

SENATE BILL NO. 303

INTRODUCED BY

*Tyler L. Jensen* *Rep. Paul*  
*Bill Nelson*

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

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

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

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

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

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

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

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

(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

SENATE BILL NO. 303

INTRODUCED BY PIPINICH, LARSON, HARP, BECK, WILSON

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

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

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

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

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

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

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

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~~  
 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) ~~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

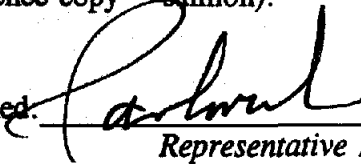
Representative Pavlovich

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

## SENATE BILL NO. 303

INTRODUCED BY PIPINICH, LARSON, HARP, BECK, WILSON

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

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

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

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

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

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

(2) A person may not operate ~~any~~ a motorboat, including a sailboat propelled by a motor of any kind, or manipulate ~~any~~ water skis, a surfboard, or a similar device attached to a motorboat while under the influence of alcohol, drugs, or a combination of the two.

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

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

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

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

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

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

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

7 (11) A person who owns or has charge or control of a motorboat or personal watercraft powered  
 8 by a motor rated at more than 10 horsepower may not authorize or knowingly permit the motorboat or  
 9 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 15 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."

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

19 ~~"23-2-525. Restricted areas. (1) No A 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.~~

30 ~~(3) No A person shall may not 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."~~

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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."

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

6

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## 1 SENATE BILL NO. 303

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

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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 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."  
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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 23-2-525, MCA, is amended to read:~~

20 ~~"23-2-525. Restricted areas. (1) No A person shall so 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 WATERSKIERS OR PERSON ON A TUBE.~~

27 ~~(B) A MOTORBOAT THAT IS TOWING A WATERSKIERS 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

