

SENATE BILL NO. 287
INTRODUCED BY SPRAGUE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FOR MANAGING WATER-BASED RECREATION, FOR OPERATING, MAINTAINING, AND DEVELOPING PUBLIC BOATING AREAS, AND FOR INCREASED OPERATIONS AND MAINTENANCE OF PUBLIC BOATING FACILITIES AND BOATING FACILITIES AT STATE PARKS AND FISHING ACCESS SITES; INCREASING THE FEE FOR A LICENSE DECAL FOR A MOTORBOAT, SAILBOAT, OR PERSONAL WATERCRAFT; REQUIRING A BOAT DECAL AND FEE FOR VESSELS POWERED BY PADDLE, OAR, OR SAIL, WITH CERTAIN EXCEPTIONS; SETTING A DECAL FEE AND ALLOWING FOR ADMINISTRATIVE COSTS ASSOCIATED WITH ISSUANCE OF THE DECAL; AMENDING SECTIONS 15-1-122 AND 23-2-512, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

NEW SECTION. Section 1. Decal required for vessels powered by paddle, oar, or sail -- exceptions -- use of decal revenue. (1) A person may not LAUNCH, RETRIEVE, OR operate a vessel powered by paddle, oar, or sail ~~on state waters~~ AT A PUBLIC ACCESS SITE unless:

- (a) the vessel displays a valid decal in accordance with this section; or
- (b) the vessel is exempted under subsection (7).

(2) The owner or operator of a vessel powered by paddle, oar, or sail shall file an application for a decal with the department. The application must be accompanied by a fee of ~~\$8.50~~ \$5, plus any service fee chargeable under subsection (3). Any alteration, change, or false statement on the application voids the decal. Upon receipt of the completed application form and fee, the department shall issue to the applicant a decal to place on the vessel.

(3) The department may contract with a public or private entity to issue the decals and collect the fees. The department may pay the entity for those services, or the entity may include a service fee, as established by department rule, with the decal cost.

(4) (a) Except as provided in subsection (4)(b), decals expire on December 31 of the year in which they are issued.

- (b) The department may provide for a decal that is valid for more than 1 calendar year.

(5) The loss, theft, destruction, or abandonment of a vessel for which a decal is purchased under this section renders the decal for that vessel void.

(6) The decal must be ~~PERMANENTLY attached to~~ DISPLAYED ON the ~~starboard or right outboard side of the forward half of the vessel or, if there are no sides, at a corresponding location on the foredeck of the vessel.~~ The decal must be placed where it can be easily seen from another vessel or from shore.

(7) This section does not apply to:

(a) a motorboat that has a certificate of ownership, certificate of number, and license decal issued under this part when that vessel is operated without its machinery, motor, or engine;

(b) a sailboat 12 feet in length or longer that is otherwise regulated under this part;

(c) an inflatable vessel 7 feet in length or less that does not have a rowing frame; ~~or~~

(D) A PEDAL-POWERED BOAT; OR

~~(D)(E)~~ (E) a vessel that is owned by the United States, a state, or a subdivision of the United States or a state; OR

(F) A VESSEL LAUNCHED OR AND RETRIEVED FROM PRIVATE PROPERTY OR A PRIVATE FACILITY.

(8) Fees collected pursuant to this section must be deposited in a state special revenue fund to the credit of the department, for use by the department ~~for~~ AS FOLLOWS:

~~(a) UP TO 15% MAY BE USED FOR managing water-based recreation, including education and enforcement;~~

~~(b) operating, maintaining, and developing public boating areas; and~~

~~(c) administration of the decal requirement.~~

(B) UP TO 10% MAY BE USED FOR BOATING AND WATER SAFETY EDUCATION AND ENFORCEMENT; AND

(C) REMAINING FUNDS MUST BE USED FOR OPERATING, MAINTAINING, DEVELOPING, AND ACQUIRING FISHING ACCESS SITES AND RECREATIONAL BOAT ACCESS SITES.

(9) THE DEPARTMENT SHALL ADOPT RULES AFTER A NEGOTIATED RULEMAKING PROCESS WITH THE DEPARTMENT AND AFFECTED INTERESTS UNDER TITLE 2, CHAPTER 5, PART 1. THE RULES MUST BE BASED ON USER SURVEYS TAKEN AT THE POINT OF DECAL SALE.

