

1999 Montana Legislature

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HOUSE BILL NO. 626

INTRODUCED BY H. HARPER, J. ELLINGSON



AN ACT REDUCING POTENTIAL CONFLICTS BETWEEN RECREATIONAL USERS OF MONTANA WATERS BY REVISING CERTAIN LAWS ON MOTORBOAT AND PERSONAL WATERCRAFT OPERATION; REVISING THE RESTRICTION ON OPERATION OF A VESSEL IN PROXIMITY TO AN ANGLER, WATERFOWL HUNTER, OR DIVER; DESIGNATING CERTAIN RIVER STRETCHES AS NO-WAKE ZONES; PROHIBITING THE USE OF PERSONAL WATERCRAFT ON DESIGNATED RIVER STRETCHES AND ON WATERS RESTRICTED BY RULE OF THE FISH, WILDLIFE, AND PARKS COMMISSION; ALLOWING THE FISH, WILDLIFE, AND PARKS COMMISSION TO ADOPT RULES FOR THE OPERATION OF PERSONAL WATERCRAFT AND THE RESOLUTION OF CONFLICTS BETWEEN USERS OF MOTORIZED AND NONMOTORIZED BOATS ON MONTANA WATERS; AND AMENDING SECTIONS 23-2-525, 23-2-531, AND 87-1-303, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Montana waters will experience a great increase in traffic by recreationists celebrating the bicentennial of the Lewis and Clark expedition and retracing the routes of the famous explorers; and

WHEREAS, the increased recreational use of Montana waters by every manner of recreationist, motorized as well as nonmotorized users, has led to a corresponding increase in conflicts between river users; and

WHEREAS, in other states, conflicts between recreational users of waters have escalated to the point of violence and even deaths of recreationists; and

WHEREAS, the use of personal watercraft has grown immensely in Montana, and the irresponsible use of personal watercraft conflicts with the ability of lakeshore cabin owners and homeowners to enjoy their pursuit of happiness through peaceful relaxation; and

WHEREAS, it is in the interests of public health, safety, welfare, and protection of property that measures be taken in Montana to reduce potential conflicts between recreational users of Montana waters before this state experiences similar problems.

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

Section 1. Section 23-2-525, MCA, is amended to read:

"23-2-525. Restricted areas. (1) ~~No~~ A person shall ~~se~~ may not anchor a vessel or other obstacle for fishing or pleasure purposes on any body of water over which the state has jurisdiction in ~~such a position as to obstruct~~ that obstructs a passageway ordinarily used by other vessels.

(2) ~~No~~ A person shall may not operate a pleasure vessel within 20 feet of the exterior boundary of a water area ~~which~~ that is clearly marked by buoys or some other distinguishing device as a bathing or swimming area. Swimming areas shall must be marked with white buoys having international orange markings in conformance with the uniform state waterway marking system by the owners of ~~such~~ the areas.

(3) ~~No~~ A person shall may not, ~~without permission,~~ operate or knowingly permit any ~~person to operate~~ a vessel within ~~50~~ 75 feet of a person engaged in fishing or hunting waterfowl, unless unavoidable. If unavoidable, the vessel must be operated at not greater than no-wake speed or at a minimum speed necessary to maintain upstream progress while within 75 feet of the person engaged in fishing or hunting waterfowl.

(4) (a) ~~No~~ A person shall may not purposely, knowingly, or negligently operate a motorboat upon the waters of this state within ~~400~~ 200 feet of a tow-float or buoy displaying a "diver-down" symbol, red with a white slash, on a flag.

(b) The motorboat may enter the ~~400-foot~~ 200-foot safety zone by use of sail or oar. In an emergency or if there is insufficient water on either side of the ~~400-foot~~ 200-foot safety zone to pass by and stay out of the zone, the operator may use power within the zone but may not exceed no-wake speed. The burden of proving that an emergency exists or that there is insufficient water is on the operator.

(c) The fish, wildlife, and parks commission may by rule determine areas where establishment of a ~~400-foot~~ 200-foot safety zone is not allowed in order to provide for diver safety or the regulation of water traffic."

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

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

(1) unless a person operating or riding on the vessel is wearing a United States coast guard approved type I, II, III, or V personal flotation device;

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

(3) (a) ~~except as provided for standup personal watercraft in subsection (3)(b) or when towing a waterskier from or to a dock or shore, at greater than no-wake speed within 400 200 feet of a dock, swimmer, swimming raft, nonmotorized boat, or anchored vessel on a lake or within 50 feet of a dock, swimmer, swimming raft, nonmotorized boat, or anchored vessel on a river, except as provided in 23-2-525(4) river; or~~

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

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

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

Section 3. Section 87-1-303, MCA, is amended to read:

"87-1-303. Rules for use of lands and waters. (1) The commission may adopt and enforce rules governing uses of lands that are acquired or held under easement by the commission or lands that it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules must be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and easement agreements must itemize uses as listed in 87-1-209.

(2) The commission may adopt and enforce rules governing recreational uses of all public fishing reservoirs, public lakes, rivers, and streams that are legally accessible to the public or on reservoirs and lakes that it operates under agreement with or in conjunction with a federal or state agency or private owner. These rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes, rivers, and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas regulated pursuant to the authority contained in this section must be areas that are legally accessible to the public. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement."

Section 4. Designation of certain river stretches as no-wake waters -- personal watercraft use prohibited. (1) In the interest of public health, safety, welfare, and protection of property and public resources, the use of personal watercraft is prohibited on the headwaters of the Missouri River downstream to its confluence with Prewett Creek, except in Missouri River reservoirs, and including all tributaries but not their reservoirs.

(2) The waters from Hauser dam downstream to Beaver Creek are limited to a controlled no-wake speed.

(3) This section does not apply to the use of the designated waters for search and rescue, official patrol, or scientific purposes.

(4) This section may not be construed to limit the authority of the commission or department to enact by administrative rule or to enforce any other restrictions on any surface waters in the interests of public health, safety, welfare, or protection of property or public resources or the resolution of conflicts between users of motorized and nonmotorized boats.

Section 5. Codification instruction. [Section 4] is intended to be codified as an integral part of Title 87, chapter 1, part 3, and the provisions of Title 87, chapter 1, part 3, apply to [section 4].

Section 6. Effective date. [This act] is effective June 1, 1999.

- END -

Latest Version of HB 626 (*HB0626.ENR*)

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New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted. See the [status of the bill](#) for the bill's primary sponsor.

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