. Section 13. Registration of racing  
18 snowmobile not required. A snowmobile built or used  
19 exclusively for racing in sanctioned competitive events or  
20 organized races, including testing areas designated by the  
21 sponsoring entity, is exempt from the certificate of  
22 ownership requirements of 23-6-611 and registration under  
23 23-2-616.

24 NEW SECTION. SECTION 14. REGISTRATION OF A SNOWMOBILE  
25 OWNED AND OPERATED SOLELY AS A COLLECTOR'S ITEM. (1) AN

OWNER OF A SNOWMOBILE THAT IS MORE THAN 25 YEARS OLD AND THAT IS USED SOLELY AS A COLLECTOR'S ITEM AND NOT FOR GENERAL RECREATIONAL PURPOSES MAY FILE WITH THE COUNTY TREASURER AN APPLICATION FOR THE REGISTRATION OF THE SNOWMOBILE. THE APPLICATION MUST BE SWORN TO BEFORE AN OFFICER AUTHORIZED TO ADMINISTER OATHS. THE APPLICATION MUST STATE:

(A) THE NAME AND ADDRESS OF THE OWNER;

(B) THE NAME AND ADDRESS OF THE PERSON FROM WHOM THE SNOWMOBILE WAS PURCHASED;

(C) THE MAKE, THE YEAR AND NUMBER OF THE MODEL, AND THE MANUFACTURER'S IDENTIFICATION NUMBER AND SERIAL NUMBER OF THE SNOWMOBILE; AND

(D) THAT THE SNOWMOBILE IS OWNED AND OPERATED SOLELY AS A COLLECTOR'S ITEM AND NOT FOR GENERAL RECREATIONAL PURPOSES.

(2) THE REGISTRATION FEE FOR A SNOWMOBILE REGISTERED UNDER SUBSECTION (1) IS \$10.

(3) UPON RECEIPT OF THE APPLICATION FOR REGISTRATION AND PAYMENT OF THE REGISTRATION FEE, THE COUNTY TREASURER SHALL FILE THE APPLICATION, REGISTER THE SNOWMOBILE IN THE MANNER SPECIFIED IN 23-2-616, AND DELIVER TO THE APPLICANT A LICENSE PLATE OR DECAL BEARING THE INSCRIPTION "VINTAGE--MONTANA" AND THE REGISTRATION NUMBER.

(4) THE YEAR OF ISSUANCE MAY NOT BE SHOWN ON THE PLATE

OR DECAL.

(5) ANNUAL RENEWAL OF THE REGISTRATION OF A SNOWMOBILE REGISTERED UNDER THIS SECTION IS NOT REQUIRED, AND THE REGISTRATION IS VALID AS LONG AS THE SNOWMOBILE IS IN EXISTENCE. UPON SALE OF THE SNOWMOBILE, THE PURCHASER SHALL RENEW THE REGISTRATION AND PAY THE LICENSE FEE REQUIRED IN SUBSECTION (2).

#### SECTION 15. SECTION 87-1-503, MCA, IS AMENDED TO READ:

"87-1-503. Ex officio wardens. All (1) Except as provided in subsection (2), all sheriffs and their deputies, constables, all peace officers of the state or any subdivision thereof, and all state forest officers, other officers of the United States forest service or agents of the United States fish and wildlife service that are assigned to duty in this state, and field personnel of the department, as the director may appoint, are hereby made ex officio wardens, without pay, except that the department may, in its discretion, allow traveling expenses as provided for in 2-18-501 through 2-18-503, which, if allowed, must be paid upon proper vouchers from the state fish and game funds. Ex officio wardens shall have the same powers with reference to the enforcement of the fish and game laws of this state and the laws relating to parks and outdoor recreation contained in chapters 1 and 2 of Title 23, except chapter 2, part 7, as regularly appointed wardens, and it is

1 hereby made their duty to assist, whenever possible, in the  
2 enforcement of those laws.

3 (2) Officers of the United States forest service,  
4 agents of the United States fish and wildlife service, and  
5 peace officers of the bureau of land management, national  
6 park service, and corps of engineers are not authorized to  
7 enforce the provisions of [section 12]."

8 **NEW SECTION. Section 16.** Effective date. [This act] is  
9 effective on passage and approval.

-End-

## HOUSE BILL NO. 281

INTRODUCED BY GRADY, FORRESTER, LARSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO SNOWMOBILES; ADOPTING ALCOHOL CONCENTRATION STANDARDS APPLICABLE TO DRIVING A SNOWMOBILE WHILE UNDER THE INFLUENCE OF ALCOHOL; PROVIDING ENFORCEMENT EXCEPTIONS FOR CERTAIN EX OFFICIO WARDENS; EXEMPTING RACING SNOWMOBILES FROM CERTIFICATION AND REGISTRATION REQUIREMENTS; PROVIDING FOR REGISTRATION OF A SNOWMOBILE OWNED AND OPERATED SOLELY AS A COLLECTOR'S ITEM; AMENDING SECTIONS 23-2-602, 23-2-611, 23-2-615, 23-2-616, 23-2-619, 23-2-632, 23-2-634, 23-2-635, 23-2-641, 23-2-642, AND 23-2-654, AND 87-1-503, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 23-2-602, MCA, is amended to read:

"23-2-602. Report of stolen and recovered snowmobiles. The-sheriff-of-every-county-of-the-state-and-the-chief-of police-or-commissioner-of-police-of-every-city-shall-make-an immediate-report-to-the-department-of-justice-of-all snowmobiles-reported-to-him-as-stolen-or-recovered-upon forms-provided-by-the-department-of-justice.-Upon-receipt-of such the information-the-department-of-justice-shall-file the-same report in-an-index-to-be-known-as-the-"stolen-and

recovered-snowmobile-index".-The-department-of-justice-shall file-reports-of-stolen-and-recovered-snowmobiles-reported-to it-from-other-states.-Once-a-month-the-department-of-justice shall-prepare-a-list-of-all-snowmobiles-stolen-or-recovered during-the-previous-month-and-forward-a-copy-of-the-same list to-every-sheriff-and-all-police-departments-in-cities of-the-first,-second,-and-third-class.-Such The list-shall must also-be-forwarded-to-the-secretary-of-state-or-other proper-official-in-each-state-of-the-United-States.-Before-a certificate-of-ownership-may-be-issued-under-23-2-601 through-23-2-644,-the-motor-and-serial-number-on-the snowmobile-for-which-such the certificate-is-to-be-issued shall must be-checked-against-the-stolen-and-recovered snowmobile-index: THE REPORTING OF STOLEN AND RECOVERED SNOWMOBILES MUST BE CONDUCTED IN THE SAME MANNER AS THE REPORTING OF STOLEN AND RECOVERED MOTOR VEHICLES PROVIDED FOR IN 61-3-106."

**Section 2.** Section 23-2-611, MCA, is amended to read:

"23-2-611. Certificate of ownership -- filing of

THERE ARE NO CHANGES IN THIS BILL  
AND WILL NOT BE REPRINTED. PLEASE  
REFER TO YELLOW COPY FOR COMPLETE TEXT.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 9, 1993

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration House Bill No. 281 (first reading copy -- blue), respectfully report that House Bill No. 281 be amended as follows and as so amended be concurred in.

Signed: Cecil Weeding  
Senator Cecil Weeding, Chair

That such amendments read:

1. Title, lines 5 through 8.  
Following: "SNOWMOBILES;" on line 5  
Strike: remainder of line 5 through "WARDENS;" on line 8
2. Title, line 13.  
Following: "AND"  
Insert: "AND"  
Following: "23-2-654,"  
Strike: "AND 87-1-503,"
3. Page 10, line 2.  
Strike: "13"  
Insert: "12"
4. Page 10, line 17.  
Following: "SECTION"  
Strike: "14"  
Insert: "13"
5. Page 14, line 25 through page 15, line 3.  
Strike: subsection (b) in its entirety  
Renumber: subsequent subsections
6. Page 17, line 20.  
Following: line 19  
Strike: line 20 through "\$750"
7. Page 17, lines 23 through 25.  
Following: "vehicles." on line 23  
Strike: remainder of line 23 through "occurrence." on line 25
8. Page 21, line 15 through page 22, line 16.  
Strike: section 12 in its entirety  
Renumber: subsequent sections
9. Page 24, line 8 through page 25, line 7.  
Strike: section 15 in its entirety  
Renumber: subsequent section

-END-

SENATE

HB 281

mf Amd. Coord.  
hw Sec. of Senate

Swynged  
Senator Carrying Bill

531620SC.Sma

## HOUSE BILL NO. 281

INTRODUCED BY GRADY, FORRESTER, LARSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO SNOWMOBILES; ~~ADOPTING ALCOHOL CONCENTRATION STANDARDS APPLICABLE TO DRIVING A SNOWMOBILE WHILE UNDER THE INFLUENCE OF ALCOHOL; PROVIDING ENFORCEMENT EXCEPTIONS FOR CERTAIN EX-OFFICIO WARDENS;~~ EXEMPTING RACING SNOWMOBILES FROM CERTIFICATION AND REGISTRATION REQUIREMENTS; PROVIDING FOR REGISTRATION OF A SNOWMOBILE OWNED AND OPERATED SOLELY AS A COLLECTOR'S ITEM; AMENDING SECTIONS 23-2-602, 23-2-611, 23-2-615, 23-2-616, 23-2-619, 23-2-632, 23-2-634, 23-2-635, 23-2-641, 23-2-642, AND AND 23-2-654, ~~AND 87-1-503,~~ MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 23-2-602, MCA, is amended to read:

"23-2-602. Report of stolen and recovered snowmobiles. The ~~sheriff of every county of the state and the chief of police or commissioner of police of every city shall make an immediate report to the department of justice of all snowmobiles reported to him as stolen or recovered, upon forms provided by the department of justice. Upon receipt of such the information, the department of justice shall file the same report in an index to be known as the "stolen and~~

