

SENATE BILL NO. 303

2 INTRODUCED BY Frenchman, 1850, by R. H. Stark

3

1 A BILL FOR AN ACT ENTITLED: "AN

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A PERSON FROM OPERATING A PERSONAL
5 WATERCRAFT AT GREATER THAN NO-WAKE SPEED WITHIN 150 FEET OF A DOCK, SWIMMER,
6 SWIMMING RAFT, NONMOTORIZED BOAT, ANCHORED VESSEL, OR BUOY DISPLAYING A "DIVER
7 DOWN" SYMBOL; AMENDING SECTIONS 23-2-525 AND 23-2-531, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

9

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

11

12 Section 1. Section 23-2-525, MCA, is amended to read:

13 **"23-2-525. Restricted areas.** (1) ~~No~~ A person ~~shall~~ may not anchor a vessel or other obstacle
14 for fishing or pleasure purposes on ~~any~~ a body of water over which the state has jurisdiction in such a
15 position ~~as to obstruct~~ that obstructs a passageway ordinarily used by other vessels.

16 (2) ~~No~~ A person ~~shall~~ may not operate a pleasure vessel within 20 feet of the exterior boundary
17 of a water area ~~which~~ that is clearly marked by buoys or some other distinguishing device as a bathing or
18 swimming area. Swimming areas ~~shall~~ must be marked with white buoys having international orange
19 markings in conformance with the uniform state waterway marking system by the owners of ~~such the~~
20 areas.

21 (3) ~~No~~ A person shall ~~may not~~, without permission, operate or knowingly permit ~~any~~ a person to
22 operate a vessel within 50 feet of a person engaged in fishing, unless unavoidable.

23 (4) (a) No Except as provided in 23-2-531(3), a person shall may not purposely, knowingly, or
24 negligently operate a motorboat upon the waters of this state within 100 feet of a tow-float or buoy
25 displaying a "diver-down" symbol, red with a white slash, on a flag.

26 (b) The motorboat may enter the 100-foot safety zone by use of sail or oar. In an emergency or
27 if there is insufficient water on either side of the 100-foot safety zone to pass by and stay out of the zone,
28 the operator may use power within the zone but may not exceed no-wake speed. The burden of proving
29 that an emergency exists or that there is insufficient water is on the operator.

30 (c) The fish, wildlife, and parks commission may by rule determine areas where establishment of



1 a 100-foot safety zone is not allowed in order to provide for diver safety or the regulation of water traffic."

2

3 **Section 2.** Section 23-2-531, MCA, is amended to read:

4 **"23-2-531. Personal watercraft operation.** In addition to ~~all other~~ applicable provisions in this part,

5 a person may not operate a personal watercraft:

6 (1) unless ~~each~~ a person operating or riding on the vessel is wearing a United States coast guard
7 approved type I, II, III, or V personal flotation device;

8 (2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch unless
9 the lanyard is attached to the operator's person, clothing, or personal flotation device as is appropriate for
10 the specific vessel; or

11 (3) at greater than no-wake speed within 150 feet of a dock, swimmer, swimming raft,
12 nonmotorized boat, anchored vessel, or a tow-float or buoy displaying a "diver down" symbol, red with
13 white slash, on a flag; or

14 ~~(3)~~(4) in a reckless or negligent manner. Actions prohibited in 23-2-523 are considered reckless
15 operation."

16

17 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

18

-END-

APPROVED BY COM
ON FISH & GAME

1 SENATE BILL NO. 303

2 INTRODUCED BY PIPINICH, LARSON, HARP, BECK, WILSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A PERSON FROM OPERATING A PERSONAL
5 ~~WATERCRAFT MOTORBOAT~~ AT GREATER THAN NO-WAKE SPEED WITHIN ~~150~~ 100 FEET OF A DOCK,
6 SWIMMER, SWIMMING RAFT, NONMOTORIZED BOAT, ~~OR~~ ANCHORED VESSEL, ~~OR~~ BUOY DISPLAYING
7 A "DIVER DOWN" SYMBOL, WITH CERTAIN EXCEPTIONS; CLARIFYING THE AGE REQUIREMENTS FOR
8 OPERATION OF A MOTORBOAT OR PERSONAL WATERCRAFT; AMENDING SECTIONS 23-2-523,
9 23-2-525, AND 23-2-531, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10

