

## Montana Statutes

### Title 23: Parks, Recreation, Sports, and Gambling

**23-1-128. Protection of riparian vegetation -- limit on motorized camping, operation of off-highway vehicles.** In order to protect riparian vegetation, provide for stable streambanks, reduce erosion, and provide for nutrient barriers to protect the quality of rivers and streams: (1) camping in a motor vehicle, as defined in 61-1-101 is discouraged within 25 feet of a river or stream in state parks and fishing access sites; and (2) the off-road operation of an off-highway vehicle, as defined in 23-2-801, within state parks and fishing access sites is prohibited except for administrative purposes.

**23-2-302. Recreational use permitted -- limitations -- exceptions.** (1) Except as provided in subsections (2) through (5), all surface waters that are capable of recreational use may be so used by the public without regard to the ownership of the land underlying the waters. (2) The right of the public to make recreational use of surface waters does not include, without permission or contractual arrangement with the landowner: (a) the operation of all-terrain vehicles or other motorized vehicles not primarily designed for operation upon the water; (b) the recreational use of surface waters in a stock pond or other private impoundment fed by an intermittently flowing natural watercourse; (c) the recreational use of waters while diverted away from a natural water body for beneficial use pursuant to Title 85, chapter 2, part 2 or 3, except for impoundments or diverted waters to which the owner has provided public access; (d) big game hunting except by long bow or shotgun when specifically authorized by the commission; (e) overnight camping within sight of any occupied dwelling or within 500 yards of any occupied dwelling, whichever is less; (f) the placement or creation of any permanent duck blind, boat moorage, or any seasonal or other objects within sight of or within 500 yards of an occupied dwelling, whichever is less; or (g) use of a streambed as a right-of-way for any purpose when water is not flowing therein. (3) The right of the public to make recreational use of class II waters does not include, without permission of the landowner: (a) big game hunting; (b) overnight camping; (c) the placement or creation of any seasonal object; or (d) other activities which are not primarily water-related pleasure activities as defined in 23-2-301 (10). (4) The right of the public to make recreational use of surface waters does not grant any easement or right to the public to enter onto or cross private property in order to use such waters for recreational purposes. (5) The commission shall adopt rules pursuant to 87-1-303 in the interest of public health, public safety, or the protection of public and private property, governing recreational use of class I and class II waters. These rules must include the following: (a) the establishment of procedures by which any person may request an order from the commission: (i) limiting, restricting, or prohibiting the type, incidence, or extent of recreational use of a surface water; or (ii) altering limitations, restrictions, or prohibitions on recreational use of a surface water imposed by the commission; (b) provisions requiring the issuance of written findings and a decision whenever a request is made pursuant to the rules adopted under subsection (5)(a); and (c) a procedure for the identification of streams within class II waters which are not capable of recreational use or are capable of limited recreational use, and a procedure to restrict the recreational use to the actual capacity of the water. (6) The provisions of this section do not affect any rights of the public with respect to state-owned lands that are school trust lands or any rights of lessees of such lands.

### Part 8. Off-Highway Vehicles

**23-2-801. Definition.** (1) As used in this part, "off-highway vehicle" means a self-propelled vehicle used for

recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(2) Off-highway vehicle does not include: (a) vehicles designed primarily for travel on, over, or in the water; (b) snowmobiles; or (c) except as provided in 23-2-804, vehicles otherwise issued a certificate of title and registered under the laws of the state, unless the vehicle is used for off-road recreation on public lands.

**23-2-802. Exemptions.** The provisions of this part do not apply to: (1) an off-highway vehicle: (a) owned or used by the United States or another state or an agency or political subdivision thereof; (b) registered in a country other than the United States, temporarily used within this state for not more than 30 days; or (c) registered in another state of the United States, temporarily used within this state for not more than 30 days; or (2) a licensed motorcycle or licensed quadricycle used for fishing and hiking access, camping, or picnicking on a visible two-track trail or road within 1 mile of a designated road.

**23-2-804. Decal required.** (1) Except as provided in 23-2-802, an off-highway vehicle may not be operated by a person for off-road recreation on public lands in Montana unless there is displayed in a conspicuous place a decal, in a form prescribed by the department of justice and issued by the county treasurer, as visual proof that the following fees have been paid: (a) the registration fee provided for in 61-3-321 (5); or (b) when the vehicle will be used as provided in this section, the registration and taxation fees for motorcycles and quadricycles subject to licensure under 61-3-321 (8), as evidenced by presentation of an owner's certificate of registration and payment receipt. The county treasurer may confirm the registration status of a motorcycle or quadricycle by examining the current registration receipt for the vehicle or checking the electronic record of title for the vehicle. (2) The decal must be serially numbered.

