

HOUSE BILL NO. 468

INTRODUCED BY S. KELLY, S. KLAKKEN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO WATERCRAFT; REMOVING THE VALIDATION DECAL REQUIREMENT FOR WATERCRAFT; REVISING LAWS RELATED TO BOATING ACCIDENT REPORTING, PERSONAL FLOTATION DEVICES, AND RIGHT-OF-WAY; ELIMINATING THE BOATING ADVISORY COUNCIL; AMENDING SECTIONS 23-2-502, 23-2-511, 23-2-512, 23-2-524, 23-2-525, 23-2-527, 23-2-531, AND 23-2-533, MCA; REPEALING SECTION 23-2-536, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

(1) "Certificate of number" means the certificate issued by the department of justice, an authorized agent, as defined in 61-1-101, or a county treasurer to the owner of a motorboat or sailboat, assigning the motorboat or sailboat an identifying number and containing other information as required by the department of justice.

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

(3) "Documented vessel" means a vessel that has and is required to have a valid marine document as a vessel of the United States.

(4) "Identifying number" means the boat number set forth in the certificate of number and properly displayed on the motorboat or sailboat.

(5) "Lienholder" means a person holding a security interest.

(6) "Manufacturer" means a person engaged in the business of manufacturing or importing new and unused vessels or new and unused outboard motors for the purpose of sale or trade.

(7) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any

1 machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal
2 source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

3 (b) The term does not include a vessel that has a valid marine document issued by the U.S. coast
4 guard or any successor federal agency.

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

6 (9) "Operator" means the person who navigates, drives, or is otherwise in immediate control of a
7 motorboat or vessel.

8 (10) (a) "Owner" means a person, other than a lienholder, having the property in or title to a
9 motorboat or vessel. The term includes a person entitled to the use or possession of a motorboat or vessel
10 subject to an interest in another person, reserved or created by an agreement securing payment or
11 performance of an obligation.

12 (b) The term does not include a lessee under a lease not intended as security.

13 (11) "Passenger" means each person carried on board a vessel other than:

14 (a) the owner or the owner's representative;

15 (b) the operator;

16 (c) bona fide members of the crew engaged in the business of the vessel who have not
17 contributed any consideration for their carriage and who are paid for their services; or

18 (d) a guest on board a vessel that is being used exclusively for pleasure purposes who has not
19 contributed any consideration, directly or indirectly, for the guest's carriage.

20 (12) "Person" means an individual, partnership, firm, corporation, association, or other entity.

21 (13) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine
22 powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person
23 sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the
24 vessel.

25 (14) "Registration decal" means an adhesive sticker produced by the department of justice and
26 issued by the department of justice, an authorized agent as defined in 61-1-101, or a county treasurer to the
27 owner of a motorboat, sailboat, or personal watercraft as proof of payment of fees imposed on the motorboat,
28 sailboat, or personal watercraft for the registration period indicated on the decal as recorded by the department

1 of justice under 61-3-101.

2 (15) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

3 (b) The term does not include a canoe or kayak propelled by wind.

4 (16) "Security interest" means an interest that is reserved or created by an agreement that secures
5 payment or performance of an obligation and is valid against third parties generally.

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

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

8 ~~(b) a system of regulatory markers to warn a vessel operator of dangers or to provide general
9 information and directions.~~

10 ~~(18) "Validation decal" means an adhesive sticker produced by the department and issued by the
11 department or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft verifying the
12 identifying number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the
13 owner to meet requirements of the federal standard numbering system.~~

14 ~~(19)~~(17) "Vessel" means every description of watercraft, unless otherwise defined by the department,
15 other than a seaplane on the water, used or capable of being used as a means of transportation on water.

16 ~~(20)~~(18) "Waters of this state" means any waters within the territorial limits of this state."
17

18 **Section 2.** Section 23-2-511, MCA, is amended to read:

19 **"23-2-511. Operation of unnumbered motorboats or sailboats prohibited -- display of**

20 **registration and validation decals decal.** (1) A motorboat on the waters of this state that is propelled by a
21 motor or an engine of any description or a sailboat on the waters of this state must be properly numbered and
22 display a valid registration and validation decals decal. A person may not operate or give permission for the
23 operation of any motorboat or sailboat on the waters of this state unless the motorboat or sailboat is numbered
24 and displays a valid registration and validation decals decal in accordance with this part and applicable federal
25 law or with a federally approved numbering system of another state and unless:

26 (a) the certificate of number assigned to the motorboat or sailboat is in effect;

27 (b) the identifying number set forth in the certificate of number and the valid ~~license decals~~
28 registration decal are displayed on the motorboat or sailboat; and

1 (c) a temporary permit has been obtained from the county in which a motorboat is being operated
2 if that county requires a temporary permit for out-of-state motorboats, as provided in 7-16-2121.

