

1 SENATE BILL NO. 363

2 INTRODUCED BY C. VINCENT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO AQUATIC INVASIVE SPECIES;
5 PROVIDING REVENUE SOURCES TO PREVENT AND CONTROL AQUATIC INVASIVE SPECIES;
6 ESTABLISHING THE NONRESIDENT AQUATIC INVASIVE SPECIES DECAL; ESTABLISHING A FEE FOR
7 BOAT VALIDATION DECALS; ESTABLISHING A HYDROELECTRIC FACILITY FEE; ESTABLISHING AN
8 IRRIGATED FARMLAND FEE; ALLOCATING REVENUE; REVISING DEFINITIONS; AMENDING SECTIONS
9 17-1-106, 23-2-502, 23-2-511, 23-2-512, 80-7-1004, 80-7-1006, AND 80-7-1010, MCA; AND PROVIDING AN
10 EFFECTIVE DATE, APPLICABILITY DATES, AND A TERMINATION DATE."
11

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

14 **NEW SECTION. Section 1. Nonresident aquatic invasive species decal required -- fee.** (1) In
15 addition to any proof of inspection or decontamination required pursuant to Title 80, chapter 7, part 10, a
16 nonresident aquatic invasive species decal must be displayed as prescribed by the department on a motorboat,
17 sailboat, or personal watercraft owned by a nonresident when the motorboat, sailboat, or personal watercraft is
18 operated on waters of this state.

19 (2) A nonresident aquatic invasive species decal must be purchased each calendar year for \$50 at
20 locations prescribed by the department. The decal is not transferable between watercraft.

21 (3) Money received from the sale of nonresident aquatic invasive species decals must be deposited in
22 the invasive species account established in 80-7-1004.

23 (4) A person may not operate or give permission for the operation of a motorboat, sailboat, or personal
24 watercraft that does not display a nonresident aquatic invasive species decal as required by subsection (1).
25

26 **NEW SECTION. Section 2. Validation decals required -- fee.** (1) Validation decals verifying the
27 identifying number of a motorboat, sailboat, or personal watercraft must be displayed on the motorboat, sailboat,
28 or personal watercraft as prescribed in 23-2-512.

29 (2) A set of validation decals must be purchased each calendar year for \$25 at locations prescribed by
30 the department. The set of decals is not transferable and expires on December 31 of the year for which it was

1 issued. A set of decals for the subsequent year must be purchased before the existing set expires.

2 (3) A validation decal must be an adhesive sticker that is approximately 3 inches square and must be
3 serially numbered and identified by color in accordance with the federal numbering system.

4 (4) Except as provided in 23-2-511(2), the operation of a motorboat, sailboat, or personal watercraft is
5 prohibited without current validation decals.

6 (5) Money received from the sale of validation decals must be deposited in the invasive species account
7 established in 80-7-1004.

8

9 **NEW SECTION. Section 3. Invasive species fee for hydroelectric facilities.** (1) In recognition of the
10 threat that invasive species pose to Montana's hydroelectric power structures and systems, a hydroelectric facility
11 shall pay an invasive species fee of \$0.0004 per kilowatt hour of the facility's nameplate capacity authorized by
12 the federal energy regulatory commission.

13 (2) Every hydroelectric facility subject to the fee in subsection (1) shall file on forms provided by the
14 department and pay within 30 days after the end of each quarterly period. The quarterly periods end March 31,
15 June 30, September 30, and December 31 of each year.

16 (3) If the fee is not paid on or before the due date, a penalty and interest must be assessed as provided
17 in 15-1-216. The department may waive the penalty pursuant to 15-1-216.

18 (4) The department may audit the records and other documents of a hydroelectric facility to ensure that
19 the proper fee is paid and collected pursuant to this section.

20 (5) Money collected pursuant to this section must be deposited in the invasive species account
21 established in 80-7-1004.

22 (6) For the purposes of this section, "hydroelectric facility" means a facility located in Montana that
23 produces electricity using water power and has more than 1.5 megawatts in nameplate capacity.

24

25 **NEW SECTION. Section 4. Invasive species fee for irrigated farmland.** (1) In recognition of the threat
26 that invasive species pose to irrigation infrastructure, the owner of land that is classified as agricultural land
27 pursuant to 15-7-202 and valued as irrigated farmland pursuant to 15-7-201 shall pay an annual invasive species
28 fee of \$25.