**23-2-806. Enforcement.** (1) The department of fish, wildlife, and parks enforcement personnel, park rangers, sheriffs and their deputies, the Montana highway patrol, and the police of each municipality shall enforce the provisions of this part. (2) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power: (a) of search, seizure, and arrest; (b) to investigate activities in this state regulated by this part and rules of the department and the fish, wildlife, and parks commission; and (c) to report violations to the county attorney of the county in which they occur. (3) Park rangers may not carry firearms in the execution of their duties.

**23-2-807. Penalty -- disposition.** (1) The failure to display a valid decal indicating that the fee in lieu of tax, registration fees, decal fees, and, when applicable, taxes on licensed vehicles have been paid on the off-highway vehicle, as provided in 23-2-804, is a misdemeanor punishable by a fine of \$50. (2) All fines collected under this section must be transmitted to the department of revenue for deposit in the state general fund.

**23-2-808 Regulation by local government precluded.** No political subdivision may prescribe further licensing or registration of off-highway vehicles, and no political subdivision may levy fees or charges for use or operation of off-highway vehicles within the subdivision.

**23-2-809. Duplicate decal.** If a decal required in 23-2-804 indicating that the off-highway vehicle fee has been paid is lost, mutilated, or becomes illegible, the person to whom it was issued shall immediately apply for and obtain a duplicate decal upon payment of a fee of \$5 to the county treasurer, who shall forward the fee to the state, as provided in 15-1-504, for deposit in the state general fund.

**23-2-814. Nonresident temporary-use permits.** (1) An off-highway vehicle that is owned by a nonresident and that is not registered in another state of the United States or in another country may not be operated by a person in Montana unless a nonresident temporary-use permit is obtained. (2) The requirements pertaining to a nonresident temporary-use permit for an off-highway vehicle are as follows: (a) Application for the issuance of the permit must be made at locations and upon forms prescribed by the department of fish, wildlife, and parks. The forms must include but are not limited to: (i) the applicant's name and permanent address; (ii) the make, model, year, and serial number of the off-highway vehicle; and (iii) an affidavit declaring the nonresidency of the applicant. (b) Upon submission of the application and a fee of \$5, a nonresident off-highway vehicle temporary-use sticker must be issued. The sticker must be displayed in a conspicuous manner on the off-highway vehicle. The sticker is the temporary-use permit. (3) The temporary-use permit is valid for the calendar year designated on the permit. (4) The permit is not proof of ownership, and a certificate of title may not be issued. (5) All money collected by payment of fees under this section must be transmitted to the department of revenue for deposit in the state general fund. (6) Failure to display the permit as required by this section or making false statements in obtaining the permit is a misdemeanor and is punishable by a fine of not less than \$25 or more than \$100. All fines collected under this section must be transmitted to the department of revenue for deposit in the state general fund.

**23-2-818. Dealer registration certificate -- temporary registration permit.** (1) (a) Unless the dealer is licensed under the provisions of 61-4-101, a dealer may not sell off-highway vehicles unless the dealer has first obtained a dealer registration certificate from the department of justice under the provisions of this section. (b) To qualify as a dealer the applicant, when registering or renewing a registration, shall: (i) complete an application: (A) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed; (B) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient; (C) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and (D) stating the name and make of all off-highway vehicles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement; (ii) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any off-highway vehicle offered for demonstration or loan to a customer; (iii) execute a certificate to the effect that the applicant has a permanent building for the display and sale of off-highway vehicles at the location of the premises where sales are conducted; (iv) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of off-highway vehicles; and (v) execute a certificate to the effect that the applicant is a bona fide dealer in off-highway vehicles. (2) The dealer application for registration or renewal of registration must be accompanied by an application or renewal fee of \$5 and a registration fee of \$5. To qualify for the fees in this subsection, the applicant for renewal shall certify that the applicant has sold three or more off-highway vehicles during the preceding year. Upon receipt of the dealer application or renewal and payment of fees, the dealer must be issued two dealer off-highway identification cards to be carried by the dealer or the dealer's customer when demonstrating the dealer's off-highway vehicles. Additional dealer off-highway vehicle identification cards may be purchased by the dealer from the department of justice for a fee of \$2 each. (3) (a) A dealer shall file a bond in the amount of \$5,000. (b) The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must run to the state of