~~recovered snowmobile index". The department of justice shall file reports of stolen and recovered snowmobiles reported to it from other states. Once a month the department of justice shall prepare a list of all snowmobiles stolen or recovered during the previous month and forward a copy of the same list to every sheriff and all police departments in cities of the first, second, and third class. Such the list shall must also be forwarded to the secretary of state or other proper official in each state of the United States. Before a certificate of ownership may be issued under 23-2-601 through 23-2-644, the motor and serial number on the snowmobile for which such the certificate is to be issued shall must be checked against the stolen and recovered snowmobile index. THE REPORTING OF STOLEN AND RECOVERED SNOWMOBILES MUST BE CONDUCTED IN THE SAME MANNER AS THE REPORTING OF STOLEN AND RECOVERED MOTOR VEHICLES PROVIDED FOR IN 61-3-106."~~

**Section 2.** Section 23-2-611, MCA, is amended to read:

"23-2-611. Certificate of ownership -- filing of security interests. (1) A snowmobile may not be operated upon any private or public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets, or highways unless a certificate of ownership has first been obtained from the department of justice in accordance with the laws of this state. A certificate of ownership is not

required for a snowmobile purchased prior to [the effective date of this act] if use of the snowmobile is restricted to private land.

(2) The owner of a snowmobile shall apply for a certificate of ownership with the county treasurer of the county in which the owner resides, upon forms to be furnished for this purpose. The forms must require the following information:

- (a) the name of the owner;
- (b) the residence of the owner, by town and county;
- (c) the business or home ~~mail~~ mailing address of the owner;
- (d) the name and address of any lienholder;
- (e) the amount due under any contract or lien;
- (f) the name of the manufacturer;
- (g) the model number or name;
- (h) the identification number; and
- (i) the name and address of the dealer or other person from whom acquired.

(3) The application must be accompanied by documentation of ownership, such as an invoice, notarized bill of sale from the immediately previous owner, foreign title, official certificate of snowmobile number, or fee in lieu of tax receipt.

(4) The application must be signed by at least one

owner or by a properly authorized officer or representative of the owner.

~~(4)~~(5) If a certificate of ownership has previously been issued under the provisions of 23-2-601 through 23-2-644, the application for a new certificate must be accompanied by the immediately previous certificate. This subsection does not apply to snowmobiles that are purchased as new and unused machines or that were operated when the provisions of 23-2-601 through 23-2-644 were not in force and effect.

~~(5)~~(6) Upon completion of the application, on forms furnished by the department of justice, the county treasurer shall issue to the applicant two copies of the application, one of which must be marked "file copy". The treasurer shall forward one copy and the original application to the department of justice, which shall enter the information contained in the application upon the corresponding records of its office and shall furnish the applicant a certificate of ownership, which must contain that information in the application considered necessary by the department of justice, and a permanent ownership number. The certificate of ownership is not to be renewed annually and is valid as long as the person holding it owns the snowmobile.

~~(6)~~(7) The owner shall at all times retain possession of the certificate of ownership, except when it is being

1 transmitted to and from the department of justice for  
2 endorsement or cancellation.

3 ~~†7†~~(8) Upon application for a certificate of ownership,  
4 a fee of \$5 must be paid to the county treasurer, \$3.50 of  
5 which must be forwarded by the county treasurer to the  
6 department of justice and deposited in the general fund.

7 ~~†8†~~(9) A security interest in a snowmobile is not valid  
8 as against creditors, subsequent purchasers, or  
9 encumbrancers unless a lien notice, showing that a security  
10 interest has been created, has been perfected as provided in  
11 this section. The lien notice must be filed on a form  
12 approved by the department of justice. The department of  
13 justice may not file a security interest or other lien  
14 unless it is accompanied by or specified in the application  
15 for a certificate of ownership of the snowmobile encumbered.  
16 If the lien notice is transmitted to the department of  
17 justice, the security agreement or other lien instrument  
18 that creates the security interest must be retained by the  
19 secured party. A copy of the security agreement is  
20 sufficient as a lien notice if it contains the name and  
21 address of the debtor and the secured party, the complete  
22 snowmobile description, the amount of the lien, and the  
23 signature of the debtor. The department of justice shall  
24 file the security interest or lien by entering the name and  
25 address of the secured party upon the face of the

1 certificate of ownership. The department of justice shall  
2 mail a statement certifying the filing of a security  
3 interest or lien to the secured party. The department of  
4 justice shall mail the certificate of ownership to the owner  
5 at the address given on the certificate; however, if the  
6 transfer of ownership and filing of the security interest  
7 are paid for by a creditor or secured party, the department  
8 of justice shall return the certificate of ownership to the  
9 county treasurer of the county in which the snowmobile is to  
10 be registered. The owner of a snowmobile is the person  
11 entitled to operate and possess the snowmobile.

12 ~~†9†~~(10) A security interest in a snowmobile held as  
13 inventory by a dealer must be perfected in accordance with  
14 Title 30, chapter 9, and no endorsement on the certificate  
15 of title is not necessary for perfection.