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

12

13 SECTION 1. SECTION 23-2-523, MCA, IS AMENDED TO READ:14 "23-2-523. Prohibited operation and mooring -- enforcement. (1) A person may not operate or
15 knowingly permit a person to operate a motorboat or vessel or manipulate ~~any~~ water skis, a surfboard, or
16 a similar device or other contrivance in a reckless or negligent manner so as to endanger the life, limb, or
17 property of ~~any~~ a person by:18 (a) engaging in maneuvers that unreasonably or unnecessarily endanger life, limb, or property,
19 including but not limited to weaving through congested vessel traffic or jumping the wake of another vessel
20 unreasonably or unnecessarily close to the other vessel or when visibility around the other vessel is
21 obstructed and including swerving at the last possible moment to avoid collision, following directly behind
22 a waterskier, speeding in confined or restricted areas, and buzzing or wetting down others, which
23 constitute reckless operation of a vessel;24 (b) crossing or jumping the wake of another vessel when within 100 yards of the vessel or within
25 100 yards of a waterskier being towed by the vessel, except when directly entering or leaving a public or
26 private marina, waterski facility, or other watercraft docking or loading area.27 (2) A person may not operate ~~any~~ a motorboat, including a sailboat propelled by a motor of any
28 kind, or manipulate ~~any~~ water skis, a surfboard, or a similar device attached to a motorboat while under
29 the influence of alcohol, drugs, or a combination of the two.

30 (3) It is unlawful for the owner of a motorboat or vessel or a person having the motorboat or vessel

1 in charge or in control to authorize or knowingly permit the same to be operated by a person who by reason
2 of physical or mental disability is incapable of operating the watercraft under the prevailing circumstances.

3 (4) A person may not operate or knowingly permit a person to operate a motorboat or vessel at
4 a rate of speed greater than will permit the person, in the exercise of reasonable care, to bring the vessel
5 to a stop within the assured clear distance ahead. However, nothing in this part is intended to prevent the
6 operator of a vessel actually competing in a regatta that is sanctioned by an appropriate governmental unit
7 from attempting to attain high speeds on a marked racing course.

8 (5) A person may not make a reckless approach to, departure from, or passage by a dock, ramp,
9 diving board, or float.

10 (6) Skiers being pulled by motorboats must have on their person a United States coast guard
11 approved personal flotation device in good and serviceable condition.

12 (7) A person may not moor a vessel to buoys or beacons placed in any waters of this state by the
13 authority of the United States, an agency of the United States, or the department or in any manner hang
14 on with a vessel to such a buoy or beacon, except in the act of maintenance work on the buoy or beacon,
15 nor may any person deface, remove, or destroy a buoy, beacon, or other authorized navigational marker
16 maintained in the waters of this state.

17 (8) If an officer whose duty it is to enforce the sections of this law observes a vessel being used
18 without sufficient lifesaving or firefighting devices or in an overloaded or other unsafe condition and in his
19 the officer's judgment such the use creates an especially hazardous condition, he the officer may direct the
20 operator to take whatever immediate and reasonable steps would be necessary for the safety of those
21 aboard the vessel, including directing the operator to return to a mooring or launching site and to remain
22 there until the situation creating the hazard is corrected or ended.

23 (9) The population density and heavy recreational use of certain lakes require a noise standard more
24 restrictive than the standard set in 23-2-526, in order to protect the public health and safety. Unless
25 operated on a river or stream in compliance with a commission rule adopted under 23-2-521(9), a person
26 may not operate a motorboat or personal watercraft on Flathead Lake, situated in Lake and Flathead
27 Counties, Echo Lake, situated in Flathead County, or Swan Lake, situated in Lake County, in proximity to
28 the shoreline if the noise emitted is greater than 75 dbA measured at the shoreline in accordance with the
29 shoreline sound level measurement procedure (SAE J1970).

30 (10) Unless accompanied by a person 18 years of age or older, a person 12 years of age or

1 younger may not operate a motorboat or a personal watercraft that is powered by a motor rated at more
2 than 10 horsepower. ~~After December 31, 1993, a~~ A person under 15 years of age 13 or 14 years of age
3 may not operate a vessel or personal watercraft powered by a motor rated at more than 10 horsepower
4 without possessing a valid Montana motorboat operator's safety certificate or evidence of completion of
5 a Montana-approved water safety course or unless accompanied by a person 18 years of age or older.

6 (11) A person who owns or has charge or control of a motorboat or personal watercraft powered
7 by a motor rated at more than 10 horsepower may not authorize or knowingly permit the motorboat or
8 personal watercraft to be operated:

9 (a) by a person 12 years of age or younger unless accompanied by a person 18 years of age or
10 older; or

11 (b) ~~after December 31, 1993, by a person under 15 years of age 13 or 14 years of age unless the~~
12 person possesses a valid Montana motorboat operator's safety certificate or evidence of completion of a
13 Montana-approved water safety course or is accompanied by a person 18 years of age or older.

14 (12) A person may not rent a motorboat or a personal watercraft powered by a motor rated at more
15 than 10 horsepower to a person under 18 years of age."