Montana, must be approved by the department and filed in its office, and must be renewed annually. (c) A person who suffers loss or damage because of the unlawful conduct of a dealer registered under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. Before payment on the bond is required, the judgment must determine a specific loss or damage amount and conclude that the dealer's unlawful operation caused the loss or damage. (4) The dealer shall have a principal place of business where the dealer maintains all business records and where the dealer displays and sells merchandise. (5) An applicant for renewal of an off-highway vehicle dealer registration who does not qualify under subsection (2) shall: (a) pay an additional \$50 renewal registration fee; and (b) provide a copy of a new off-highway vehicle franchise or sales agreement that the applicant has with a manufacturer, importer, or distributor. (6) Dealer registration certificates and identification cards expire on December 31 following the date of issuance. (7) Within 30 days following the delivery of an off-highway vehicle to a purchaser, the dealer shall forward an application for certificate of title, executed by the purchaser, and the assigned manufacturer's certificate of origin or certificate of title for the off-highway vehicle to the office of the county treasurer for the county in which the owner resides. If the dealer is an authorized agent, as defined in 61-1-101, a temporary registration permit may be issued upon delivery of the snowmobile to the purchaser in accordance with 61-3-224. (8) (a) The dealer application fees and all interest accruing from use of this money must be deposited in the general fund to be used by the department of justice for the administration of this part. (b) All dealer registration fees and renewal fees collected must be deposited in the state general fund.

**23-2-821. Off-highway crossings of public roads -- use of certain forest development roads.** (1) Except as provided in subsection (2), an off-highway vehicle may make a direct crossing of a public road when the crossing is necessary to get to another authorized area of operation. The crossing must be made at an angle of approximately 90 degrees to the direction of traffic at a place where no obstruction prevents a quick and safe crossing. The off-highway vehicle must make a complete stop before entering upon any part of the traffic way, and the operator shall yield the right-of-way to all oncoming traffic. (2) An off-highway vehicle may not be operated on or across a highway that is part of the federal-aid interstate system. (3) An off-highway vehicle may be operated on or across a forest development road in this state, as defined in 61-8-110, if the road has been designated and approved for off-highway vehicle use by the United States forest service.

**23-2-822. Off-highway vehicle operator responsibilities.** (1) An off-highway vehicle operator shall accept all legal responsibility for injury or damage of any kind to the extent that the injury or damage results from risks inherent in the sport of off-highway vehicle use and shall regulate personal conduct at all times so that injury to self or other persons or property that results from the risks inherent in the sport of off-highway vehicle operation is avoided. (2) Risks inherent in the sport of off-highway operation include variations in terrain, surface or subsurface conditions, crevices, ravines, streams, poor visibility, rocks, trees, other forms of forest growth or debris, and any other natural hazard. (3) An off-highway vehicle operator is responsible for: (a) knowing the range of the operator's ability to navigate any slope, trail, or area for off-highway vehicle use within the limits of the operator's ability, taking into consideration the conditions; (b) maintaining control of speed and course at all times while operating the off-highway vehicle; (c) heeding all posted warnings; and (d) refraining from acting in a manner that may cause or contribute to the injury of anyone. (4) The provisions of this section do not affect a products liability cause of action based upon the design or manufacture of off-highway equipment or products or safety equipment used incidental to the operation of an off-highway vehicle.

## **Title 15**

**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) \$3,050,205 in fiscal year 2006; and (b) in each succeeding fiscal year, the amount in subsection (2)(a), increased by 1.5% in each succeeding fiscal year. (3) For each 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, 1.62% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 1.48% of the motor vehicle revenue deposited in the state general fund in succeeding fiscal years. The amount of 8.75% of the allocation in fiscal year 2006 and 9.48% of the allocation in fiscal year 2007 and succeeding years must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532. (b) to the noxious weed state special revenue account provided for in 80-7-816, 1.53% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 1.50% of the motor vehicle revenue deposited in the state general fund in succeeding fiscal years; (c) to the department of fish, wildlife, and parks: (i) 0.47% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and in succeeding fiscal years, 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be: (A) used to: (I) acquire and maintain pumpout equipment and other boat facilities, 5.2% in fiscal year 2006 and 4.8% in fiscal year 2007 and succeeding years; (II) administer and enforce the provisions of Title 23, chapter 2, part 5, 20.8% in fiscal year 2006 and 19.1% in fiscal year 2007 and succeeding years; (III) enforce the provisions of 23-2-804, 12.1% in fiscal year 2006 and 11.1% in fiscal year 2007 and succeeding fiscal years; and (IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 18.1% in fiscal year 2006 and 16.7% in fiscal year 2007 and succeeding fiscal years; and (B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 43.8% in fiscal year 2006 and 48.3% in fiscal year 2007 and succeeding fiscal years; (ii) 0.12% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.10% of the motor vehicle revenue deposited in the state general fund in each subsequent fiscal year, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and (iii) 0.5% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.16% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533; (d) 0.75% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.64% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year, with 21.30% in fiscal year 2006 and 24.55% in fiscal year 2007 and succeeding fiscal years to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 78.70% in fiscal year 2006 and 75.45% in fiscal year 2007 and succeeding fiscal years to be deposited in the veterans' services account provided for in 10-2-112 (1); (e) 0.59% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.30% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year 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; and (f) to the search and rescue account provided for in 10-3-801, 0.20% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.04% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year. (4) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from: (a) fees for issuing a motor vehicle title paid pursuant to 61-3-203; (b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562; (c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and (d) all money collected pursuant to 15-1-504 (3). (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.