3 (2) Upon transfer of ownership of a motorboat or sailboat, the transferred motorboat or sailboat
4 may be operated on the waters of this state for 40 consecutive calendar days immediately following the transfer
5 of ownership without displaying the registration and validation decals decals required by subsection (1) if, when
6 the motorboat or sailboat is operated during those 40 consecutive calendar days, a temporary registration
7 permit has been issued under 61-3-224 and is shown to a warden or other officer upon request."
8

9 **Section 3.** Section 23-2-512, MCA, is amended to read:

10 **"23-2-512. Identifying number.** (1) The owner of each motorboat, sailboat, or personal watercraft
11 requiring numbering by this state shall file an application for number in the office of the county treasurer in the
12 county where the motorboat, sailboat, or personal watercraft is owned, on forms prepared and furnished by the
13 department of justice. The application must be signed by the owner of the motorboat, sailboat, or personal
14 watercraft and be accompanied by the fee prescribed in 61-3-321(10). Any alteration, change, or false
15 statement contained in the application renders the certificate of number void. Upon receipt of the application in
16 approved form, the county treasurer shall issue to the applicant a certificate of number prepared and furnished
17 by the department of justice, stating the identifying number assigned to the motorboat, sailboat, or personal
18 watercraft and the name and address of the owner. ~~Validation decals verifying the identifying number for each~~
19 ~~motorboat, sailboat, or personal watercraft must be issued along with the certificate of~~ The identifying number
20 ~~and must be displayed on the motorboat, sailboat, or personal watercraft.~~

21 ~~(2) The fine for failing to display the validation decals may not be more than the cost incurred by~~
22 ~~the justice's court.~~

23 ~~(3) The department may give only verbal or written warnings until December 31, 2007, for failing to~~
24 ~~display validation decals in an attempt to educate the boating public.~~

25 ~~(4)~~(2) If the ownership of a motorboat, sailboat, or personal watercraft changes, a new application
26 form with the certification fee must be filed within 40 days with the county treasurer and a new certificate of
27 number assigned in the same manner as provided for in an original assignment of number. ~~New validation~~
28 ~~decals must be issued simultaneously.~~

1 ~~(5)~~(3) If an agency of the United States government has in force a comprehensive system of
2 identification numbering for motorboats in the United States, the numbering system employed pursuant to this
3 part by the department of justice must be in conformity.

4 ~~(6)~~—— A certificate of number and validation decals issued under this part are effective unless
5 terminated or discontinued in accordance with the provisions of this part. All motorboats, sailboats, or personal
6 watercraft already numbered must exhibit validation decals by December 31, 2005. All validation decals expire
7 on February 28, 2008. Validation decals must be obtained by the expiration date at any regional office of the
8 department or through the department website and are in effect for another 3-year period ending February 28,
9 2011. The requirement of renewal validation decals must continue in subsequent 3-year periods, and renewal
10 validation decals must be identified by color in accordance with the federal numbering system. Except as
11 provided in ~~23-2-511(2)~~ and subsection (4) of this section, the operation of a motorboat, sailboat, or personal
12 watercraft is prohibited without current validation decals.

13 ~~(7)~~—— Validation decals must be approximately 3 square inches. The validation decals must be
14 serially numbered in accordance with the federal numbering system and must be displayed on each side of the
15 vessel.

16 ~~(8)~~(4) If ownership is transferred, the purchaser shall notify the county treasurer within 40 days of the
17 acquisition of all or any part of the purchaser's interest, other than the creation of a security interest, in a
18 motorboat, sailboat, or personal watercraft numbered in this state or of the loss, theft, destruction, or
19 abandonment of the motorboat, sailboat, or personal watercraft. The transfer, loss, theft, destruction, or
20 abandonment terminates the certificate of number for the motorboat, sailboat, or personal watercraft. Recovery
21 from theft or transfer of a part interest that does not affect the owner's right to operate the motorboat, sailboat,
22 or personal watercraft does not terminate the certificate of number.