16

17 **Section 2.** Section 23-2-525, MCA, is amended to read:

18 **"23-2-525. Restricted areas.** (1) ~~No~~ A person shall ~~se~~ may not anchor a vessel or other obstacle
19 for fishing or pleasure purposes on ~~any~~ a body of water over which the state has jurisdiction in ~~such~~ a
20 position ~~as to obstruct~~ that obstructs a passageway ordinarily used by other vessels.

21 (2) (A) EXCEPT AS PROVIDED IN SUBSECTION (2)(B), A PERSON MAY NOT OPERATE A
22 MOTORBOAT AT A GREATER THAN NO-WAKE SPEED WITHIN 100 FEET OF A DOCK, SWIMMER,
23 SWIMMING RAFT, NONMOTORIZED BOAT, OR ANCHORED VESSEL. THIS DISTANCE IS INCLUSIVE OF
24 A TOWED EXTENSION, SUCH AS A WATERSKIER OR PERSON ON A TUBE.

25 (B) A MOTORBOAT THAT IS TOWING A WATERSKIER OR PERSON ON A TUBE AWAY FROM A
26 DOCK OR SHORE AT A RIGHT ANGLE TO THE SHORELINE MAY EXCEED THE PROVISIONS OF
27 SUBSECTION (2)(A) BUT SHALL PROCEED AWAY FROM THE DOCK OR SHORE AT NO LESS THAN A
28 45-DEGREE ANGLE TO THE DOCK OR SHORELINE.

29 (3) (3) No A person shall ~~may~~ not operate a pleasure vessel within ~~20~~ 100 feet of the exterior
30 boundary of a water area ~~which~~ that is clearly marked by buoys or some other distinguishing device as a

1 bathing or swimming area. Swimming areas ~~shall~~ must be marked with white buoys having international
2 orange markings in conformance with the uniform state waterway marking system by the owners of such
3 the areas.

4 ~~(3)(4) No~~ A person ~~shall~~ may not, without permission, operate or knowingly permit ~~any~~ a person
5 to operate a vessel within ~~50~~ 100 feet of a person engaged in fishing, unless unavoidable.

6 ~~(4)(5) (a) No~~ Except as provided in 23-2-531(3), a A person ~~shall~~ may not purposely, knowingly,
7 or negligently operate a motorboat upon the waters of this state within 100 feet of a tow-float or buoy
8 displaying a "diver-down" symbol, red with a white slash, on a flag.

9 (b) The motorboat may enter the 100-foot safety zone by use of sail or oar. In an emergency or
10 if there is insufficient water on either side of the 100-foot safety zone to pass by and stay out of the zone,
11 the operator may use power within the zone but may not exceed no-wake speed. The burden of proving
12 that an emergency exists or that there is insufficient water is on the operator.

13 (c) The fish, wildlife, and parks commission may by rule determine areas where establishment of
14 a 100-foot safety zone is not allowed in order to provide for diver safety or the regulation of water traffic."

15

16 **Section 3.** Section 23-2-531, MCA, is amended to read:

17 **"23-2-531. Personal watercraft operation.** In addition to ~~all other~~ applicable provisions in this part,
18 a person may not operate a personal watercraft:

19 (1) unless ~~each~~ a person operating or riding on the vessel is wearing a United States coast guard
20 approved type I, II, III, or V personal flotation device;

21 (2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch unless
22 the lanyard is attached to the operator's person, clothing, or personal flotation device as is appropriate for
23 the specific vessel; or

24 **(3) (A) EXCEPT AS PROVIDED FOR STANDUP PERSONAL WATERCRAFT IN SUBSECTION (3)(B),**
25 **at greater than no-wake speed within ~~150~~ 100 feet of a dock, swimmer, swimming raft, nonmotorized boat,**
26 **OR anchored vessel, or a tow-float or buoy displaying a "diver-down" symbol, red with white slash, on a**
27 **flag; or**

28 **(B) AT GREATER THAN MINIMUM MANEUVERING SPEED FOR A STANDUP PERSONAL**
29 **WATERCRAFT WHEN LEAVING OR RETURNING DIRECTLY FROM OR TO A DOCK OR SHORE FOR THE**
30 **PURPOSE OF LAUNCHING OR DOCKING; OR**

1 ~~(3)(4)~~ in a reckless or negligent manner. Actions prohibited in 23-2-523 are considered reckless
2 operation."

3

4 **NEW SECTION.** **Section 4. Effective date.** [This act] is effective on passage and approval.