Section 2. Section 15-1-122, MCA, is amended to read:

"15-1-122. Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, \$36,764 for fiscal year 2003. Beginning with fiscal year 2004, the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) There is transferred from the state general fund to the department of transportation state special

revenue nonrestricted account the following amounts:

(a) \$75,000 in fiscal year 2003;

(b) \$2,960,715 in fiscal year 2004; and

(c) in each succeeding fiscal year, the amount in subsection (2)(b), increased by 1.5% in each succeeding fiscal year.

(3) For fiscal year 2002 and for each succeeding fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5:

(i) \$2 for each new application for a motor vehicle title and for each transfer of a motor vehicle title for which a fee is paid pursuant to 61-3-203; and

(ii) \$1 for each passenger car or truck under 8,001 pounds GVW registered for licensing pursuant to Title 61, chapter 3, part 3. Fifteen cents of each dollar must be used for the purpose of reimbursing the hired removal of abandoned vehicles during the calendar year following the calendar year in which the fee was paid. Any portion of the 15 cents not used for abandoned vehicle removal reimbursement during the calendar year following its payment must be used as provided in 75-10-532;

(b) to the noxious weed state special revenue account provided for in 80-7-816:

(i) \$1 for each off-highway vehicle subject to payment of the fee in lieu of tax, as provided for in 23-2-803; and

(ii) \$1.50 for each light vehicle, truck or bus weighing less than 1 ton, logging truck, vehicles weighing more than 1 ton, motorcycle, quadricycle, and motor home subject to registration or reregistration pursuant to 61-3-321;

(c) to A SPECIAL REVENUE ACCOUNT TO THE CREDIT OF the department of fish, wildlife, and parks:

(i) ~~\$2.50~~ ~~\$7.50~~ \$5.50 for each motorboat, sailboat, or personal watercraft receiving a certificate of number under 23-2-512, with ~~20%~~ 50% of the amount received to be used to acquire, operate, and maintain ~~pumpout equipment and other public boat~~ MOTORBOAT facilities, INCLUDING MOTORBOAT-ACCESSIBLE FISHING ACCESS SITES, and 50% of the amount received to be used to manage FOR MANAGEMENT OF water-based recreation, including education, and enforcement;

(ii) \$5 for each snowmobile registered under 23-2-616, with \$2.50 to be used for enforcing the purposes of 23-2-601 through 23-2-644 and \$2.50 designated for use in the development, maintenance, and operation of snowmobile facilities;

(iii) \$1 for each duplicate snowmobile decal issued under 23-2-617;

(iv) \$5 for each off-highway vehicle decal issued under 23-2-804 and each off-highway vehicle duplicate decal issued under 23-2-809, with 40% of the money used to enforce the provisions of 23-2-804 and 60% of the money used to develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use;

(v) to the state special revenue fund established in 23-1-105, \$3.50 for each recreational vehicle, camper, motor home, and travel trailer registered or reregistered and subject to the fee in 61-3-321 or 61-3-524; and

(vi) an amount equal to 20% of the funds collected pursuant to 23-2-518 to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) to the state veterans' cemetery account, provided for in 10-2-603, \$10 for each veteran's license plate issued pursuant to 61-3-332(10)(a)(ii), (10)(f), and (10)(h);

(e) to the supplemental benefits for highway patrol officers' retirement account provided for in 19-6-709, 25 cents for each motor vehicle registered, other than trailers or semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and

(f) 25 cents a year for each vehicle subject to the fee in 61-3-321(6) for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112.