29 (2) By the second Monday of every October, the department shall identify landowners subject to the fee
30 established in subsection (1) and notify the appropriate county treasurer for collection pursuant to Title 15,

1 chapter 16, part 1.

2 (3) Fees collected by county treasurers pursuant to this section must be remitted to the department for
3 deposit in the invasive species account established in 80-7-1004.

4

5 **Section 5.** Section 17-1-106, MCA, is amended to read:

6 **"17-1-106. Agency recovery of indirect costs -- exemption.** (1) ~~An~~ Except as provided in 80-7-1004
7 and subsections (3) and (4) of this section, an agency receiving nongeneral funds shall, in accordance with all
8 applicable regulations, guidelines, or grant rules governing those funds, negotiate indirect cost reimbursement
9 amounts and methodologies so that the agency may recover indirect costs.

10 (2) An agency, except for a unit of the university system, that applies for or otherwise receives funds
11 through federal or private grants or contracts that do not allow the agency to fully recover indirect costs shall notify
12 and must receive written approval from its approving authority prior to accepting the funds.

13 (3) The department of transportation may not recover indirect costs from a local government for the
14 community transportation enhancement program.

15 (4) The department of transportation may not recover indirect costs for administration of a U.S. federal
16 transit administration grant, including but not limited to grants provided for in 49 U.S.C. 5310, 49 U.S.C. 5311,
17 49 U.S.C. 5316, and 49 U.S.C. 5317, from a local government, nonprofit organization, or public transportation
18 provider that provides transit services.

19 (5) An agency, except for a unit of the university system, may not, as part of the grant or contract
20 proposal or negotiation process, waive or otherwise forfeit the agency's ability to recover indirect costs that are
21 otherwise allowable costs under the program, except for intra-agency or interagency grants or contracts. For
22 grants or contracts for which the entity providing the funds limits administrative cost reimbursements or indirect
23 cost recoveries by regulation, policy, or guideline, statewide and agency indirect costs paid originally from the
24 general fund must be claimed first, other indirect costs must be claimed second, agency direct costs of
25 administration must be claimed third, and program direct costs must be claimed last. For grants or contracts for
26 which there is no limit on indirect costs or administrative costs, indirect and administrative costs must be claimed
27 first and direct program costs must be claimed last.

28 (6) Each agency receiving federal funds and not directly charging a grant or program for the recovery
29 of indirect costs shall submit an indirect cost proposal to the appropriate federal agency. The department shall
30 provide technical assistance to an agency on how to build an indirect cost proposal.

1 (7) Except as provided for a unit of the university system under 20-25-427, indirect costs recovered by
2 an agency to pay the agency's indirect costs under 17-1-105 must be deposited as provided in 17-1-105. All other
3 indirect costs must be deposited in the fund from which the indirect costs were originally paid."
4

5 **Section 6.** Section 23-2-502, MCA, is amended to read:

6 **"23-2-502. Definitions.** As used in this part, unless the context clearly requires a different meaning, the
7 following definitions apply:

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

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

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

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

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

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

19 (7) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any
20 machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal
21 source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

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

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

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

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

- 1 (b) The term does not include a lessee under a lease not intended as security.
- 2 (11) "Passenger" means each person carried on board a vessel other than:
- 3 (a) the owner or the owner's representative;
- 4 (b) the operator;
- 5 (c) bona fide members of the crew engaged in the business of the vessel who have not contributed any
- 6 consideration for their carriage and who are paid for their services; or
- 7 (d) a guest on board a vessel that is being used exclusively for pleasure purposes who has not
- 8 contributed any consideration, directly or indirectly, for the guest's carriage.
- 9 (12) "Person" means an individual, partnership, firm, corporation, association, or other entity.
- 10 (13) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering
- 11 a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting,
- 12 standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.
- 13 (14) "Registration decal" means an adhesive sticker produced by the department of justice and issued
- 14 by the department of justice, an authorized agent as defined in 61-1-101, or a county treasurer to the owner of
- 15 a motorboat, sailboat, or personal watercraft as proof of payment of fees imposed on the motorboat, sailboat, or
- 16 personal watercraft for the registration period indicated on the decal as recorded by the department of justice
- 17 under 61-3-101.
- 18 (15) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.
- 19 (b) The term does not include a canoe or kayak propelled by wind.
- 20 (16) "Security interest" means an interest that is reserved or created by an agreement that secures
- 21 payment or performance of an obligation and is valid against third parties generally.
- 22 (17) "Uniform state waterway marking system" means one of two categories:
- 23 (a) a system of aids to navigation to supplement the federal system of marking in state waters;
- 24 (b) a system of regulatory markers to warn a vessel operator of dangers or to provide general information
- 25 and directions.
- 26 ~~(18) "Validation decal" means an adhesive sticker produced by the department and issued by the~~
- 27 ~~department or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft verifying the~~
- 28 ~~identifying number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the~~
- 29 ~~owner to meet requirements of the federal standard numbering system.~~
- 30 ~~(19)~~(18) "Vessel" means every description of watercraft, unless otherwise defined by the department,