5

-END-

1 SENATE BILL NO. 303

2 INTRODUCED BY PIPINICH, LARSON, HARP, BECK, WILSON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A PERSON FROM OPERATING A PERSONAL
5 WATERCRAFT MOTORBOAT AT GREATER THAN NO-WAKE SPEED WITHIN ~~150~~ 100 FEET OF A DOCK,
6 SWIMMER, SWIMMING RAFT, NONMOTORIZED BOAT, OR ANCHORED VESSEL, ~~OR~~ BUOY DISPLAYING
7 ~~A "DIVER DOWN" SYMBOL, WITH CERTAIN EXCEPTIONS; CLARIFYING THE AGE REQUIREMENTS FOR~~
8 OPERATION OF A MOTORBOAT OR PERSONAL WATERCRAFT; AMENDING SECTIONS 23-2-523,
9 23-2-525, AND 23-2-531, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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



HOUSE STANDING COMMITTEE REPORT

March 10, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that Senate Bill 303 (third reading copy -- blue) be concurred in as amended.

Signed: Douglas T. Wagner
Doug Wagner, Chair

Carried by: Rep. Pavlovich

And, that such amendments read:

1. Title, line 5.

Strike: "MOTORBOAT"

Insert: "PERSONAL WATERCRAFT"

2. Title, line 7.

Strike: ", WITH CERTAIN EXCEPTIONS"

3. Title, lines 8 and 9.

Following: "23-2-523" on line 8

Strike: remainder of line 8 through "23-2-525," on line 9

4. Page 3, line 17 through page 4, line 14.

Strike: section 2 in its entirety

Renumber: subsequent sections

-END-

SB 303

Committee Vote:

Yes 16, No 2.

HOUSE



HOUSE COMMITTEE OF THE WHOLE AMENDMENT

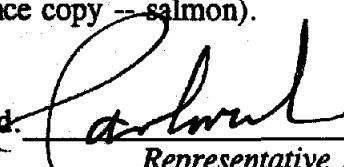
Senate Bill 303

Representative Pavlovich

March 24, 1995 10:13 am
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 303 (reference copy -- salmon).

Signed:


Representative Pavlovich

And, that such amendments to Senate Bill 303 read as follows:

1. Title, line 7.

Following: "VESSEL"

Insert: "ON A LAKE OR WITHIN 50 FEET OF A DOCK, SWIMMER, SWIMMING
RAFT, NONMOTORIZED BOAT, OR ANCHORED VESSEL ON A RIVER"

2. Page 4, line 27.

Following: "vessel"

Insert: "on a lake or within 50 feet of a dock, swimmer, swimming
raft, nonmotorized boat, or anchored vessel on a river,
except as provided in 23-2-525 (4)"

-END-

ADOPT

82-5

SB 303

REJECT

HOUSE

1 SENATE BILL NO. 303

2 INTRODUCED BY PIPINICH, LARSON, HARP, BECK, WILSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A PERSON FROM OPERATING A PERSONAL
5 ~~WATERCRAFT~~ ~~MOTORBOAT~~ ~~PERSONAL WATERCRAFT~~ AT GREATER THAN NO-WAKE SPEED WITHIN
6 ~~150~~ ~~100~~ FEET OF A DOCK, SWIMMER, SWIMMING RAFT, NONMOTORIZED BOAT, ~~OR~~ ANCHORED
7 VESSEL, ~~OR~~ BUOY DISPLAYING A "DIVER DOWN" SYMBOL, ~~WITH CERTAIN EXCEPTIONS~~; ~~CLARIFYING~~
8 ~~THE AGE REQUIREMENTS FOR OPERATION OF A MOTORBOAT OR PERSONAL WATERCRAFT;~~
9 ~~AMENDING SECTIONS 23-2-523, 23-2-525, AND 23-2-531, MCA; AND PROVIDING AN IMMEDIATE~~
10 ~~EFFECTIVE DATE.~~"

11

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

13

14 SECTION 1. SECTION 23-2-523, MCA, IS AMENDED TO READ:15 **"23-2-523. Prohibited operation and mooring -- enforcement.** (1) A person may not operate or
16 knowingly permit a person to operate a motorboat or vessel or manipulate ~~any~~ water skis, a surfboard, or
17 a similar device or other contrivance in a reckless or negligent manner so as to endanger the life, limb, or
18 property of ~~any~~ a person by:19 (a) engaging in maneuvers that unreasonably or unnecessarily endanger life, limb, or property,
20 including but not limited to weaving through congested vessel traffic or jumping the wake of another vessel
21 unreasonably or unnecessarily close to the other vessel or when visibility around the other vessel is
22 obstructed and including swerving at the last possible moment to avoid collision, following directly behind
23 a waterskier, speeding in confined or restricted areas, and buzzing or wetting down others, which
24 constitute reckless operation of a vessel;25 (b) crossing or jumping the wake of another vessel when within 100 yards of the vessel or within
26 100 yards of a waterskier being towed by the vessel, except when directly entering or leaving a public or
27 private marina, waterski facility, or other watercraft docking or loading area.28 (2) A person may not operate ~~any~~ a motorboat, including a sailboat propelled by a motor of any
29 kind, or manipulate ~~any~~ water skis, a surfboard, or a similar device attached to a motorboat while under
30 the influence of alcohol, drugs, or a combination of the two.