16 ~~†10†~~(11) Whenever a security interest or lien is filed  
17 against a snowmobile that is subject to two security  
18 interests previously perfected under this section, the  
19 department of justice shall endorse on the face of the  
20 certificate of ownership: "NOTICE. This snowmobile is  
21 subject to additional security interest on file with the  
22 Department of Justice". No other information regarding  
23 the additional security interests need not be endorsed on  
24 the certificate.

25 ~~†11†~~(12) Satisfactions or statements of release filed



1 with the department of justice under this part must be  
2 retained for a period of 8 years after receipt, after which  
3 they may be destroyed.

4 {12}(13) A security interest or other lien as provided  
5 in this section is perfected on the date the lien notice is  
6 delivered to the county treasurer. On that date, the county  
7 treasurer shall issue to the secured party a receipt  
8 evidencing the perfection. Perfection under this section  
9 constitutes constructive notice to subsequent purchasers or  
10 encumbrancers, from the date of delivery of the lien notice  
11 to the county treasurer, of the existence of the security  
12 interest.

13 {13}(14) Upon default under a chattel mortgage or  
14 conditional sales contract covering a snowmobile, the  
15 mortgagee or vendor has the same remedies as in the case of  
16 other personal property. In case of attachment of a  
17 snowmobile, all the provisions of 27-18-413, 27-18-414, and  
18 27-18-804 are applicable, except that deposits must be made  
19 with the department of justice.

20 {14}(15) A conditional sales vendor or chattel mortgagee  
21 or assignee who fails to file a satisfaction of a chattel  
22 mortgage, assignment, or conditional sales contract within  
23 15 days after receiving final payment is required to pay the  
24 department of justice the sum of \$1 for each day that he  
25 ~~fails to file~~ the satisfaction is not filed.

1 {15}(16) Upon receipt of any liens, notice of liens  
2 dependent on possession, or attachments against the record  
3 of any snowmobile registered in this state, the department  
4 of justice shall within 24 hours mail to the owner,  
5 conditional sales vendor, mortgagee, or their assignee a  
6 notice showing the name and address of the lien claimant,  
7 the amount of the lien, the date of execution of the lien,  
8 and, in the case of attachment, the full title of the court,  
9 the action, and the name of the attorney for the plaintiff  
10 or the name of the attaching creditor, or both.

11 {16}(17) It is not necessary to refile with the  
12 department of justice any instruments on file in the office  
13 of the county clerk and recorder on October 1, 1989.

14 {17}(18) A fee of \$4 must be paid to the department of  
15 justice to file any security interest or other lien against  
16 a snowmobile. The \$4 fee must cover the cost of filing a  
17 satisfaction or release of the security interest and the  
18 cost of entering the satisfaction or release on the records  
19 of the department of justice and deleting the endorsement of  
20 the security interest from the face of the certificate of  
21 ownership. A fee of \$4 must be paid to the department of  
22 justice for issuing a certified copy of a certificate of  
23 ownership subject to a security interest or other lien on  
24 file with the department of justice or for filing an  
25 assignment of a 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 general fund in accordance with 15-1-504."

**Section 3.** Section 23-2-615, MCA, is amended to read:

"23-2-615. Nonresident temporary-use permits -- use of fees. (1) The requirements pertaining to the nonresident temporary-snowmobile-use permit are as follows:

(a) Application for the issuance of the permit ~~shall~~ must be made at locations and upon forms prescribed by the department. The forms ~~shall~~ must include but are not limited to:

(i) the applicant's name and permanent address;

(ii) the make, model, year, and serial number of the snowmobile; and

(iii) an affidavit declaring the nonresidency of the applicant.

(b) Upon submission of the application and a fee of \$6, a nonresident temporary-snowmobile-use sticker ~~shall~~ must be issued. The sticker ~~shall~~ must be displayed in a conspicuous manner on the snowmobile.

(2) The temporary permit is valid for a consecutive 30-day period as designated by the permit.

(3) The permit is not proof of ownership, and no a certificate of ownership may not be issued.

(4) A nonresident temporary-snowmobile-use permit is

not required for a snowmobile that qualifies as a racing snowmobile under [section 13 12].

(5) All money collected by payment of fees under this section ~~shall~~ must be turned over to the state treasurer and placed in the state special revenue fund to the credit of the department of fish, wildlife, and parks, with one-half to be used in administering this section and one-half to be used in the development, maintenance, and operation of snowmobile facilities.

~~†5†~~(6) The failure to display the permit as required by this section or the making of false statements in obtaining the permit is a misdemeanor, punishable by a fine of not less than \$25 or more than \$100."

**Section 4.** Section 23-2-616, MCA, is amended to read:

"23-2-616. Registration and decals -- application and issuance -- use of certain fees. (1) No A EXCEPT FOR A SNOWMOBILE REGISTERED UNDER [SECTION 14 13], A snowmobile may not be operated on public lands by any person in Montana unless it has been registered and there is displayed in a conspicuous place on both sides of the cowl a decal as visual proof that the fee in lieu of property tax has been paid on it for the current year and the immediately previous year as required by 15-16-202.