## **Title 60**

**60-3-201. Distribution and use of proceeds of gasoline dealers' license tax.** (1) All money received in payment of license taxes under the Distributor's Gasoline License Tax Act, except those amounts paid out of the department's suspense account for gasoline tax refund, must be used and expended as provided in this section. The portion of that money on hand at any time that is needed to pay highway bonds and interest on highway bonds when due and to accumulate and maintain a reserve for payment of highway bonds and interest, as provided in laws and in resolutions of the state board of examiners authorizing the bonds, must be deposited in the highway bond account in the debt service fund established by 17-2-102. After deductions for amounts paid out of the suspense account for gasoline tax refunds, the remainder is allocated as follows: (a) 9/10 of 1% to the state park account; (b) 15/28 of 1% to a snowmobile account in the state special revenue fund; (c) 1/8 of 1% to an off-highway vehicle account in the state special revenue fund; and (d) 1/25 of 1% to the aeronautics revenue fund of the department under the provisions of 67-1-301. (e) The remainder of the money must be used: (i) by the department on the highways in this state selected and designated by the commission; (ii) for collection of the license taxes; and (iii) for the enforcement of the Montana highway code under Article VIII, section 6, of the constitution of this state. (2) The department shall, in expending this money, carry forward construction from year to year, using the money expended in accordance with this title. Nothing in this title conflicts with Title 23, U.S.C., and the rules by which it is administered. (3) The department may enter into cooperative agreements with the national park service and the federal highway administration for the purpose of maintaining national park approach roads in Montana. (4) Money credited to the state park account in the state special revenue fund may be used only for the creation, improvement, and maintenance of state parks where motorboating is allowed. The legislature finds that of all the fuel sold in the state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 9/10 of 1% is used for propelling boats on waterways of this state. (5) (a) Money credited to the snowmobile account may be used only to develop and maintain facilities open to the general public at no admission cost, to promote snowmobile safety, for enforcement purposes, and for the control of noxious weeds. (b) Of the amounts deposited in the snowmobile account: (i) 13% of the amount deposited must be used by the department of fish, wildlife, and parks to promote snowmobile safety and education and to enforce snowmobile laws. Two-thirds of the 13% deposited must be used to promote snowmobile safety and education and one-third of the 13% deposited must be used for the enforcement of snowmobile laws. (ii) 1% of the amount deposited must be credited to the noxious weed management special revenue fund provided for in 80-7-816. (c) The legislature finds that of all fuels sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 15/28 of 1% is used for propelling registered snowmobiles in this state. (6) (a) Money credited to the off-highway vehicle account under subsection (1)(c) may be used only to develop and maintain facilities open to the general public at no admission cost, to repair areas that are damaged by off-highway vehicles, and to promote off-highway vehicle safety. Ten percent of the money deposited in the off-highway vehicle account must be used to promote off-highway vehicle safety. Up to 10% of the money deposited in the off-highway vehicle account may be used to repair areas that are damaged by off-highway vehicles. (b) The legislature finds that of all fuel sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 1/8 of 1% is used for propelling off-highway vehicles in this state. (7) Money credited to the aeronautics account of the department of transportation may be used only to develop, improve, and maintain facilities open to the public at no admission cost and to promote aviation safety. The legislature finds that of all the fuel sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 1/25 of 1% is used for propelling aircraft in this state.

## Title 61

**61-1-101 (39) (a)** "Off-highway vehicle" means a self-propelled vehicle used for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind. (b) The term does not include: (i) vehicles designed primarily for travel on, over, or in the water; (ii) snowmobiles; or (iii) vehicles otherwise issued a certificate of title and registered under the laws of the state, unless the vehicle is used for off-road recreation on public lands.

**61-1-101 Definitions.** (39) (a) "Off-highway vehicle" means a self-propelled vehicle used for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

**61-3-203. Fee for original certificate of title -- disposition.** (1) A person applying for a certificate of title shall pay the department, its authorized agent, or a county treasurer a fee of: (a) \$10 if the vehicle for which a certificate of title is sought is not a light vehicle or a truck or bus that weighs less than 1 ton; or (b) \$12 if the vehicle for which application is made is a light vehicle or a truck or bus that weighs less than 1 ton. (2) The amount of \$5 of the fee imposed pursuant to subsection (1) must be forwarded to the department for deposit in the motor vehicle information technology system account provided for in 61-3-550, and the remaining amount must be deposited in the state general fund.

