

SENATE BILL NO. 126
INTRODUCED BY BRUEGGEMAN
BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE OWNER OF A MOTORBOAT, SAILBOAT, OR PERSONAL WATERCRAFT TO VERIFY USE OF THE ORIGINAL IDENTIFYING NUMBER EVERY 3 YEARS BY OBTAINING VALIDATION DECALS AT NO COST; REQUIRING THE OWNER OF A VESSEL TO AFFIX THE VALIDATION DECALS TO THE FORWARD HALF OF THE VESSEL; DEFINING "VALIDATION DECAL"; ALLOWING ALL NEW OWNERS ~~30~~ 40 DAYS TO OBTAIN AND DISPLAY REGISTRATION AND VALIDATION DECALS AND TO APPLY FOR A NEW CERTIFICATE OF NUMBER; AMENDING SECTIONS 23-2-502, 23-2-511, 23-2-512, AND 23-2-513, MCA; AND PROVIDING AN 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 county treasurer to the owner of a motorboat or by the department of justice to dealers or manufacturers, assigning the motorboat an identifying number and containing other information as required by the department of justice.

(2) "Dealer" means a person who engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, and who has an established place of business for sale, trade, and display of vessels. A yacht broker is a dealer.

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

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

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

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

(7) "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.

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

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

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

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

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

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

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

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

(b) the operator;

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

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

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

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

(15) "Registration decal" means an adhesive sticker produced by the department of justice and issued by the department of justice, its authorized agent, or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft as proof of payment of all fees in lieu of tax imposed on the motorboat, sailboat, or personal watercraft for the registration period indicated on the ~~sticker~~ decal as recorded by the department of justice under 61-3-101.

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

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

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

(18) "Uniform state waterway marking system" means one of two categories:

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

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

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

~~(19)~~(20) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~(20)~~(21) "Waters of this state" means any waters within the territorial limits of this state."

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

"23-2-511. Operation of unnumbered motorboats prohibited -- display of registration and validation decals ~~decal~~. (1) A motorboat on the waters of this state, propelled by a motor or an engine of any description, must be properly numbered and display a valid registration and validation decal decals. A person may not operate or give permission for the operation of any motorboat on the waters of this state unless the motorboat is numbered and displays a valid registration and validation decal decals in accordance with this part and applicable federal law or with a federally approved numbering system of another state and unless:

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

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

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

(2) Upon transfer of ownership of a motorboat ~~from a registered boat dealer or manufacturer~~, the transferred motorboat may be operated on the waters of this state for ~~30~~ 40 consecutive calendar days immediately following the transfer of ownership without displaying the ~~numbers and~~ registration and validation decal decals required by subsection (1) if when the motorboat is operated during those ~~30~~ 40 consecutive

calendar days, a bill of sale or other evidence of transfer ~~reciting~~ showing the date of the transfer of ownership is retained in the motorboat and is exhibited to a warden or other officer upon request."

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

"23-2-512. Identifying 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 in calendar year 2004 and, in each subsequent year, \$15.50. Any alteration, change, or false statement contained in the application renders 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. Validation decals verifying the identifying number for each motorboat, sailboat, or personal watercraft must be issued along with the certificate of number and must be displayed on the motorboat, sailboat, or personal watercraft.

(2) The applicant, upon the filing of the application, shall pay to the county treasurer the fee in lieu of tax required under 23-2-517 for a motorboat 10 feet in length or longer, a sailboat 12 feet in length or longer, or a personal watercraft before the application for certification or, if applicable, 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~~ 30 40 days with the county treasurer and a new certificate of number assigned in the same manner as provided for in an original assignment of number. New validation decals must be issued simultaneously.

(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) A certificate of number and ~~a registration~~ validation decal decals issued under this part are effective unless terminated or discontinued in accordance with the provisions of this part. All motorboats, sailboats, or personal watercraft already numbered must exhibit validation decals by December 31, 2005. All validation decals expire on February 28, 2008. Validation decals must be obtained by the expiration date at any regional office of the department or through the department website and are in effect for another 3-year period ending February

28, 2011. The requirement of renewal validation decals must continue in subsequent 3-year periods, and renewal validation decals must be identified by color in accordance with the federal numbering system. Except as provided in 23-2-511(2) and subsection (3) of this section, the operation of a motorboat, sailboat, or personal watercraft is prohibited without current validation decals.

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

~~(6)~~(7) If ownership is transferred, the purchaser shall notify the county treasurer within ~~a reasonable time~~ 30 40 days 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.

~~(7)~~(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.