(2) Application for registration ~~shall~~ must be made to the county treasurer upon forms to be furnished by the

1 department of justice for this purpose, which may be  
2 obtained at the county treasurer's office in the county  
3 where the owner resides. The application shall contain the  
4 following information:

- 5 (a) the name and address of the owner;
- 6 (b) the certificate of ownership number;
- 7 (c) the make of the snowmobile;
- 8 (d) the model name of the snowmobile;
- 9 (e) the year of manufacture;
- 10 (f) a statement evidencing payment of the fee in lieu  
11 of property tax as required by 15-16-202; and
- 12 (g) such other information as the department of justice  
13 may require.

14 (3) The application ~~shall~~ must be accompanied by a  
15 decal fee of \$2 \$5, a registration fee of 50 cents, and, if  
16 the snowmobile has previously been registered, by the  
17 registration certificate for the most recent year in which  
18 the snowmobile was registered. The treasurer shall sign the  
19 application and issue a registration receipt ~~which--shall~~  
20 that must contain information considered necessary by the  
21 department of justice and a listing of fees paid. The owner  
22 shall retain possession of the registration receipt until it  
23 is surrendered to the county treasurer for reregistration or  
24 to a purchaser or subsequent owner pursuant to a transfer of  
25 ownership.

1 (4) The county treasurer shall forward the signed  
2 application to the department of justice and shall issue to  
3 the applicant a decal in the style and design prescribed by  
4 the department of justice and of a different color than the  
5 preceding year, numbered in sequence.

6 (5) The county treasurer may not accept any application  
7 under this section until the applicant has paid the decal  
8 and registration fees and the fee in lieu of property tax on  
9 the snowmobile for the current year and the immediately  
10 previous year as required by 15-16-202.

11 (6) All money collected from payment of the decal fees  
12 and all interest accruing from use of this money ~~shall~~ must  
13 be forwarded to the state treasurer and placed in the state  
14 special revenue fund to the credit of the department, with  
15 \$1 \$2.50 designated for use in enforcing the purposes of  
16 23-2-601 through 23-2-644 and \$1 \$2.50 designated for use in  
17 the development, maintenance, and operation of snowmobile  
18 facilities. All money collected from payment of the  
19 registration fee ~~shall~~ must be forwarded to the state  
20 treasurer and deposited in the general fund.

21 (7) The county treasurer shall credit all fees in lieu  
22 of tax collected on snowmobiles to the county motor vehicle  
23 suspense fund provided for in 61-3-509."

24 **Section 5.** Section 23-2-619, MCA, is amended to read:

25 "23-2-619. Dealer registration certificate -- use of

1 fees. (1) A dealer registration certificate ~~shall~~ must be  
2 issued in accordance with 23-2-601 through 23-2-644.

3 (2) The dealer application ~~shall~~ must be accompanied by  
4 an application fee of \$5 and a registration fee of \$5. Upon  
5 receipt of the dealer application and payment of fees, the  
6 dealer shall be issued two dealer snowmobile identification  
7 cards ~~which shall~~ that must be carried by the dealer or the  
8 dealer's customer when demonstrating the dealer's  
9 snowmobiles.

10 (3) No A bond is not required of the dealer.

11 (4) The dealer shall have a principal place of business  
12 where he the dealer shall maintain all his business records  
13 and display and sell merchandise.

14 (5) An applicant for renewal of a snowmobile dealer  
15 registration shall certify that he the applicant has sold 3  
16 5 or more snowmobiles during the preceding year or pay an  
17 additional \$50 renewal registration fee or provide a copy of  
18 a written new snowmobile franchise or sales agreement that  
19 the applicant has with a manufacturer, importer, or  
20 distributor.

21 (6) Additional dealer snowmobile identification cards  
22 as required by need justified to the department of justice  
23 may be purchased by the dealer for a fee of \$2.

24 (7) Dealer registration certificates and identification  
25 cards expire on June 30 following the date of issuance.

1 (8) (a) The dealer application fees and all interest  
2 accruing from use of this money ~~shall~~ must be deposited in  
3 the state special revenue fund to the credit of the  
4 department, with one-half designated for use in enforcing  
5 the purposes of 23-2-601 through 23-2-644 and one-half  
6 designated for use in the development, maintenance, and  
7 operation of snowmobile facilities.

8 (b) All money collected from dealer registration and  
9 renewal registration fees ~~shall~~ must be deposited in the  
10 general fund."