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

(4) A person may not operate or knowingly permit a person to operate a motorboat or vessel at a rate of speed greater than will permit the person, in the exercise of reasonable care, to bring the vessel to a stop within the assured clear distance ahead. However, nothing in this part is intended to prevent the operator of a vessel actually competing in a regatta that is sanctioned by an appropriate governmental unit from attempting to attain high speeds on a marked racing course.

(5) A person may not make a reckless approach to, departure from, or passage by a dock, ramp, diving board, or float.

(6) Skiers being pulled by motorboats must have on their person a United States coast guard approved personal flotation device in good and serviceable condition.

(7) A person may not moor a vessel to buoys or beacons placed in any waters of this state by the authority of the United States, an agency of the United States, or the department or in any manner hang on with a vessel to ~~such~~ a buoy or beacon, except in the act of maintenance work on the buoy or beacon, nor may any person deface, remove, or destroy a buoy, beacon, or other authorized navigational marker maintained in the waters of this state.

(8) If an officer whose duty it is to enforce the sections of this law observes a vessel being used without sufficient lifesaving or firefighting devices or in an overloaded or other unsafe condition and in ~~his~~ the officer's judgment ~~such~~ the use creates an especially hazardous condition, ~~he~~ the officer may direct the operator to take whatever immediate and reasonable steps would be necessary for the safety of those aboard the vessel, including directing the operator to return to a mooring or launching site and to remain there until the situation creating the hazard is corrected or ended.

(9) The population density and heavy recreational use of certain lakes require a noise standard more restrictive than the standard set in 23-2-526, in order to protect the public health and safety. Unless operated on a river or stream in compliance with a commission rule adopted under 23-2-521(9), a person may not operate a motorboat or personal watercraft on Flathead Lake, situated in Lake and Flathead Counties, Echo Lake, situated in Flathead County, or Swan Lake, situated in Lake County, in proximity to the shoreline if the noise emitted is greater than 75 dbA measured at the shoreline in accordance with the shoreline sound level measurement procedure (SAE J1970).

1 (10) Unless accompanied by a person 18 years of age or older, a person 12 years of age or
2 younger may not operate a motorboat or a personal watercraft that is powered by a motor rated at more
3 than 10 horsepower. ~~After December 31, 1993, a~~ A person under 15 years of age 13 or 14 years of age
4 may not operate a vessel or personal watercraft powered by a motor rated at more than 10 horsepower
5 without possessing a valid Montana motorboat operator's safety certificate or evidence of completion of
6 a Montana-approved water safety course or unless accompanied by a person 18 years of age or older.

(11) A person who owns or has charge or control of a motorboat or personal watercraft powered by a motor rated at more than 10 horsepower may not authorize or knowingly permit the motorboat or personal watercraft to be operated:

10 (a) by a person 12 years of age or younger unless accompanied by a person 18 years of age or
11 older; or

12 (b) ~~after December 31, 1993, by a person under 16 years of age~~ 13 or 14 years of age unless the
13 person possesses a valid Montana motorboat operator's safety certificate or evidence of completion of a
14 Montana-approved water safety course or is accompanied by a person 18 years of age or older.

15 (12) A person may not rent a motorboat or a personal watercraft powered by a motor rated at more
16 than 10 horsepower to a person under 18 years of age."

18 Section 2. Section 22.2.525, MCA, is amended to read:

19 ~~"23.2.525. Restricted areas. (1) No person shall so may not anchor a vessel or other obstacle~~
20 ~~for fishing or pleasure purposes on any a body of water over which the state has jurisdiction in such a~~
21 ~~position as to obstruct that obstructs a passageway ordinarily used by other vessels.~~

22 (2) (A) EXCEPT AS PROVIDED IN SUBSECTION (2)(B), A PERSON MAY NOT OPERATE A
23 MOTORBOAT AT A GREATER THAN NO WAKE SPEED WITHIN 100 FEET OF A DOCK, SWIMMER,
24 SWIMMING RAFT, NONMOTORIZED BOAT, OR ANCHORED VESSEL. THIS DISTANCE IS INCLUSIVE OF
25 A TOWED EXTENSION, SUCH AS A WATERSKIER OR PERSON ON A TUBE.

