BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 42.13.1202 pertaining to beer wholesaler and table wine distributor limited delivery exceptions	))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On November 8, 2019, at 10:30 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rule. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing 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 October 25, 2019. 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:

42.13.1202 BEER WHOLESALER AND TABLE WINE DISTRIBUTOR - CONDITIONS FOR OPERATING (1) In addition to all other alcoholic beverage licensing requirements, a beer wholesaler and table wine distributor shall:

(a) through (c) remain the same.

(d) except as provided in (2), deliver alcoholic beverages using its own employees, trucks, and equipment;

(e) through (i) remain the same.

(2) When a beer wholesaler or table wine distributor's trucks and equipment are incapable of delivering alcoholic beverages to a retail licensee's premises due to the unique physical location of the retail licensee's premises - examples of which are premises located on an island or atop a mountain - the beer wholesaler or table wine distributor may request the assistance of the retail licensee to deliver the alcoholic beverages if:

(a) the beer wholesaler or table wine distributor's employee remains with the alcoholic beverages to be delivered until delivery has occurred at the licensed premises; and

(b) the beer wholesaler or table wine distributor seeks prior department approval on a form provided by the department.

(2) and (3) remain the same but are renumbered (3) and (4).

AUTH: 16-1-303, MCA
IMP: 16-3-212, 16-3-231, 16-3-232, 16-3-242, 16-3-301, 16-3-404, 16-3-406, 16-4-103, 16-4-106, 16-4-108, 16-4-402, 16-4-415, MCA

REASONABLE NECESSITY: The department was notified by members of the wholesale beer and wine industry that delivery of beer and table wine to certain retail licensees is occasionally not possible due to the unique physical location of some licensed premises. Examples include premises that are located on islands or atop of ski hills where travel or delivery is not possible.

Based on these circumstances, the department finds it necessary to propose amendments to ARM 42.13.1202 to include an exception to the delivery requirements in (1)(d) when these unique premises circumstances exist. The exception, provided in proposed (2), allows the beer wholesaler or table wine distributor to request the assistance of the retail licensee in the fulfillment of the delivery. The department further proposes to require the beer wholesaler or table wine distributor's employee to remain with the alcoholic beverages until delivery has occurred at the retailer's licensed premises to ensure the statutory requirement placed on the beer wholesaler or table wine distributor in 16-3-219, MCA, is met. Finally, the department proposes to require the beer wholesaler/table wine distributor to seek prior department approval for these instances. This is necessary because the beer wholesaler/table wine distributor must demonstrate special circumstances requiring alternative delivery and prior approval ensures the exception is not abused.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted 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 5:00 p.m., November 15, 2019.

5. Todd Olson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

6. The Department of Revenue 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, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at www.mtrevenue.gov, or through the Secretary of State's web site at sosmt.gov/ARM/register.

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

9. 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	/s/ Gene Walborn
Todd Olson	Gene Walborn
Rule Reviewer	Director of Revenue

Certified to the Secretary of State October 8, 2019.