11 **Section 6.** Section 23-2-632, MCA, is amended to read:

12 "23-2-632. Unlawful operation on-streets--and--highways  
13 of snowmobiles. (1) It is unlawful for a person to operate a  
14 snowmobile on a public street, or public highway,  
15 established snowmobile trail, public snowmobile area on  
16 public lands or waters, or lands or waters under easement or  
17 lease for snowmobiling and adjacent snowmobiling areas on  
18 private lands or waters where public snowmobiling is  
19 permitted:

20 (a) at a rate of speed greater than provided by law for  
21 motor vehicles, UNLESS TRAVEL ON THE STREET, HIGHWAY, OR  
22 TRAIL HAS BEEN CLOSED TO MOTOR VEHICLE TRAFFIC OR UNLESS  
23 DRIFTING SNOW OR SNOW COVER HAS RENDERED TRAVEL BY MOTOR  
24 VEHICLES IMPRACTICAL OR IMPOSSIBLE;

25 {b}--~~while-under-the-influence-of-intoxicating-liquor-in~~

~~violation-of-the-alcohol-concentration-standards-established  
in-(section-12)-or-while-under-the-influence-of-narcotics-or  
habit-forming-drugs;~~

~~(e)(B)~~ in a careless or reckless manner so as to endanger the person or property of another or to cause injury or damage to either; or

~~(d)(C)~~ if that person by reason of age or mental or physical disability is incapable of operating the snowmobile safely under the prevailing circumstances.

(2) It is unlawful to permit the operation of a snowmobile ~~on--a--public--street-or-highway~~ in violation of subsection (1) by a person who by reason of age or physical or mental disability is incapable of operating the snowmobile safely under the prevailing circumstances."

**Section 7.** Section 23-2-634, MCA, is amended to read:

"23-2-634. Regulation of snowmobile noise. (1) Except as provided in this section, every snowmobile shall ~~must~~ be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order and in constant operation. No A snowmobile may not be modified by any person in any manner that will amplify or otherwise increase total noise emissions to a level greater than that emitted by the snowmobile as originally constructed, regardless of date of manufacture.

(2) Every person who owns or operates a snowmobile

manufactured after June 30, 1972, but prior to June 30, 1975, shall maintain ~~his~~ the machine in such a manner that it will not exceed a sound level limitation of 82 dbA measured at 50 feet.

(3) No-new A snowmobile manufactured after June 30, 1975, except snowmobiles designated for competition purposes only, may not be sold or offered for sale unless that machine has been certified by the manufacturer as being able to conform to a sound level limitation of not more than 78 dbA measured at 50 feet. Every person who owns or operates a snowmobile manufactured after June 30, 1975, shall maintain ~~his~~ the machine in such a manner that it will not exceed a sound level limitation of 78 dbA measured at 50 feet.

(4) A manufacturer who certifies that a new snowmobile can comply with the noise limitation requirements of 23-2-601 through 23-2-644 shall affix a permanent notice of that certification to every snowmobile offered for sale in the state of Montana.

(5) In certifying that a new snowmobile can comply with the noise limitation requirements of 23-2-601 through 23-2-644, a manufacturer shall make ~~such-a~~ the certification based upon measurements made in accordance with SAE recommended practice J192, as amended. The department, in enforcing the provisions of this section, shall make measurements of snowmobile noise in accordance with

applicable practices outlined in the "Procedure for Sound Level Measurements of Snowmobiles" (January, 1969), as amended, used by the international snowmobile industry association or with such other standards for measurement of sound level as the department may adopt.

(6) This section does not apply to organized races or similar competitive events held on:

(a) private lands or waters, with the permission of the owner, lessee, or custodian of the land or waters; or

(b) public lands or waters, with the consent of the public agency having the authority to grant such consent, ~~provided--that-total-sound-produced-by-such-an-event-may-not exceed-50-dBA-at-any-point-50-feet-or-more-outside-the--area under-the-control-of-the-sponsoring-entity."~~

**Section 8.** Section 23-2-635, MCA, is amended to read:

"23-2-635. Accidents involving snowmobiles. The owner or operator of a snowmobile, ~~which~~ that is involved in any accident, collision, or upset ~~upon--a--public--street-or highway-where in which~~ in which personal injury occurs to any person or where in-which ~~property-damage-exceeds \$100 \$750~~, shall report the accident or occurrence to ~~a-state--or--local~~ the nearest law enforcement agency ~~responsible-for-collecting reports-of-accidents-involving-motor-vehicles. An--accident involving--property--damage--only-must-be-reported-within-40 hours-of-the--occurrence.~~ An accident involving personal

injury or a fatality must be reported immediately or as soon as practicable."

**Section 9.** Section 23-2-641, MCA, is amended to read:

"23-2-641. Enforcement. (1) ~~The-following-persons-may enforce-the-provisions-of--23-2-601--through--23-2-644--the enforcement--officers--employed--by--the--department,--with respect--to--violations--relating--to--wildlife--or--birds, discharging--firearms,--or-sound-level-limitations--However with~~ With respect to the sale of any new snowmobile which that is subject to the provisions of 23-2-601 through 23-2-644, the attorney general ~~of--the--state--of--Montana~~ shall, upon the request of the department, sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order or temporary or permanent injunction against a person who sells or offers to sell a new snowmobile that does not satisfy the sound level limitations imposed by 23-2-601 through 23-2-644.