**61-3-301. Registration -- license plate required -- display.** (1) (a) Except as provided in 61-4-120, 61-4-129, and subsection (1)(b) of this section, a person may not operate a motor vehicle, trailer, semitrailer, or pole trailer upon the public highways of Montana unless the motor vehicle, trailer, semitrailer, or pole trailer is properly registered and has the proper license plates conspicuously displayed, one on the front and one on the rear of the motor vehicle, trailer, semitrailer, or pole trailer, each securely fastened to prevent it from swinging and unobstructed from plain view. (b) A motorcycle, quadricycle, trailer, semitrailer, pole trailer, or travel trailer must display a single license plate on the rear of the vehicle. A custom vehicle or street rod registered under 61-3-320 (1)(b) or (1)(c)(iii) may display a single license plate firmly attached to the rear exterior of the custom vehicle or street rod. (c) A person may not display on a motor vehicle, trailer, semitrailer, or pole trailer at the same time a number assigned to it under any motor vehicle law except as provided in this chapter. (2) A person may not purchase or display on a motor vehicle, trailer, semitrailer, or pole trailer a license plate bearing the number assigned to any county, as provided in 61-3-332, other than the county where the motor vehicle, trailer, semitrailer, or pole trailer is domiciled at the time of application for registration. (3) It is unlawful to: (a) display license plates issued to one motor vehicle, trailer, semitrailer, or pole trailer on any other motor vehicle, trailer, semitrailer, pole trailer, or travel trailer unless legally transferred as provided by statute; (b) repaint old license plates to resemble current license plates; or (c) display a prior design of standard license plates issued under 61-3-332 (3)(a) or special license plates issued under 61-3-332 (8) or 61-3-421 more than 18 months after a new design of standard license plates or special license plates has been issued, except as provided in 61-3-332 (3)(c) and (3)(d), 61-3-448, or 61-3-468. (4) For the purposes of this section, "conspicuously displayed" means that the required license plates are obviously visible and firmly attached to: (a) the front and the rear bumper of a motor vehicle, trailer, semitrailer, or pole trailer equipped with front and rear bumpers; or (b) other clearly visible locations on the front and the rear exteriors of a motor vehicle, trailer, semitrailer, or pole trailer.

**61-3-321** (5) (a) The registration fee for off-highway vehicles is \$61.25. This fee is a one-time fee, except upon transfer of ownership of an off-highway vehicle. Except as provided in subsection (17), whenever a transfer of ownership of an off-highway vehicle occurs, the one-time fee required under this subsection must be paid by the new owner. (b) The application for registration for an off-highway vehicle must be made to the county treasurer of the county in which the owner resides, on a form furnished by the department for that purpose. The application must contain: (i) the name and home mailing address of the owner; (ii) the certificate of title number; (iii) the name of the manufacturer of the off-highway vehicle; (iv) the model number or name; (v) the year of manufacture; (vi) a statement evidencing payment of the fee in lieu of property tax; and (vii) other information that the department may require. (c) If the off-highway vehicle was previously registered, the application must be accompanied by the registration certificate for the most recent year in which it was registered. Upon payment of the registration fee, the county treasurer shall sign the application and issue a registration receipt containing the information considered necessary by the department. The owner shall retain possession of the registration receipt until it is surrendered to the county treasurer or to a purchaser or subsequent owner pursuant to a transfer of ownership.

**61-5-102. Drivers to be licensed.** (1) Except as provided in 61-5-104, a person may not drive a motor vehicle upon a highway in this state unless the person has a valid Montana driver's license. A person may not receive a Montana driver's license until the person surrenders to the department all valid driver's licenses issued by any other jurisdiction. A person may not have in the person's possession or under the person's control more than one valid Montana driver's license at any time. (2) (a) A license is not valid for the operation of a motorcycle unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "motorcycle endorsement". (b) A license is not valid for the operation of a commercial motor vehicle unless the holder of the license has completed the requirements of 61-5-110, the license has been clearly marked with the words "commercial driver's license", and the license bears the proper endorsement for: (i) the specific vehicle type or types being operated; or (ii) the passengers or type or types of cargo being transported. (3) When a city or town requires a licensed driver to obtain a local driving license or permit, a license or permit may not be issued unless the applicant presents a state driver's license valid under the provisions of this chapter.

**61-5-104** (f) a person who temporarily drives, operates, or moves an off-highway vehicle on a forest development road in this state, as defined in 61-8-110, that has been designated and approved for off-highway vehicle use by the United States forest service if the person: (i) is under 16 years of age but at least 12 years of age; and (ii) at the time of driving, operating, or moving the off-highway vehicle, has in the person's possession a certificate showing the successful completion of an off-highway vehicle safety education course approved by the department of fish, wildlife, and parks and is in the physical presence of a person who possesses a license issued under this chapter.