1 other than a seaplane on the water, used or capable of being used as a means of transportation on water.

2 ~~(20)~~(19) "Waters of this state" means any waters within the territorial limits of this state."

3

4 **Section 7.** Section 23-2-511, MCA, is amended to read:

5 **"23-2-511. Operation of unnumbered motorboats or sailboats prohibited -- display of registration**

6 **and validation decals.** (1) A motorboat ~~on the waters of this state that is propelled by a motor or an engine of~~

7 ~~any description~~ or a sailboat on the waters of this state must be properly numbered and display valid registration

8 and validation decals. A person may not operate or give permission for the operation of any motorboat or sailboat

9 on the waters of this state unless the motorboat or sailboat is numbered and displays valid registration and

10 validation decals in accordance with this part and applicable federal law or with a federally approved numbering

11 system of another state and unless:

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

13 (b) the identifying number set forth in the certificate of number and the valid license decals are displayed

14 on the motorboat or sailboat; and

15 (c) a temporary permit has been obtained from the county in which a motorboat is being operated if that

16 county requires a temporary permit for out-of-state motorboats, as provided in 7-16-2121.

17 (2) Upon transfer of ownership of a motorboat or sailboat, the transferred motorboat or sailboat may be

18 operated on the waters of this state for 40 consecutive calendar days immediately following the transfer of

19 ownership without displaying the registration ~~and validation decals~~ decals required by subsection (1) ~~and the~~

20 validation decals required by [section 2] if when the motorboat or sailboat is operated during those 40 consecutive

21 calendar days, a temporary registration permit has been issued under 61-3-224 and is shown to a warden or

22 other officer upon request."

23

24 **Section 8.** Section 23-2-512, MCA, is amended to read:

25 **"23-2-512. Identifying number.** (1) The owner of each motorboat, sailboat, or personal watercraft

26 requiring numbering by this state shall file an application for number in the office of the county treasurer in the

27 county where the motorboat, sailboat, or personal watercraft is owned, on forms prepared and furnished by the

28 department of justice. The application must be signed by the owner of the motorboat, sailboat, or personal

29 watercraft and be accompanied by the fee prescribed in 61-3-321(10). Any alteration, change, or false statement

30 contained in the application renders the certificate of number void. Upon receipt of the application in approved

1 form, the county treasurer shall issue to the applicant a certificate of number prepared and furnished by the
 2 department of justice, stating the number assigned to the motorboat, sailboat, or personal watercraft and the
 3 name and address of the owner. Validation decals verifying the identifying number for each motorboat, sailboat,
 4 or personal watercraft also must be issued along with the certificate of number and must be obtained pursuant
 5 to [section 2] and displayed on the motorboat, sailboat, or personal watercraft pursuant to subsection (7).