(2) (a) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(i) of search, seizure, and arrest;

(ii) to investigate activities in this state regulated by this part and rules of the department and the fish,

wildlife, and parks commission; and

(iii) to report violations to the county attorney of the county in which they occur.

(b) Sheriffs and their deputies of the various counties of the state, the Montana highway patrol, authorized officers of the department, and the police of each municipality shall enforce the provisions of ~~23-2-601 through 23-2-644~~ this part."

**Section 10.** Section 23-2-642, MCA, is amended to read:

"23-2-642. Penalties. (1) The failure to display a current decal indicating that the fee in lieu of property tax has been paid on the snowmobile for the current year during the time provided in 23-2-601 through 23-2-644 is a misdemeanor, punishable by a fine ~~of not less than \$10 or more than \$50~~ in an amount equal to five times the applicable fee in lieu of tax payable under 23-2-615.1.

(2) A person who violates any other provision of 23-2-601 through 23-2-644 or a rule adopted pursuant thereto to those sections shall pay a civil penalty of not less than \$15 or more than \$500 for each separate violation.

~~{3}--A person who willfully violates any other provision of 23-2-601 through 23-2-644 or a rule adopted pursuant thereto~~ If the violation is willful, the person shall pay a civil penalty of not less than \$50 or more than \$1,000 for each separate violation.

~~{4}{3}~~ A manufacturer who certifies that a new snowmobile can meet the sound level limitations imposed by 23-2-601 through 23-2-644 ~~shall be~~ is subject to the penalty provisions of subsections subsection (2) and {3} if any machine so certified does not meet the appropriate sound level limitation. For the purposes of this section, every sale of a new snowmobile that does not meet the sound level limitations imposed by 23-2-601 through 23-2-644 constitutes a separate violation."

**Section 11.** Section 23-2-654, MCA, is amended to read:

"23-2-654. Snowmobiler's assumption of responsibility -- duties. (1) A snowmobiler ~~assumes--the--risk--and shall accept~~ all legal responsibility for ~~death--or injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of snowmobiling and has the duty to regulate personal conduct at all times so that injury to himself self or other persons or property that results from the risks inherent in the sport of snowmobiling is avoided.~~ The assumption-of-risk--includes--but is--not--limited--to--death--or--injury--caused--by--the--following: risks inherent in the sport of snowmobiling include variations in terrain, surface or subsurface snow or ice conditions, cornices, avalanches, poor visibility, bare spots, rocks, trees, other forms of forest growth or debris, and plainly marked trail maintenance equipment.

1 (2) A snowmobiler is responsible for:

2 (a) knowing the range of his the snowmobiler's own  
3 ability to snowmobile any slope, trail, or area and for  
4 snowmobiling within the limits of his the snowmobiler's  
5 ability considering the conditions;

6 (b) maintaining control of his speed and course at all  
7 times while snowmobiling;

8 (c) heeding all posted warnings; and

9 (d) refraining from acting in a manner that may cause  
10 or contribute to the injury of anyone.

11 (3) The provisions of this section do not affect a  
12 products liability cause of action based upon the design or  
13 manufacture of snowmobile equipment or products or safety  
14 equipment used incidental to the operation of a snowmobile."

15 NEW SECTION. Section 12. Alcohol-----concentration--  
16 standards-----evidence-admissible-----administration-of-tests-  
17 {1}--The--inferences--contained--in-61-8-401{4}-apply-to-any  
18 criminal-action-or-proceeding-arising-out-of-acts-alleged-to  
19 have-been-committed-in-violation-of-23-2-632{1}{b}.

20 {2}--Evidence--of--any--measured--amount---or---detected  
21 presence--of--alcohol--in--a--person--at-the-time-of-the-act  
22 alleged,as-shown-by-analysis-of-the-person's-blood, breath,  
23 or-urine, and any other competent evidence--bearing--on--the  
24 question--of--whether--the-person-was-under-the-influence-of  
25 alcohol, drugs, or a combination of the two at the--time--of

1 the--act--alleged--is--admissible--in-any-criminal-action-or  
2 proceeding--arising--out--of--acts--alleged--to--have---been  
3 committed-in-violation-of-23-2-632{1}{b}.

4 {3}--If---a---person---charged---with---violation---of  
5 23-2-632{1}{b}-refuses-to-submit-to-a-test-of-blood, breath,  
6 or-urine-for-the-purpose-of-determining-any-measured--amount  
7 or--detected--presence--of--alcohol, none-will-be-given, but  
8 proof-of-refusal-is-admissible-in-any-criminal--action--or  
9 proceeding---arising--out--of--acts--alleged--to--have--been  
10 committed-in-violation-of-23-2-632{1}{b}.

11 {4}--The-provisions-relating-to-administration-of--tests  
12 provided---in---61-8-405---and--the--definition--of--alcohol  
13 concentration-provided-in-61-8-407-apply-to-any-testing-done  
14 to-a-person-charged-with-violation-of-23-2-632{1}{b}.

15 {5}--As-used-in--23-2-632{1}{b},--the--term--"under--the  
16 influence"--has-the-meaning-provided-in-61-8-401{3}.