23 ~~(9)~~(5) A holder of a certificate of number shall notify the county treasurer within a reasonable time if
24 the holder's address no longer conforms to the address appearing on the certificate and shall furnish the county
25 treasurer with the new address. The department of justice may provide by rule for the surrender of the
26 certificate bearing the former address and its replacement with a certificate bearing the new address or the
27 alteration of an outstanding certificate to show the new address of the holder.

28 ~~(40)~~(6) (a) (i) The identifying number assigned must be painted on or attached to each outboard side

1 of the forward half of the motorboat, sailboat, or personal watercraft or, if there are no sides, at a corresponding
2 location on both outboard sides of the foredeck of the motorboat, sailboat, or personal watercraft.

3 (ii)_____The identifying number assigned must read from left to right in Arabic numerals and block
4 characters of good proportion at least 3 inches tall excluding border or trim of a color that contrasts with the
5 color of the background and be so maintained as to be clearly visible and legible.

6 (iii)_____The identifying number may not be placed on the obscured underside of the flared bow where
7 it cannot be easily seen from another vessel or ashore.

8 (iv)_____Numerals, letters, or devices other than those used in connection with the identifying number
9 issued may not be placed in the proximity of the identifying number. Numerals, letters, or devices that might
10 interfere with the ready identification of the motorboat, sailboat, or personal watercraft by its identifying number
11 may not be carried in a manner that interferes with the motorboat's, sailboat's, or personal watercraft's
12 identification.

13 (v)_____A number other than the identifying number assigned to a motorboat, sailboat, or personal
14 watercraft or granted reciprocity under this part may not be painted, attached, or otherwise displayed on either
15 side of the forward half of the motorboat, sailboat, or personal watercraft.

16 (vi)_____A registration decal issued under this part must be placed next to the identifying number
17 located on the left side of a motorboat, sailboat, or personal watercraft or, if there are no sides, at the
18 corresponding location on the left outboard side of the foredeck of the motorboat, sailboat, or personal
19 watercraft. ~~The validation decal must be placed immediately aft of the registration decal on the left side and~~
20 ~~immediately aft of the identifying number on the right side of a motorboat, sailboat, or personal watercraft.~~

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

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

27 (14)(7) An owner of a motorboat, sailboat, or personal watercraft shall within a reasonable time notify
28 the department of justice, giving the motorboat's, sailboat's, or personal watercraft's identifying number and the

1 owner's name if the motorboat, sailboat, or personal watercraft is transferred, lost, destroyed, or abandoned or
2 within 60 days after a change of the state of principal use or if a motorboat becomes documented as a vessel of
3 the United States.

4 ~~(12) — The department shall reimburse the department of justice for any programming costs
5 necessary to implement the provisions of this section that are incurred in fiscal year 2005."~~

6

7 **Section 4.** Section 23-2-524, MCA, is amended to read:

8 **"23-2-524. Passing rule and right-of-way.** (1) When two vessels are approaching each other "head
9 on" or nearly so ~~(so as to involve risk of collision)~~, each vessel shall bear to the right and pass the other vessel
10 on its left side to avoid the risk of collision.

11 (2) When vessels approach each other obliquely or at right angles, the vessel ~~approaching on the~~
12 ~~right side has the right-of-way that has the other vessel on the starboard side shall keep out of the way and~~
13 shall, if the circumstances of the case require, avoid crossing ahead of the other vessel.

14 (3) ~~One vessel may overtake another on either side but shall grant right-of-way to the overtaken~~
15 ~~vessel~~ A vessel overtaking another vessel shall keep out of the way of the vessel being overtaken.

16 (4) When a sailboat and motorboat are operating as to involve a risk of collision with each other,
17 the motorboat shall yield ~~the right-of-way~~ to the sailboat in all cases."

18

19 **Section 5.** Section 23-2-525, MCA, is amended to read:

20 **"23-2-525. Restricted areas.** (1) A person may not anchor a vessel or ~~other place another~~ obstacle
21 ~~for fishing or pleasure purposes~~ on any body of water over which the state has jurisdiction in a position that
22 obstructs a passageway ordinarily used by other vessels.

