

HOUSE BILL NO. 234

INTRODUCED BY J. ELLIS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE USE OF PERSONAL FLOTATION DEVICES; AND AMENDING SECTIONS 23-2-521, 23-2-523, AND 23-2-531, MCA."

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

Section 1. Section 23-2-521, MCA, is amended to read:

"23-2-521. Equipment. (1) Every motorboat or vessel must have aboard:

(a) one personal flotation device that is approved by the United States coast guard and that is in good and serviceable condition for each person on board, provided that a person who has not reached Each personal flotation device must be used in accordance with any requirements on the approval label. A person under 12 years of age must have a life preserver that is approved by the United States coast guard and that is properly fastened to the person wear a personal flotation device when occupying a motorboat or vessel under 26 feet in length while the motorboat or vessel is in motion;

(b) if carrying or using an inflammable or toxic fluid in an enclosure for any purpose and if the motorboat or vessel is not an entirely open one, an efficient natural or mechanical ventilation system prescribed by the department that must be used and be capable of removing resulting gases prior to and during the time the motorboat or vessel is occupied by a person;

(c) hand portable fire extinguishers approved by the United States coast guard, the number of which is to be determined by the department, or a fixed fire extinguishing system that is approved by the United States coast guard, except that motorboats less than 26 feet in length of entirely open construction, propelled by outboard motors, and not carrying passengers for hire need not carry the portable fire extinguishers or fire extinguishing systems.

(2) The carburetor or carburetors of each of the engines of a motorboat or vessel (except outboard motors) that use gasoline as fuel must be equipped with an efficient flame arrester, backfire trap, or other similar device.

(3) (a) Except as provided in subsection (3)(b), the exhaust of an internal combustion engine used on a motorboat or vessel must be muffled either by discharge underwater or by a functioning muffler capable of

1 muffling exhaust noise to 90 dbA or less when measured at a distance of 1 meter from the muffler at idle speed  
2 in accordance with the stationary sound level measurement procedure for pleasure motorboats (SAE J2005). The  
3 muffler may not be modified or altered, such as by a cutout. The department may require a test at dockside to  
4 determine exhaust noise level.

5 (b) The provisions of subsection (3)(a) do not apply to a ~~motorboat~~ or vessel:

6 (i) competing in a state-sanctioned regatta or boat race while on trial runs between 9 a.m. and 5 p.m.  
7 and during a period not more than 48 hours immediately preceding the regatta or boat race;

8 (ii) operating under a separate permit issued by the department for the purpose of tuning engines, making  
9 test or trial runs, or competing in official trials for speed records other than in connection with regattas or boat  
10 races; or

11 (iii) operated by an authorized agent of federal, state, or local government to carry out the duty of  
12 enforcement, search and rescue, firefighting, or research.

13 (4) (a) Except as provided in subsection (4)(b), a vessel may not be equipped with a siren, and a person  
14 may not use or install a siren on a vessel.

15 (b) An authorized emergency vessel may be equipped with a siren capable of sound audible under  
16 normal conditions from a distance of not less than 500 feet, but the siren may be used only when the vessel is  
17 operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the  
18 law, and the operator of the vessel shall sound the siren when necessary to warn persons of the vessel's  
19 approach.

20 (5) When in operation or at anchor or moored away from a docking facility between sunset and sunrise,  
21 all vessels must display lights as prescribed by the department.

22 (6) The department may designate waters where and the time of year on these waters when all persons  
23 aboard a ~~motorboat~~ or vessel shall wear approved ~~life preservers~~ personal flotation devices at all times.

24 (7) Vessels, including houseboats and floating cabins, equipped with a galley or toilet must have a  
25 wastewater holding system sealed to prevent the discharge of water-carried waste products, whether treated or  
26 untreated, into the surrounding waters.

27 (8) The department may adopt rules modifying the equipment requirements contained in this section to  
28 the extent necessary to keep these requirements in conformity with the provisions of the federal navigation and  
29 safety laws or with the navigation and safety rules promulgated by the United States coast guard.

30 (9) A person may not operate or give permission for the operation of a vessel that is not equipped as

1 required by this section."

2

3 **Section 2.** Section 23-2-523, MCA, is amended to read:

4 **"23-2-523. Prohibited operation and mooring -- enforcement.** (1) A person may not operate or  
5 knowingly permit a person to operate a ~~motorboat or vessel~~ or ~~manipulate use~~ waterskis, a surfboard, or a similar  
6 device or other contrivance in a reckless or negligent manner so as to endanger the life, limb, or property of a  
7 person by:

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

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

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

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

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

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

30 (6) ~~Skiers being pulled by motorboats must have on their person~~ A person using waterskis, a surfboard,

1 a wakeboard, an inflatable device, or similar equipment behind any vessel shall wear a United States coast guard  
2 approved personal flotation device that is in good and serviceable condition and used in accordance with any  
3 requirements on the approval label.

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

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

15 (9) The population density and heavy recreational use of certain lakes require a noise standard more  
16 restrictive than the standard set in 23-2-526 in order to protect the public health and safety. Unless operated on  
17 a river or stream in compliance with a rule adopted under 23-2-521, a person may not operate a ~~motorboat or~~  
18 ~~personal watercraft~~ vessel on Flathead Lake, situated in Lake and Flathead Counties, Echo Lake, situated in  
19 Flathead County, or Swan Lake, situated in Lake County, in proximity to the shoreline if the noise emitted is  
20 greater than 75 dbA measured at the shoreline in accordance with the shoreline sound level measurement  
21 procedure (SAE J1970).

22 (10) Unless accompanied by a person 18 years of age or older, a person 12 years of age or younger  
23 may not operate a ~~motorboat or a personal watercraft~~ vessel that is powered by a motor rated at more than 10  
24 horsepower. A person 13 or 14 years of age may not operate a vessel ~~or personal watercraft~~ powered by a motor  
25 rated at more than 10 horsepower without possessing a valid Montana motorboat operator's safety certificate or  
26 evidence of completion of a Montana-approved water safety course or unless accompanied by a person 18 years  
27 of age or older.

28 (11) A person who owns or ~~has~~ is in charge or control of a ~~motorboat or personal watercraft~~ vessel  
29 powered by a motor rated at more than 10 horsepower may not authorize or knowingly permit the ~~motorboat or~~  
30 ~~personal watercraft~~ vessel to be operated:

1 (a) by a person 12 years of age or younger unless accompanied by a person 18 years of age or older;  
2 or

3 (b) by a person 13 or 14 years of age unless the person possesses a valid Montana motorboat operator's  
4 safety certificate or evidence of completion of a Montana-approved water safety course or is accompanied by a  
5 person 18 years of age or older.

6 (12) A person may not rent a ~~motorboat or a personal watercraft~~ vessel powered by a motor rated at  
7 more than 10 horsepower to a person under 18 years of age."  
8

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

10 **"23-2-531. Personal watercraft operation.** In addition to applicable provisions in this part, a person may  
11 not operate a personal watercraft:

12 (1) unless a person operating or riding on the vessel is wearing a United States coast guard approved  
13 ~~type I, II, III, or V~~ personal flotation device that is in good and serviceable condition and used in accordance with  
14 any requirements on the approval label;

15 (2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch unless the  
16 lanyard is attached to the operator's person, clothing, or personal flotation device as is appropriate for the specific  
17 vessel;

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

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

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

24 (5) in a reckless or negligent manner. Actions prohibited in 23-2-523 are considered reckless operation."  
25

26 NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that matured,  
27 penalties that were incurred, or proceedings that were begun before [the effective date of this act].  
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