**61-5-105. Who may not be licensed.** The department may not issue a license under this chapter to a person: (1) who is under 16 years of age unless: (a) the person is at least 15 years of age and has passed a driver's education course approved by the department and the superintendent of public instruction; or (b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license; (2) whose license or driving privilege is currently suspended, revoked, or canceled or who is disqualified from operating a commercial motor vehicle in this or any state, as evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309; (3) who is addicted to the use of alcohol or narcotic drugs; (4) who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency

by the methods provided by law; (5) who is required by this chapter to take an examination; (6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title; (7) who has any condition characterized by lapse of consciousness or control, either temporary or prolonged, that is or may become chronic. However, the department may in its discretion issue a license to an otherwise qualified person suffering from a condition if the afflicted person's attending physician attests in writing that the person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a commercial motor vehicle under applicable state or federal regulations; (8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate a motor vehicle on the highway; (9) who is not a resident of or domiciled in Montana except as provided in 61-5-103 (3); or (10) who does not submit proof satisfactory to the department that the applicant's presence in the United States is authorized under federal law. The department may not accept as a primary source of identification a driver's license issued by a state if the state does not require that a driver licensed in that state be lawfully present in the United States under federal law.

**61-8-359. Riding on motorcycles.** (1) A person operating a motorcycle or quadricycle on public streets or highways may ride only upon the permanent and regular seat attached to the motorcycle or quadricycle. The operator may not carry any other person and another person may not ride on a motorcycle or quadricycle unless the motorcycle or quadricycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons or upon another seat firmly attached to the rear or side of the operator. (2) A passenger may not be carried in a position that will interfere with the operation of the motorcycle or quadricycle or the view of the operator. (3) A person operating a motorcycle or quadricycle may not carry any packages, bundles, or articles that would prevent the operator from keeping both hands on the handlebars or that would interfere with the operation of the vehicle in a safe and prudent manner. (4) A person may ride upon a motorcycle or quadricycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle or quadricycle. (5) Except as provided in subsections (5)(a) and (5)(b), motorcycles and quadricycles must be operated with lights on at all times when operated on any public roadway. A motorcycle or quadricycle may be operated without lights from one-half hour before sunrise to one-half hour after sunset if: (a) the motorcycle is registered under 61-3-411 as a collector's item and if persons and vehicles are clearly discernible at a distance of 500 feet; or (b) the motorcycle or quadricycle is being driven to the nearest repair facility for headlamp repair. (6) No more than two motorcycles may be operated side by side in a single traffic lane. (7) All motor vehicles, including motorcycles and quadricycles, are entitled to the full use of a traffic lane, and a vehicle may not be driven or operated in a manner that deprives any other vehicle of the full use of a traffic lane, except that motorcycles may, with the consent of both drivers, be operated no more than two abreast in a single traffic lane. (8) Every person riding a motorcycle or quadricycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a motor vehicle except for those provisions which, by their nature, can have no application.

**61-8-371. Operation of motor vehicle or off-highway vehicle below high-water mark on certain state or federal lands prohibited -- exceptions.** (1) Except as provided in subsections (2) and (3), a person may not operate a motor vehicle or an off-highway vehicle below the ordinary high-water mark, as defined in 23-2-301, of class I or class II waters, as defined in 23-2-301, that occurs on state or federal lands or below the ordinary high-water mark of class I waters flowing through private lands, within that portion of the streambed that is covered with water. (2) A motor vehicle or an off-highway vehicle may be operated below the ordinary high-water mark on state or federal lands on an established road or trail that enters or crosses a stream, but the stream crossing must be by the shortest practical or designated route to the road or trail on the opposite bank.

(3) The prohibition in subsection (1) does not apply to: (a) off-highway or motor vehicle use that occurs on state or federal land that is designated for off-highway or motor vehicle use below the ordinary high-water mark if the use is in accordance with the requirements of the authorization; (b) off-highway or motor vehicle use conducted on state or federal land pursuant to and in accordance with a specific written authorization from the appropriate land management agency for that use below the ordinary high-water mark; and (c) operation of an off-highway vehicle by a nonambulatory person who is using the vehicle for recreational use, as defined in 23-2-301, as long as operation of the vehicle is prudent and minimizes destruction. (4) The state may authorize the use of a motor vehicle or off-highway vehicle on state property below the ordinary high-water mark only when the state has determined that the use will have a minimal impact on the streambed and on the fish and wildlife ecology of the stream or river. Federal land management agencies are requested to apply the same criteria when authorizing use of federal land.

