

EXHIBIT 2  
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HB 120

House Bill 120  
January 20, 2005  
Presented by Jim Kropp  
House Fish, Wildlife & Parks Committee

Mr. Chairman and committee members, for the record I am Jim Kropp, Chief of Law Enforcement of Montana Fish, Wildlife & Parks (FWP). House Bill 120 would revise boating under the influence (BUI) laws to make enforcement similar to enforcement of driving under the influence (DUI) laws. The bill also gives FWP the ability to enforce laws prohibiting minors in possession of intoxicating substances (MIP) in state parks, fishing access sites and on public waters.

Montana enacted a law in 1959 that prohibited the operation of any motorboat or vessel, or manipulation of any water-skis, surfboard, or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana. Enforcement of this prohibition is difficult because the law does not require a person suspected of BUI to submit to necessary blood alcohol tests, or authorize an officer to take any action if the person refuses to submit to a Breathalyzer test. This gap in law enforcement creates a serious public safety problem.

The number of registered boats in Montana has doubled since 1972, and new technology has brought different varieties of watercraft that travel at a much higher speeds. Montana averages around 20 reported boating accidents each year. Montana has about one fatality accident a year where alcohol is involved and according to Coast Guard Statistics, alcohol is involved in a third of all recreational boating fatalities nationwide.

Better enforcement of BUI laws is not merely an issue of safety on the water. Many boaters in Montana trailer their boat to where they recreate. If a boater is operating their boat under the influence, they will probably operate their vehicle with a boat in tow on the way home under the influence. HB 120 will make the following changes in statute:

- o A person who operates a motorboat or sailboat on waters open to the public is considered to have given consent to a test or tests of the person's blood or breath for purposes of determining any measured amount or detected presence of alcohol (implied consent).
- o Establish penalties for refusal to submit to tests.
- o Make it unlawful for anyone less than 21 years of age who has an alcohol concentration of 0.02 to operate a motorboat or sailboat.
- o Increase penalties for second and third convictions.
- o Prohibit a person from operating a motorboat or sailboat upon conviction or refusal to submit to tests.

Along with increased enforcement and education of the boating public on these new laws the laws will deter boaters from operating under the influence and increase public safety.

House Bill 120 will also enable FWP enforcement personnel to enforce MIPs in state parks, fishing access sites and on public waters. Consider this common example: It is 4<sup>th</sup> of July weekend at Tongue River State Park in Bighorn County. You contact three underage kids who

just pulled into the park. They have a six-pack of beer and a bottle of whiskey. Their parents are not home and the sheriff's deputy is 100 miles away on another call. He cannot come right away, and the kids should not be made to wait two hours. Right now, FWP staff has no legal authority to deal with this – FWP cannot even make them pour it out. Similar examples occur every weekend at FASs and parks all over the state during the year.

This law would give FWP enforcement staff the authority to handle this violation while also improving the credibility of managers to handle their own problems in a timely way. FWP has also seen an increase in vandalism at many of our state parks and fishing access sites that has cost tens of thousands of dollars in repairs and clean up. The vandalism that occurs is often associated with a party that took place at the site. The passing of this bill will give FWP enforcement the ability to handle problems onsite - efficiently and legally.

I urge your support for HB 120.