~~(8)~~(9) (a) The identifying 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 identifying 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 identifying number may not be placed on the obscured underside of the flared bow where it cannot be easily seen from another vessel or ashore. 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 identifying number 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. A registration decal issued under this part must be placed next to the identifying number located on the left side of a motorboat, sailboat, or personal watercraft or, if there are no sides, at the corresponding location on the left outboard side of the foredeck of the motorboat, sailboat, or personal watercraft. The validation decal must be placed immediately aft of the registration number DECAL on the left side and immediately aft of the identifying number on the right side of a 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.

~~(9)(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.

~~(10)(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 if 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."

Section 4. Section 23-2-513, MCA, is amended to read:

"23-2-513. Dealer's or manufacturer's identifying number -- premises -- inspection -- bond -- judgment -- temporary registration permit. (1) A dealer or manufacturer may apply directly to the department of justice for one identifying number and one or more certificates of number. A dealer's or manufacturer's identifying number AND THE REGISTRATION DECAL must be displayed on a dealer's or manufacturer's boat while the boat is operating for a purpose related to the buying, selling, ~~or exchanging,~~ OR PERFORMANCE TESTING of the boat by the dealer, ~~or manufacturer,~~ OR POTENTIAL BUYER.

(2) The application for a dealer's or manufacturer's identifying number must include the dealer's or manufacturer's name and business address. Each dealer or manufacturer must have one identifying number assigned to the dealer's or manufacturer's business.

(3) An application for a dealer's or manufacturer's identifying number and a certificate of number must be accompanied by the following fees:

(a) for the identifying number, first certificate of number, and registration decal, \$5;

(b) for each additional certificate of number and registration decal applied for in any application, \$2.

(4) The department of justice shall issue certificates of number for the identifying number assigned to a dealer or manufacturer in the same manner as provided in 23-2-512(1) and (8), except that a boat may not be described in a certificate and each certificate must state that the identifying number has been assigned to a dealer or manufacturer. A dealer's or manufacturer's certificate of number expires on December 31 of the year for which it is issued.

(5) A dealer's or manufacturer's identifying number AND THE REGISTRATION DECAL must be displayed in the same manner as provided in 23-2-512(8), except that the number may be temporarily attached. The last three letters must be "DLR" for dealer and "MFR" for manufacturer. These letters must be included, respectively, in dealer or manufacturer identification numbers.

(6) ~~A person other than a dealer or manufacturer or an employee of a dealer or manufacturer may not display or use a dealer's or manufacturer's identifying number.~~ A dealer's or manufacturer's identifying number AND THE REGISTRATION DECAL may be displayed only on motorboats OR SAILBOATS THAT ARE FOR SALE, owned, OR ON CONSIGNMENT by the dealer or manufacturer. CONSIGNMENT BOATS DISPLAYING A DEALER'S OR A MANUFACTURER'S IDENTIFYING NUMBER AND A REGISTRATION DECAL MUST HAVE A SIGNED AND DATED CONSIGNMENT CONTRACT AVAILABLE FOR VERIFICATION THAT THE BOAT IS ON CONSIGNMENT.

(7) A dealer or manufacturer or an employee of a dealer or manufacturer may not use a dealer's or manufacturer's identifying number for any purpose other than the purpose described in subsection (1).

(8) A dealer shall maintain a principal place of business, coinciding with the business address listed on the application, where all business records are maintained and where the dealer displays, sells, and services merchandise. The dealer shall display a sign at the place of business that clearly states the name of the business. The premises of the dealer's principal place of business must be inspected by an official of the department of justice to ensure compliance with this section.

(9) To qualify for renewal of a boat dealer's license, the dealer shall certify to the department of justice, upon application for renewal, that the dealer sold five or more boats during the previous license year. If five or more boats were not sold, an additional fee of \$50 is required for renewal of the dealer's license.

(10) (a) The applicant for a boat dealer's license shall file with the application a bond of \$5,000. The bond must be conditioned that the applicant will conduct the business in accordance with the requirements of the law. All bonds must run to the state of Montana, must be approved by the department of justice and filed in its office, and must be renewed annually.

(b) A person who suffers loss or damage because of the unlawful conduct of a dealer licensed under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. The judgment must determine a specific loss or damage amount and conclude that the licensee's unlawful operation caused the loss or damage before payment on the bond is required.

(11) Prior to the delivery of a motorboat or a sailboat 12 feet in length or longer to a purchaser, the dealer shall issue and affix to a motorboat or a sailboat constructed after October 31, 1972, a temporary registration permit, as defined in 61-1-603. The temporary registration permit expires ~~30~~ 40 days after the date of issuance. The dealer shall keep a copy of the temporary registration permit for the dealer's records and shall send a copy of the temporary registration permit to the department of justice. THE DEALER SHALL REMOVE ANY REGISTRATION DECAL PRIOR TO SELLING ANY USED BOAT."

NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2005.

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