~~(4) For fiscal year 2002, there is transferred from the state general fund to the state special revenue fund to be used for purposes of state funding of district court expenses, as provided in 3-5-901, \$5,742,983 in lieu of the amount deposited by the state treasurer under 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001.~~

~~(5)(4) For each fiscal year, beginning with fiscal year 2002, the department of justice shall provide to the department of revenue a count of the vehicles required for the calculations in subsection (3). Transfer amounts for fiscal year 2002 must be based on vehicle counts for calendar year 2000. Transfer amounts in each succeeding fiscal year must be based on vehicle counts in the most recent calendar year for which vehicle information is available.~~

~~(6)(5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes."~~

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

"23-2-512. Identification number. (1) The owner of each motorboat, sailboat, or personal watercraft

requiring numbering by this state shall file an application for number in the office of the county treasurer in the county where the motorboat, sailboat, or personal watercraft is owned, on forms prepared and furnished by the department of justice. The application must be signed by the owner of the motorboat, sailboat, or personal watercraft and be accompanied by a fee of ~~\$3.50~~ ~~\$8.50~~ \$6.50. Any alteration, change, or false statement contained in the application will render the certificate of number void. Upon receipt of the application in approved form, the county treasurer shall issue to the applicant a certificate of number prepared and furnished by the department of justice, stating the number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the owner.

(2) The applicant, upon the filing of the application, shall pay to the county treasurer the fee in lieu of tax required for a motorboat 10 feet in length or longer, a sailboat 12 feet in length or longer, or a personal watercraft for the current year of certification before the application for certification or recertification may be accepted by the county treasurer.

(3) If the ownership of a motorboat, sailboat, or personal watercraft changes, a new application form with the certification fee must be filed within a reasonable time with the county treasurer and a new certificate of number assigned in the same manner as provided for in an original assignment of number.

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

(5) Every certificate of number and the license decals assigned under this part continue in effect for a period not to exceed 1 year unless terminated or discontinued in accordance with the provisions of this part. Certificates of number and license decals must show the date of expiration and may be renewed by the owner in the same manner provided for in the initial securing of the certificate.

(6) Certificates of number expire on December 31 of each year and may not be in effect unless renewed under this part.

(7) In the event of a transfer of ownership, the purchaser shall furnish the county treasurer notice within a reasonable time of the acquisition of all or any part of the purchaser's interest, other than the creation of a security interest, in a motorboat, sailboat, or personal watercraft numbered in this state or of the loss, theft, destruction, or abandonment of the motorboat, sailboat, or personal watercraft. The transfer, loss, theft, destruction, or abandonment terminates the certificate of number for the motorboat, sailboat, or personal watercraft. Recovery from theft or transfer of a part interest that does not affect the owner's right to operate the motorboat, sailboat, or personal watercraft does not terminate the certificate of number.

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

(9) (a) The number assigned must be painted on or attached to each outboard side of the forward half of the motorboat, sailboat, or personal watercraft or, if there are no sides, at a corresponding location on both outboard sides of the foredeck of the motorboat, sailboat, or personal watercraft. The number assigned must read from left to right in Arabic numerals and block characters of good proportion at least 3 inches tall excluding border or trim of a color that contrasts with the color of the background and be so maintained as to be clearly visible and legible. The number may not be placed on the obscured underside of the flared bow where it cannot be easily seen from another vessel or ~~ashore~~ from shore. Numerals, letters, or devices other than those used in connection with the identifying number issued may not be placed in the proximity of the identifying number. Numerals, letters, or devices that might interfere with the ready identification of the motorboat, sailboat, or personal watercraft by its identifying number may not be carried in a manner that interferes with the motorboat's, sailboat's, or personal watercraft's identification. A number other than the number and license decal assigned to a motorboat, sailboat, or personal watercraft or granted reciprocity under this part may not be painted, attached, or otherwise displayed on either side of the forward half of the motorboat, sailboat, or personal watercraft.

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

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

(10) Fees, other than the fee in lieu of tax, collected under this section must be transmitted to the department of revenue, as provided in 15-1-504, for deposit in the state general fund.

(11) An owner of a motorboat, sailboat, or personal watercraft shall within a reasonable time notify the department of justice, giving the motorboat's, sailboat's, or personal watercraft's identifying number and the owner's name when the motorboat, sailboat, or personal watercraft is transferred, lost, destroyed, or abandoned or within 60 days after a change of the state of principal use or if a motorboat becomes documented as a vessel of the United States."

NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 23, chapter 2, part 5, and the provisions of Title 23, chapter 2, part 5, apply to [section 1].

NEW SECTION. **Section 5. Effective date.** [This act] is effective January 1, 2004.

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