

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 42.12.503 pertaining to) AMENDMENT
competitive bid form requirements)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. The Department of Revenue (department) proposes to amend the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on January 21, 2022. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or todd.olson@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

42.12.503 RETAIL ALCOHOLIC BEVERAGE LICENSE COMPETITIVE BID FORMS (1) through (3) remain the same.

(4) A bidder will be disqualified from the competitive bidding process if:

(a) through (d) remain the same.

(e) the irrevocable letter of credit fails to identify the department as the beneficiary; or

(f) the irrevocable letter of credit is not equal to or greater than the bidder's bid amount; ~~or~~

~~(g) the irrevocable letter of credit fails to specify the license type and quota area.~~

AUTH: 16-1-303, 16-4-105, 16-4-201, 16-4-204, 16-4-420, MCA

IMP: 16-4-105, 16-4-201, 16-4-204, 16-4-401, 16-4-420, 16-4-430, MCA

REASONABLE NECESSITY: In the department's review of its administrative rules for the Governor's Red Tape Relief Initiative, the department observes that the failure of an alcoholic beverage license competitive bid applicant to meet the requirement stated in (4)(g) is a common reason for bid disqualification and is often outside of the applicant's direct control. The department proposes to amend the rule to remove this requirement which will improve the competitive bid process by reducing regulatory burden for competitive bid applicants and will increase the number of successful alcoholic beverage license competitive bids.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action, in writing, to Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail todd.olson@mt.gov and must be received no later than February 14, 2022.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person named in #4 no later than February 14, 2022.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. The number of hearing requests necessary for the department to conduct a public hearing is 12, which is approximately 10 percent of the number of licenses and competitive bid applicants impacted by these rule changes.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a different mailing preference is noted in the request. Such written request may be mailed or emailed to the contact person in #4.

8. An electronic copy of this notice is available through the Secretary of State's web site at sosmt.gov/arm/register.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ David R. Stewart
David R. Stewart
Authorized Signor
for the Department of Revenue

Certified to the Secretary of State January 4, 2022.