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

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

10 ~~(4)(2) If the ownership of a motorboat, sailboat, or personal watercraft changes, a new application form~~
 11 ~~with the certification fee must be filed within 40 days with the county treasurer and a new certificate of number~~
 12 ~~assigned in the same manner as provided for in an original assignment of number. New validation decals~~
 13 ~~also must be issued simultaneously obtained pursuant to [section 2] and displayed pursuant to subsection (7).~~

14 ~~(5)(3) If an agency of the United States government has in force a comprehensive system of identification~~
 15 ~~numbering for motorboats in the United States, the numbering system employed pursuant to this part by the~~
 16 ~~department of justice must be in conformity.~~

17 ~~(6)(4) A certificate of number and validation decals issued under this part are is effective unless~~
 18 ~~terminated or discontinued in accordance with the provisions of this part. All motorboats, sailboats, or personal~~
 19 ~~watercraft already numbered must exhibit validation decals by December 31, 2005. All validation decals expire~~
 20 ~~on February 28, 2008. Validation decals must be obtained by the expiration date at any regional office of the~~
 21 ~~department or through the department website and are in effect for another 3-year period ending February 28,~~
 22 ~~2011. The requirement of renewal validation decals must continue in subsequent 3-year periods, and renewal~~
 23 ~~validation decals must be identified by color in accordance with the federal numbering system. Except as provided~~
 24 ~~in 23-2-511(2) and subsection (4) of this section, the operation of a motorboat, sailboat, or personal watercraft~~
 25 ~~is prohibited without current validation decals.~~

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

28 ~~(8)(5) If ownership is transferred, the purchaser shall notify the county treasurer within 40 days of the~~
 29 ~~acquisition of all or any part of the purchaser's interest, other than the creation of a security interest, in a~~
 30 ~~motorboat, sailboat, or personal watercraft numbered in this state or of the loss, theft, destruction, or~~

1 abandonment of the motorboat, sailboat, or personal watercraft. The transfer, loss, theft, destruction, or
2 abandonment terminates the certificate of number for the motorboat, sailboat, or personal watercraft. Recovery
3 from theft or transfer of a part interest that does not affect the owner's right to operate the motorboat, sailboat,
4 or personal watercraft does not terminate the certificate of number.

5 ~~(9)~~(6) A holder of a certificate of number shall notify the county treasurer within a reasonable time if the
6 holder's address no longer conforms to the address appearing on the certificate and shall furnish the county
7 treasurer with the new address. The department of justice may provide by rule for the surrender of the certificate
8 bearing the former address and its replacement with a certificate bearing the new address or the alteration of an
9 outstanding certificate to show the new address of the holder.

10 ~~(10)~~(7) (a) The identifying number assigned must be painted on or attached to each outboard side of the
11 forward half of the motorboat, sailboat, or personal watercraft or, if there are no sides, at a corresponding location
12 on both outboard sides of the foredeck of the motorboat, sailboat, or personal watercraft. The identifying number
13 assigned must read from left to right in Arabic numerals and block characters of good proportion at least 3 inches
14 tall excluding border or trim of a color that contrasts with the color of the background and be so maintained as
15 to be clearly visible and legible. The identifying number may not be placed on the obscured underside of the
16 flared bow where it cannot be easily seen from another vessel or ashore. Numerals, letters, or devices other than
17 those used in connection with the identifying number issued may not be placed in the proximity of the identifying
18 number. Numerals, letters, or devices that might interfere with the ready identification of the motorboat, sailboat,
19 or personal watercraft by its identifying number may not be carried in a manner that interferes with the
20 motorboat's, sailboat's, or personal watercraft's identification. A number other than the identifying number
21 assigned to a motorboat, sailboat, or personal watercraft or granted reciprocity under this part may not be painted,
22 attached, or otherwise displayed on either side of the forward half of the motorboat, sailboat, or personal
23 watercraft. A registration decal issued under this part must be placed next to the identifying number located on
24 the left side of a motorboat, sailboat, or personal watercraft or, if there are no sides, at the corresponding location
25 on the left outboard side of the foredeck of the motorboat, sailboat, or personal watercraft. ~~The~~ A validation decal
26 obtained pursuant to [section 2] must be placed immediately aft of the registration decal on the left side and
27 immediately aft of the identifying number on the right side of a motorboat, sailboat, or personal watercraft.

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

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

4 ~~(4)~~(8) An owner of a motorboat, sailboat, or personal watercraft shall within a reasonable time notify the
 5 department of justice, giving the motorboat's, sailboat's, or personal watercraft's identifying number and the
 6 owner's name if the motorboat, sailboat, or personal watercraft is transferred, lost, destroyed, or abandoned or
 7 within 60 days after a change of the state of principal use or if a motorboat becomes documented as a vessel of
 8 the United States.