26 (B) A MOTORBOAT THAT IS TOWING A WATERSKIER OR PERSON ON A TUBE AWAY FROM A
27 DOCK OR SHORE AT A RIGHT ANGLE TO THE SHORELINE MAY EXCEED THE PROVISIONS OF
28 SUBSECTION (2)(A) BUT SHALL PROCEED AWAY FROM THE DOCK OR SHORE AT NO LESS THAN A
29 45 DEGREE ANGLE TO THE DOCK OR SHORELINE.

(3) No person shall operate a pleasure vessel within 20, 100 feet of the exterior

1 ~~boundary of a water area which that is clearly marked by buoys or some other distinguishing device as a~~
2 ~~bathing or swimming area. Swimming areas shall must be marked with white buoys having international~~
3 ~~orange markings in conformance with the uniform state waterway marking system by the owners of such~~
4 ~~the areas.~~

5 ~~(3)(4) No A person shall may not, without permission, operate or knowingly permit any a person~~
6 ~~to operate a vessel within 50 100 feet of a person engaged in fishing, unless unavoidable.~~

7 ~~(4)(5) (a) No Except as provided in 23-2-531(3), a A person shall may not purposely, knowingly,~~
8 ~~or negligently operate a motorboat upon the waters of this state within 100 feet of a tow float or buoy~~
9 ~~displaying a "diver down" symbol, red with a white slash, on a flag.~~

10 ~~(b) The motorboat may enter the 100 foot safety zone by use of sail or oar. In an emergency or~~
11 ~~if there is insufficient water on either side of the 100 foot safety zone to pass by and stay out of the zone,~~
12 ~~the operator may use power within the zone but may not exceed no wake speed. The burden of proving~~
13 ~~that an emergency exists or that there is insufficient water is on the operator.~~

14 ~~(c) The fish, wildlife, and parks commission may by rule determine areas where establishment of~~
15 ~~a 100 foot safety zone is not allowed in order to provide for diver safety or the regulation of water traffic."~~

17 **Section 2.** Section 23-2-531, MCA, is amended to read:

18 **"23-2-531. Personal watercraft operation.** In addition to ~~all other~~ applicable provisions in this part,
19 a person may not operate a personal watercraft:

20 (1) ~~unless each a person operating or riding on the vessel is wearing a United States coast guard~~
21 ~~approved type I, II, III, or V personal flotation device;~~

22 (2) ~~if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch unless~~
23 ~~the lanyard is attached to the operator's person, clothing, or personal flotation device as is appropriate for~~
24 ~~the specific vessel; or~~

25 ~~(3) (A) EXCEPT AS PROVIDED FOR STANDUP PERSONAL WATERCRAFT IN SUBSECTION (3)(B),~~
26 ~~at greater than no-wake speed within 150 100 feet of a dock, swimmer, swimming raft, nonmotorized boat,~~
27 ~~OR anchored vessel, or a tow float or buoy displaying a "diver down" symbol, red with white slash, on a~~
28 ~~flag; or~~

29 ~~(B) AT GREATER THAN MINIMUM MANEUVERING SPEED FOR A STANDUP PERSONAL~~
30 ~~WATERCRAFT WHEN LEAVING OR RETURNING DIRECTLY FROM OR TO A DOCK OR SHORE FOR THE~~

1 **PURPOSE OF LAUNCHING OR DOCKING; OR**2 ~~(3)(4)~~ in a reckless or negligent manner. Actions prohibited in 23-2-523 are considered reckless
3 operation."

4

5 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

6

-END-

1 SENATE BILL NO. 303

2 INTRODUCED BY PIPINICH, LARSON, HARP, BECK, WILSON

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5 ~~WATERCRAFT MOTORBOAT PERSONAL WATERCRAFT~~ AT GREATER THAN NO-WAKE SPEED WITHIN
6 ~~150 100 FEET OF A DOCK, SWIMMER, SWIMMING RAFT, NONMOTORIZED BOAT, OR ANCHORED~~
7 ~~VESSEL ON A LAKE OR WITHIN 50 FEET OF A DOCK, SWIMMER, SWIMMING RAFT, NONMOTORIZED~~
8 ~~BOAT, OR ANCHORED VESSEL ON A RIVER, OR BUOY DISPLAYING A "DIVER DOWN" SYMBOL, WITH~~
9 ~~CERTAIN EXCEPTIONS; CLARIFYING THE AGE REQUIREMENTS FOR OPERATION OF A MOTORBOAT OR~~
10 ~~PERSONAL WATERCRAFT; AMENDING SECTIONS 23-2-523, 23-2-525, AND 23-2-531, MCA; AND~~
11 ~~PROVIDING AN IMMEDIATE EFFECTIVE DATE."~~