23 (2) A person may not operate a pleasure vessel within 20 feet of the exterior boundary of a water
24 area that is clearly marked by buoys or some other distinguishing device as a bathing or swimming area.
25 Swimming areas must be marked with white buoys having international orange markings in conformance with
26 the uniform state waterway marking system by the owners of the areas.

27 (3) A person may not operate a vessel within 75 feet of a person engaged in fishing or hunting
28 waterfowl, unless unavoidable. If unavoidable, the vessel must be operated at not greater than no-wake speed

1 or at a minimum speed necessary to maintain upstream progress while within 75 feet of the person engaged in
2 fishing or hunting waterfowl.

3 (4) (a) A person may not purposely, knowingly, or negligently operate a motorboat upon the waters
4 of this state within 200 feet of a tow-float or buoy displaying a "diver-down" symbol, red with a white slash, on a
5 flag.

6 (b) The motorboat may enter the 200-foot safety zone by use of sail or oar. In an emergency or if
7 there is insufficient water on either side of the 200-foot safety zone to pass by and stay out of the zone, the
8 operator may use power within the zone but may not exceed no-wake speed. The burden of proving that an
9 emergency exists or that there is insufficient water is on the operator.

10 (c) The fish and wildlife commission may by rule determine areas where establishment of a 200-
11 foot safety zone is not allowed in order to provide for diver safety or the regulation of water traffic."
12

13 **Section 6.** Section 23-2-527, MCA, is amended to read:

14 **"23-2-527. Collisions, accidents, and casualties.** (1) The operator of a vessel involved in a
15 collision, accident, or other casualty, so far as the operator can do so without serious danger to the operator's
16 own vessel, crew, and passengers, shall render to other persons affected by the collision, accident, or other
17 casualty assistance that may be practicable and that may be necessary in order to save them from or minimize
18 any danger caused by the collision, accident, or other casualty. The operator shall give the operator's name,
19 address, and identification of the operator's vessel in writing to any person injured and to the owner or person in
20 control of any property damaged in the collision, accident, or other casualty.

21 (2) The department shall prepare and distribute to each sheriff's office and each game warden of
22 this state a standardized accident report form. A person involved in a collision, accident, or other casualty
23 involving a death, disappearance, personal injury, or property damage in excess of ~~\$100~~ \$2,000 shall
24 immediately report the collision, accident, or other casualty to the sheriff's office or game warden of the county
25 in which the collision, accident, or casualty occurred and fill out a standardized accident report form.

26 (3) A sheriff advised of a collision, accident, or other casualty reported under this part shall:

27 (a) conduct an appropriate investigation of the collision, accident, or other casualty; and

28 (b) prepare and submit a report of the results of the investigation, together with the completed

1 standardized accident report forms, to the department."

2

3 **Section 7.** Section 23-2-531, MCA, is amended to read:

4 **"23-2-531. Personal watercraft operation.** In addition to applicable provisions in this part, a person
5 may not operate a personal watercraft:

6 (1) unless a person operating or riding on the vessel is wearing a United States coast guard
7 approved type I, II, III, or V of 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 the
10 specific vessel;

11 (3) (a) except as provided for standup personal watercraft in subsection (3)(b) or when towing a
12 waterskier from or to a dock or shore, at greater than no-wake speed within 200 feet of a dock, swimmer,
13 swimming raft, nonmotorized boat, or anchored vessel on a lake or river;

14 (b) at greater than the minimum speed necessary to operate a personal watercraft when leaving or
15 returning directly from or to a dock or shore for the purpose of launching or docking; or

16 (4) on any surface waters restricted in whole or in part by rule of the fish and wildlife commission;

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

19

20 **Section 8.** Section 23-2-533, MCA, is amended to read:

21 **"23-2-533. Use of allocated funds for boating facilities.** (1) Funds allocated to the motorboat
22 account must be used by the department to:

23 (a) ~~improve, operate, or maintain boating facilities;~~ and

24 (b) ~~cover costs associated with the boating advisory council created in 23-2-536.~~

25 (2) The department may use the funds to match available federal funds to the extent possible.

26 ~~Expenditure of funds must be made after consideration of recommendations by the boating advisory council."~~

27

28 NEW SECTION. **Section 9. Repealer.** The following section of the Montana Code Annotated is

1 repealed:

2 23-2-536. Creation of boating advisory council -- appointment of members -- duties.

3

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

5 - END -