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

11

12 **Section 9.** Section 80-7-1004, MCA, is amended to read:

13 **"80-7-1004. Invasive species account.** (1) There is an invasive species account in the state special
 14 revenue fund. The account is administered by the department of fish, wildlife, and parks.

15 (2) Money transferred ~~from the general fund or received~~ from any other lawful source, including but not
 16 limited to fees collected pursuant to [section 1], [section 2], [section 3], and [section 4], gifts, grants, donations,
 17 securities, or other assets, public or private, may be deposited in the account.

18 (3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or
 19 control any nonnative, aquatic invasive species pursuant to this part.

20 (4) Any private contribution deposited in the account for a particular purpose, as stated by the donor,
 21 must be used exclusively for that purpose.

22 (5) Any interest and earnings on the account must be retained in the account.

23 (6) The department of fish, wildlife, and parks may not recover indirect costs from the invasive species
 24 account."

25

26 **Section 10.** Section 80-7-1006, MCA, is amended to read:

27 **"80-7-1006. Departmental responsibilities -- reporting.** (1) The departments shall prepare a list of
 28 invasive species and identify those departments and other public agencies with jurisdiction over each species
 29 on the list. The jurisdiction of each department for the prevention and control of invasive species is according to
 30 the department's powers and duties as established by law.

1 (2) For those invasive species under the jurisdiction of more than one department, the departments with
2 jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

3 (3) Working in collaboration with each other, the departments, individually or collectively, shall develop
4 and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans
5 shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

6 (a) public awareness and education;

7 (b) prevention and detection of invasive species, including the use of invasive species management
8 areas authorized under 80-7-1008 and the statewide invasive species management area established in
9 80-7-1015;

10 (c) management, control, and restoration of infested areas; and

11 (d) emergency response.

12 (4) The departments shall enforce quarantine regulations and measures imposed by law or rule in an
13 invasive species management area established under 80-7-1008 and in the statewide invasive species
14 management area established in 80-7-1015, including the mandatory inspection of any interior portion of a vessel
15 or equipment that may contain water for the presence of an invasive species.

16 (5) The departments may designate employees to carry out the provisions of this part.

17 (6) The department of fish, wildlife, and parks shall authorize a request by another entity to operate a
18 check station pursuant to this part if the entity agrees to the conditions of an agreement established by all parties,
19 any cooperative funding requirements, and rules adopted under this part. The department of fish, wildlife, and
20 parks retains oversight authority over the operation of a check station pursuant to this subsection.

21 (7) The departments shall implement education and outreach programs that increase public knowledge
22 and understanding of prevention, early detection, and control of invasive species.

23 (8) The departments shall report to the environmental quality council at least biannually regarding
24 activities undertaken and expenses incurred in the implementation of this part."

25

26 **Section 11.** Section 80-7-1010, MCA, is amended to read:

27 **"80-7-1010. Invasive species management area -- regulation.** (1) The owner, operator, or person in
28 possession of any vessel or equipment authorized for use in an invasive species management area shall comply
29 with any regulations imposed pursuant to 80-7-1008(3)(b) and provide proof of compliance upon request of a
30 department or its designee.

1 (2) After use in a body of water within an invasive species management area, all vessels, equipment,
2 bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must
3 be drained in a way that does not impact any state waters before being transported on land or a public highway,
4 as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks."
5

6 **NEW SECTION. Section 12. Codification instruction.** (1) [Sections 1 and 2] are intended to be
7 codified as an integral part of Title 23, chapter 2, part 5, and the provisions of Title 23, chapter 2, part 5, apply
8 to [sections 1 and 2].

9 (2) [Section 3] is intended to be codified as an integral part of Title 15, chapter 51, and the provisions
10 of Title 15, chapter 51, apply to [section 3].

11 (3) [Section 4] is intended to be codified as an integral part of Title 15, chapter 16, part 2, and the
12 provisions of Title 15, chapter 16, part 2, apply to [section 4].
13

14 **NEW SECTION. Section 13. Effective date.** [This act] is effective May 15, 2017.
15

16 **NEW SECTION. Section 14. Applicability.** (1) [Section 3] applies to quarterly periods beginning July
17 1, 2017.

18 (2) [Section 4] applies to tax years beginning after December 31, 2017.
19

20 **NEW SECTION. Section 15. Termination.** [Sections 5 and 9(6)] terminate June 30, 2027.
21

- END -