**61-9-203. Headlamps on motor vehicles.** (1) A motor vehicle other than a motorcycle, quadricycle, or motor-driven cycle must be equipped with at least two headlamps, with at least one on each side of the front of the motor vehicle, that comply with the requirements and limitations set forth in this chapter. (2) A motorcycle, quadricycle, or motor-driven cycle must be equipped with at least one and not more than two headlamps that comply with the requirements and limitations of this chapter. If a motorcycle is registered under 61-3-411 as a collector's item, it need not be equipped with headlamps; however, if it is not equipped with headlamps, it may not be operated upon a highway or street from one-half hour after sunset to one-half hour before sunrise or if persons and vehicles are not clearly discernible at a distance of 500 feet. A motorcycle may be equipped with a means of modulating the high beam of its headlamps between high and low beam at a rate of 200 to 280 flashes a minute; however, an operator may not modulate the headlamps at that rate during periods when headlamps are required to be lighted by 61-9-201. (3) A headlamp upon a motor vehicle, including a motorcycle, quadricycle, and motor-driven cycle, must be located at a height, measured from the center of the headlamp, of not more than 54 inches or less than 22 inches, to be measured as provided in 61-9-202 (2). (4) When headlamps are required to be lighted by 61-9-201, a person may not operate a motor vehicle on a highway with headlamps that are composed of, covered by, or treated with a tinted or colored material, substance, system, or component that obscures the headlamps or diminishes the distance of visibility required by this section. (5) This section does not prohibit the operation or sale of a motor vehicle the headlamps of which are composed of, covered by, or treated with a tinted or colored material, substance, system, or component with which the vehicle was sold or could have been equipped for sale when new as standard or optional equipment in compliance with federal statute or regulation governing the sale at the time of manufacture.

**61-9-204. Taillamps.** (1) A motor vehicle, trailer, semitrailer, and pole trailer and any other vehicle that is being drawn at the end of a combination of vehicles must be equipped with at least one properly functioning taillamp mounted on the rear that emits a red light plainly visible from a distance of 500 feet to the rear, except that in the case of a combination of vehicles, only the taillamp on the rearmost vehicle need actually be seen from the distance specified. The vehicles mentioned in this subsection, other than a motorcycle, quadricycle, motor-driven cycle, or truck tractor, registered in this state and manufactured or assembled after January 1, 1956, must be equipped with at least two properly functioning taillamps mounted on the rear that emit a red light plainly visible from a distance of 1,000 feet to the rear of the vehicle. (2) A taillamp upon a vehicle must be located at a height of not more than 72 inches or less than 15 inches. (3) Either a taillamp or a separate lamp must illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. A taillamp or taillamps, together with a separate lamp for illuminating the rear registration plate, must be lighted whenever the headlamps are lighted. (4) Taillamps are not required on a motorcycle that is registered under 61-3-411 as a collector's item, but the motorcycle may not be operated on a highway or street from one-half hour after sunset to one-half hour before sunrise or when persons and vehicles

are not clearly discernible at a distance of 500 feet unless it is equipped with the required taillamps. (5) A person may not operate a motor vehicle on a highway with taillamps that are covered by a lens or a plastic cover or with a tinted or colored material, substance, system, or component placed on or in front of rear lamps, taillamps, license plate lamps, or rear lamp combinations that obscures the taillamps or diminishes the distance of visibility required by this section. (6) (a) A custom vehicle or street rod may use a blue dot taillight, as defined in subsection (6)(b), as a stop lamp, a rear signal lamp, or a rear reflector. (b) "Blue dot taillight" means a red lamp installed in the rear of a motor vehicle containing a blue or purple insert that is not more than 1 inch in diameter.

**61-9-205. New motor vehicles to be equipped with reflectors.** (1) Every new motor vehicle hereafter sold and operated upon a highway, other than a truck tractor, shall carry on the rear, either as a part of the taillamps or separately, two red reflectors, except that every motorcycle, quadricycle, and motor-driven cycle shall carry at least one reflector meeting the requirements of this section, and except that vehicles of the type mentioned in 61-9-208 shall be equipped with reflectors as required in those sections applicable thereto. (2) Every such reflector shall be mounted on the vehicle at a height not less than 15 inches or more than 60 inches measured as set forth in 61-9-202 (2) and shall be of such size and characteristics and so mounted as to be visible at night from all distances within 300 feet to 50 feet from such vehicle when directly in front of lawful upper beams of headlamps, except that visibility from a greater distance may be required of reflectors on certain types of vehicles.

**61-9-206. Stop lamps -- when required.** (1) A person may not sell a new motor vehicle in this state or drive a vehicle on the highways unless it is equipped with at least two properly functioning stop lamps. A vehicle manufactured before January 1, 1956, and all motorcycles, quadricycles, and motor-driven cycles must be equipped with at least one properly functioning stop lamp. (2) The stop lamp or lamps on the rear of a vehicle must display a red light that is actuated upon application of the service (foot) brake and, in a vehicle manufactured or assembled on or after January 1, 1964, must be visible from a distance of not less than 300 feet to the rear in normal sunlight. In a vehicle manufactured or assembled before January 1, 1964, the stop lamp or lamps must be visible from a distance of not less than 100 feet. The stop lamp may be incorporated with one or more other rear lamps. (3) A stop lamp may not project a glaring light.