17 NEW SECTION. Section 12. Registration of racing  
18 snowmobile not required. A snowmobile built or used  
19 exclusively for racing in sanctioned competitive events or  
20 organized races, including testing areas designated by the  
21 sponsoring entity, is exempt from the certificate of  
22 ownership requirements of 23-6-611 and registration under  
23 23-2-616.

24 NEW SECTION. SECTION 13. REGISTRATION OF A SNOWMOBILE  
25 OWNED AND OPERATED SOLELY AS A COLLECTOR'S ITEM. (1) AN



1 OWNER OF A SNOWMOBILE THAT IS MORE THAN 25 YEARS OLD AND  
 2 THAT IS USED SOLELY AS A COLLECTOR'S ITEM AND NOT FOR  
 3 GENERAL RECREATIONAL PURPOSES MAY FILE WITH THE COUNTY  
 4 TREASURER AN APPLICATION FOR THE REGISTRATION OF THE  
 5 SNOWMOBILE. THE APPLICATION MUST BE SWORN TO BEFORE AN  
 6 OFFICER AUTHORIZED TO ADMINISTER OATHS. THE APPLICATION MUST  
 7 STATE:

8 (A) THE NAME AND ADDRESS OF THE OWNER;

9 (B) THE NAME AND ADDRESS OF THE PERSON FROM WHOM THE  
 10 SNOWMOBILE WAS PURCHASED;

11 (C) THE MAKE, THE YEAR AND NUMBER OF THE MODEL, AND THE  
 12 MANUFACTURER'S IDENTIFICATION NUMBER AND SERIAL NUMBER OF  
 13 THE SNOWMOBILE; AND

14 (D) THAT THE SNOWMOBILE IS OWNED AND OPERATED SOLELY AS  
 15 A COLLECTOR'S ITEM AND NOT FOR GENERAL RECREATIONAL  
 16 PURPOSES.

17 (2) THE REGISTRATION FEE FOR A SNOWMOBILE REGISTERED  
 18 UNDER SUBSECTION (1) IS \$10.

19 (3) UPON RECEIPT OF THE APPLICATION FOR REGISTRATION  
 20 AND PAYMENT OF THE REGISTRATION FEE, THE COUNTY TREASURER  
 21 SHALL FILE THE APPLICATION, REGISTER THE SNOWMOBILE IN THE  
 22 MANNER SPECIFIED IN 23-2-616, AND DELIVER TO THE APPLICANT A  
 23 LICENSE PLATE OR DECAL BEARING THE INSCRIPTION  
 24 "VINTAGE--MONTANA" AND THE REGISTRATION NUMBER.

25 (4) THE YEAR OF ISSUANCE MAY NOT BE SHOWN ON THE PLATE

1 OR DECAL.

2 (5) ANNUAL RENEWAL OF THE REGISTRATION OF A SNOWMOBILE  
 3 REGISTERED UNDER THIS SECTION IS NOT REQUIRED, AND THE  
 4 REGISTRATION IS VALID AS LONG AS THE SNOWMOBILE IS IN  
 5 EXISTENCE. UPON SALE OF THE SNOWMOBILE, THE PURCHASER SHALL  
 6 RENEW THE REGISTRATION AND PAY THE LICENSE FEE REQUIRED IN  
 7 SUBSECTION (2).

8 **SECTION 15. -- SECTION 87-1-503, MCA, IS AMENDED TO READ:**

9 "87-1-503. -- Ex-officio wardens: All (1) -- Except -- as  
 10 provided in subsection (2), all sheriffs and their deputies,  
 11 constables, -- all -- peace officers of the state or any  
 12 subdivision thereof, and all state forest officers, other  
 13 officers of the United States forest service or agents of  
 14 the United States fish and wildlife service that are  
 15 assigned to duty in this state, and field personnel of the  
 16 department, as the director may appoint, are hereby made ex  
 17 officio wardens, without pay, except that the department  
 18 may, in its discretion, allow traveling expenses as provided  
 19 for in 2-10-501 through 2-10-503, which, if allowed, must be  
 20 paid upon proper vouchers from the state fish and game  
 21 funds. Ex-officio wardens shall have the same powers with  
 22 reference to the enforcement of the fish and game laws of  
 23 this state and the laws relating to parks and outdoor  
 24 recreation contained in chapters 1 and 2 of Title 23, except  
 25 chapter 27, part 7, as regularly appointed wardens, and it is

1 hereby--made-their-duty-to-assist, whenever possible, in the  
2 enforcement of those laws.

3 ~~{2}--Officers--of--the--United--States--forest--service,~~  
4 ~~agents-of-the-United-States-fish-and-wildlife--service--and~~  
5 ~~peace--officers--of--the-bureau-of-land-management, national~~  
6 ~~park-service, and corps-of-engineers-are-not--authorized--to~~  
7 ~~enforce-the-provisions-of-{section-12},~~"

8 NEW SECTION. Section 14. Effective date. [This act] is  
9 effective on passage and approval.

-End-