12

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

14

15 **SECTION 1. SECTION 23-2-523, MCA, IS AMENDED TO READ:**

16 **"23-2-523. Prohibited operation and mooring -- enforcement.** (1) A person may not operate or
17 knowingly permit a person to operate a motorboat or vessel or manipulate ~~any~~ water skis, ~~a~~ surfboard, or
18 ~~a~~ similar device or other contrivance in a reckless or negligent manner so as to endanger the life, limb, or
19 property of ~~any~~ ~~a~~ person by:

20 (a) engaging in maneuvers that unreasonably or unnecessarily endanger life, limb, or property,
21 including but not limited to weaving through congested vessel traffic or jumping the wake of another vessel
22 unreasonably or unnecessarily close to the other vessel or when visibility around the other vessel is
23 obstructed and including swerving at the last possible moment to avoid collision, following directly behind
24 a waterskier, speeding in confined or restricted areas, and buzzing or wetting down others, which
25 constitute reckless operation of a vessel;

26 (b) crossing or jumping the wake of another vessel when within 100 yards of the vessel or within
27 100 yards of a waterskier being towed by the vessel, except when directly entering or leaving a public or
28 private marina, waterski facility, or other watercraft docking or loading area.

29 (2) A person may not operate ~~any~~ ~~a~~ motorboat, including a sailboat propelled by a motor of any
30 kind, or manipulate ~~any~~ water skis, ~~a~~ surfboard, or ~~a~~ similar device attached to a motorboat while under

1 the influence of alcohol, drugs, or a combination of the two.

2 (3) It is unlawful for the owner of a motorboat or vessel or a person having the motorboat or vessel
3 in charge or in control to authorize or knowingly permit the same to be operated by a person who by reason
4 of physical or mental disability is incapable of operating the watercraft under the prevailing circumstances.

5 (4) A person may not operate or knowingly permit a person to operate a motorboat or vessel at
6 a rate of speed greater than will permit the person, in the exercise of reasonable care, to bring the vessel
7 to a stop within the assured clear distance ahead. However, nothing in this part is intended to prevent the
8 operator of a vessel actually competing in a regatta that is sanctioned by an appropriate governmental unit
9 from attempting to attain high speeds on a marked racing course.

10 (5) A person may not make a reckless approach to, departure from, or passage by a dock, ramp,
11 diving board, or float.

12 (6) Skiers being pulled by motorboats must have on their person a United States coast guard
13 approved personal flotation device in good and serviceable condition.

14 (7) A person may not moor a vessel to buoys or beacons placed in any waters of this state by the
15 authority of the United States, an agency of the United States, or the department or in any manner hang
16 on with a vessel to ~~such a~~ buoy or beacon, except in the act of maintenance work on the buoy or beacon,
17 nor may any person deface, remove, or destroy a buoy, beacon, or other authorized navigational marker
18 maintained in the waters of this state.

19 (8) If an officer whose duty it is to enforce the sections of this law observes a vessel being used
20 without sufficient lifesaving or firefighting devices or in an overloaded or other unsafe condition and in ~~his~~
21 the officer's judgment ~~such the~~ use creates an especially hazardous condition, ~~he~~ the officer may direct the
22 operator to take whatever immediate and reasonable steps would be necessary for the safety of those
23 aboard the vessel, including directing the operator to return to a mooring or launching site and to remain
24 there until the situation creating the hazard is corrected or ended.

25 (9) The population density and heavy recreational use of certain lakes require a noise standard more
26 restrictive than the standard set in 23-2-526, in order to protect the public health and safety. Unless
27 operated on a river or stream in compliance with a commission rule adopted under 23-2-521(9), a person
28 may not operate a motorboat or personal watercraft on Flathead Lake, situated in Lake and Flathead
29 Counties, Echo Lake, situated in Flathead County, or Swan Lake, situated in Lake County, in proximity to
30 the shoreline if the noise emitted is greater than 75 dbA measured at the shoreline in accordance with the

1 shoreline sound level measurement procedure (SAE J1970).

2 (10) Unless accompanied by a person 18 years of age or older, a person 12 years of age or
3 younger may not operate a motorboat or a personal watercraft that is powered by a motor rated at more
4 than 10 horsepower. ~~After December 31, 1993, a~~ A person under 15 years of age 13 or 14 years of age
5 may not operate a vessel or personal watercraft powered by a motor rated at more than 10 horsepower
6 without possessing a valid Montana motorboat operator's safety certificate or evidence of completion of
7 a Montana-approved water safety course or unless accompanied by a person 18 years of age or older.

8 (11) A person who owns or has charge or control of a motorboat or personal watercraft powered
9 by a motor rated at more than 10 horsepower may not authorize or knowingly permit the motorboat or
10 personal watercraft to be operated:

11 (a) by a person 12 years of age or younger unless accompanied by a person 18 years of age or
12 older; or

13 (b) ~~after December 31, 1993, by a person under 15 years of age 13 or 14 years of age~~ unless the
14 person possesses a valid Montana motorboat operator's safety certificate or evidence of completion of a
15 Montana-approved water safety course or is accompanied by a person 18 years of age or older.