**61-9-301. Brake equipment required.** Every motor vehicle, trailer, semitrailer, and pole trailer, and any combination of such vehicles operating upon a highway within this state shall be equipped with brakes in compliance with the requirements of this part.

**61-9-302. Service brakes -- adequacy.** Every motor vehicle, trailer, semitrailer, and pole trailer and combination of these vehicles, except special mobile equipment, must be equipped with service brakes complying with the performance requirements of 61-9-312 and adequate to control the movement of and to stop and hold the vehicle under all conditions of loading and on any grade incident to its operation.

**61-9-304. Brakes required on all wheels -- exceptions.** Every vehicle must be equipped with brakes acting on all wheels except: (1) trailers, semitrailers, pole trailers of a gross weight not exceeding 3,000 pounds, provided that: (a) the total weight on and including the wheels of the trailer or trailers may not exceed 40% of the gross weight of the towing vehicle when connected to the trailer or trailers; and (b) the combination of vehicles consisting of the towing vehicle and its total towed load is capable of complying with the performance requirements of 61-9-312; (2) any vehicle being towed in driveaway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of 61-9-312; (3) trucks and truck tractors having three or more axles need not have brakes on the front wheels, if the vehicle was manufactured before July 25, 1980. However, the trucks and truck tractors must be capable of complying

with the performance requirements of 61-9-312. (4) special mobile equipment; (5) the wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, or the front wheel of a motor-driven cycle need not be equipped with brakes. However, a quadricycle, motorcycle, or motor-driven cycle must be capable of complying with the performance requirements of 61-9-312.

**61-9-312. Performance ability of brakes.** On a dry, hard, approximately level stretch of highway free from loose material, a motor vehicle or combination of vehicles, upon application of the service brake, must be capable of stopping at a speed of 20 miles an hour within the following distances: (1) 25 feet for passenger motor vehicles, except buses and pioneer vehicles; (2) 40 feet for buses, trucks, and tractor trucks; (3) 45 feet for motor vehicles registered or qualified to be registered as pioneer vehicles under 61-3-411 (2)(a) when equipped with two-wheel brakes or 25 feet when equipped with four-wheel brakes; (4) 40 feet for all combinations of vehicles; and (5) 30 feet for motorcycles, quadricycles, and motor-driven cycles.

**61-9-401. Horns, security alarms, and warning devices.** (1) A motor vehicle when operated upon a highway must be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet. A horn or other warning device may not emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to ensure safe operation give audible warning with the horn but may not otherwise use the horn when upon a highway. (2) A vehicle may not be equipped with and a person may not use upon a vehicle a siren, whistle, or bell, except as otherwise permitted in this section. (3) A vehicle may be equipped with a security alarm signal device that cannot be used by the driver as an ordinary warning signal while the vehicle is in motion. (4) An authorized emergency vehicle may be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the department. The siren may not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which event the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of the vehicle's approach.

**61-9-403. Mufflers -- prevention of noise.** (1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway. (2) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

**61-9-404. Mirrors.** A motor vehicle must be equipped with a mirror that reflects to the driver a view of the highway for a distance of at least 200 feet to the rear of the motor vehicle.

**61-9-417. Headgear required for minor motorcycle riders.** (1) An operator and passenger under 18 years of age of a motorcycle or quadricycle operated upon the streets or highways of this state shall wear protective headgear upon the head. The headgear must meet standards established by the department of justice. (2) A person may not operate a motorcycle upon a highway in the state unless all passengers under 18 years of age are in compliance with subsection (1).

**61-9-418. Motorcycle noise suppression devices.** All motorcycles or quadricycles operated on the streets and highways of this state shall be equipped at all times with noise suppression devices, including an exhaust muffler, in good working order and in constant operation. In addition, all motorcycles and quadricycles operating on streets and highways shall meet the following noise decibel limitations, on the standard A scale, such decibel limitations to be measured at 50 feet distant from the closest point to the motorcycle or quadricycle:

(1) any cycle manufactured prior to 1970	92 db(A)
(2) any cycle manufactured after 1969 but prior to 1973	88 db(A)
(3) any cycle manufactured after 1972 but prior to 1975	86 db(A)
(4) any cycle manufactured after 1974 but prior to 1978	80 db(A)
(5) any cycle manufactured after 1977 but prior to 1988	75 db(A)
(6) any cycle manufactured after 1987	70 db(A)