16 (12) A person may not rent a motorboat or a personal watercraft powered by a motor rated at more
17 than 10 horsepower to a person under 18 years of age."

18

19 ~~Section 2. Section 23-2-625, MCA, is amended to read:~~

20 ~~"23-2-625. Restricted areas. (1) No~~ A person shall ~~may not anchor a vessel or other obstacle~~
21 ~~for fishing or pleasure purposes on any a body of water over which the state has jurisdiction in such a~~
22 ~~position as to obstruct that obstructs a passageway ordinarily used by other vessels.~~

23 (2) (A) EXCEPT AS PROVIDED IN SUBSECTION (2)(B), A PERSON MAY NOT OPERATE A
24 MOTORBOAT AT A GREATER THAN NO WAKE SPEED WITHIN 100 FEET OF A DOCK, SWIMMER,
25 SWIMMING RAFT, NONMOTORIZED BOAT, OR ANCHORED VESSEL. THIS DISTANCE IS INCLUSIVE OF
26 A TOWED EXTENSION, SUCH AS A WATERSKIER OR PERSON ON A TUBE.

27 (B) A MOTORBOAT THAT IS TOWING A WATERSKIER OR PERSON ON A TUBE AWAY FROM A
28 DOCK OR SHORE AT A RIGHT ANGLE TO THE SHORELINE MAY EXCEED THE PROVISIONS OF
29 SUBSECTION (2)(A) BUT SHALL PROCEED AWAY FROM THE DOCK OR SHORE AT NO LESS THAN A
30 45 DEGREE ANGLE TO THE DOCK OR SHORELINE.

1 (3) No A person shall may not operate a pleasure vessel within 20 100 feet of the exterior
2 boundary of a water area which that is clearly marked by buoys or some other distinguishing device as a
3 bathing or swimming area. Swimming areas shall must be marked with white buoys having international
4 orange markings in conformance with the uniform state waterway marking system by the owners of such
5 the areas.

6 (3)(4) No A person shall may not, without permission, operate or knowingly permit any a person
7 to operate a vessel within 50 100 feet of a person engaged in fishing, unless unavoidable.

8 (4)(5) (a) No Except as provided in 23-2-531(3), a A person shall may not purposely, knowingly,
9 or negligently operate a motorboat upon the waters of this state within 100 feet of a tow float or buoy
10 displaying a "diver down" symbol, red with a white slash, on a flag.

11 (b) The motorboat may enter the 100 foot safety zone by use of sail or oar. In an emergency or
12 if there is insufficient water on either side of the 100 foot safety zone to pass by and stay out of the zone,
13 the operator may use power within the zone but may not exceed no wake speed. The burden of proving
14 that an emergency exists or that there is insufficient water is on the operator.

15 (c) The fish, wildlife, and parks commission may by rule determine areas where establishment of
16 a 100 foot safety zone is not allowed in order to provide for diver safety or the regulation of water traffic."

17
18 Section 2. Section 23-2-531, MCA, is amended to read:

19 "23-2-531. Personal watercraft operation. In addition to all other applicable provisions in this part,
20 a person may not operate a personal watercraft:

21 (1) unless each a person operating or riding on the vessel is wearing a United States coast guard
22 approved type I, II, III, or V personal flotation device;

23 (2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch unless
24 the lanyard is attached to the operator's person, clothing, or personal flotation device as is appropriate for
25 the specific vessel; or

26 (3) (A) EXCEPT AS PROVIDED FOR STANDUP PERSONAL WATERCRAFT IN SUBSECTION (3)(B),
27 at greater than no-wake speed within 150 100 feet of a dock, swimmer, swimming raft, nonmotorized boat,
28 OR anchored vessel ON A LAKE OR WITHIN 50 FEET OF A DOCK, SWIMMER, SWIMMING RAFT,
29 NONMOTORIZED BOAT, OR ANCHORED VESSEL ON A RIVER, EXCEPT AS PROVIDED IN 23-2-525(4),
30 or a tow float or buoy displaying a "diver down" symbol, red with white slash, on a flag; or

1 (B) AT GREATER THAN MINIMUM MANEUVERING SPEED FOR A STANDUP PERSONAL
2 WATERCRAFT WHEN LEAVING OR RETURNING DIRECTLY FROM OR TO A DOCK OR SHORE FOR THE
3 PURPOSE OF LAUNCHING OR DOCKING; OR

4 (3)(4) in a reckless or negligent manner. Actions prohibited in 23-2-523 are considered reckless
5 operation."

6

7 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

8

-END-