

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.16.7551, the amendment and)	PROPOSED AMENDMENT,
transfer of ARM 24.16.102, 24.16.111,)	AMENDMENT AND TRANSFER,
24.16.211, and 24.16.1508, the)	TRANSFER, ADOPTION, AND
transfer of ARM 24.16.2101, the)	REPEAL
adoption of NEW RULES I through IV,)	
and the repeal of ARM 24.16.501,)	
24.16.502, 24.16.503, 24.16.1002,)	
24.16.1004, 24.16.1005, 24.16.1006,)	
24.16.1007, 24.16.1008, 24.16.1009,)	
24.16.1010, 24.16.1011, 24.16.1012,)	
24.16.1501, 24.16.1502, 24.16.1503,)	
24.16.1504, 24.16.1505, 24.16.1506,)	
24.16.1507, 24.16.2501, 24.16.2502,)	
24.16.2503, 24.16.2504, 24.16.2505,)	
24.16.2512, 24.16.2513, 24.16.2514,)	
24.16.2515, 24.16.2516, 24.16.2517,)	
24.16.2518, 24.16.2519, 24.16.2520,)	
24.16.2521, 24.16.2522, 24.16.2523,)	
24.16.2524, 24.16.2525, 24.16.2531,)	
24.16.2532, 24.16.2533, 24.16.2541,)	
24.16.2542, 24.16.2543, 24.16.2544,)	
24.16.2551, 24.16.2552, 24.16.2553,)	
24.16.2554, 24.16.2555, 24.16.2556,)	
24.16.2557, 24.16.2571, 24.16.2581,)	
24.16.5501, 24.16.6101, 24.16.6102,)	
and 24.16.6901 regarding wages and)	
hour rules)	

TO: All Concerned Persons

1. On February 15, 2024, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed changes to the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/86442754453>
Meeting ID: 864 4275 4453, Passcode: 132912
- OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 864 4275 4453, Passcode: 132912

2. The Department of Labor and Industry (department) 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, contact the department no later than 5:00 p.m., on February 8, 2024, to advise us of the nature of the accommodation that you need. Please contact the department at P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-5466; Montana Relay 711; or e-mail laborlegal@mt.gov.

3. GENERAL REASONABLE NECESSITY: In support of the Governor's Red Tape Relief Initiative, the Department of Labor and Industry (department) is conducting comprehensive reviews of the department's administrative rules. This review focuses on updating rules to current standards and procedures and eliminating unnecessary and redundant regulations.

The department determined it is reasonably necessary to repeal numerous wages and hour rules and replace their provisions with four new rules. The rules proposed for repeal were adopted in 1972 by restating similar federal regulatory provisions in Title 29 of the Code of Federal Regulations (CFR). Many of the current wages and hour rules are verbatim duplicates of the federal language but have not been updated to match their federal counterparts in decades. Instead of amending and retaining the lengthy, repetitive rules, the department is adopting NEW RULES I through IV to align with the current federal provisions by adopting and incorporating them by reference as allowed by 2-4-307, MCA.

The department is amending/retaining six rules, repealing 59 rules, and adopting four new rules to align with the Red Tape Relief Initiative. The new and transferred rules will be located in new subchapter 30 of Title 24, chapter 16 of the Administrative Rules of Montana (ARM). Where additional specific bases for a proposed action exist, the department will identify those reasons immediately following the specific rule.

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

24.16.7551 PENALTY WHEN PAYMENTS ARE MADE PRIOR TO DETERMINATIONS AND SUBSEQUENT TO DETERMINATIONS (1) In cases where the wages claimed are paid by the employer either before or after receipt of the initial letter commencing the claim ~~ARM 24.16.7527(1)~~ and prior to the issuance of a determination, no penalty will be imposed unless any of the special circumstances described in ARM 24.16.7556 apply.

(2) through (4) remain the same.

AUTH: 39-3-202, 39-3-403, MCA

IMP: 39-3-206, MCA

REASON: The department is amending (1) to strike a reference to a repealed rule.

5. The rules proposed to be amended and transferred provide as follows, new matter underlined, deleted matter interlined:

24.16.102 (24.16.3001) DEFINITIONS (1) "Administrator" means the administrator of the Employment Relations Standards Division, Montana Department

of Labor and Industry. The commissioner of Labor and Industry has delegated to the administrator the functions vested in the commissioner.

(2) and (3) remain the same.

(4) "Direct and close supervision" means a qualified and experienced person supervising the student-employee and continually available when the student-employee is working to supervise, give direction, and check the work of the student-employee.

(4) (5) "Division" means the Employment Relations Standards Division of the Montana Department of Labor and Industry.

(5) through (8) remain the same but are renumbered (6) through (9).

(10) "Qualified and experienced person" means a journey-worker level employee or equivalent highly skilled employee, in the same occupation as the student-employee and who supervises the student-employee.

(9) remains the same but is renumbered (11).

(12) "Safety instruction" means a minimum of 10 hours of offsite safety instruction, such as an OSHA 10 class, in addition to onsite safety instruction directly related to the occupation of the student-employee.

(10) and (11) remain the same but are renumbered (13) and (14).

AUTH: 39-3-202, 39-3-403, 39-71-417, 41-2-117, MCA

IMP: 39-3-201, 39-3-401, 39-3-404, 39-3-405, 39-3-406, 39-71-417, 41-2-103, 41-2-107, 41-2-109, 41-2-110, MCA

REASON: The 2021 Montana Legislature enacted Chapter 135, Laws of 2021 (House Bill 282), an act revising laws relating to the employment of minors. The bill was signed by the Governor on April 1, 2021, and became effective October 1, 2021. The bill allows student-employees 16 years or older to perform work functions in certain circumstances and revises statutory exemptions to allow student-learners to perform regular work in agriculture under direct and close supervision. The department determined it is reasonably necessary to amend this rule to implement the bill by defining several terms that are used in the legislation. Authority and implementation citations are updated to reflect the statutory changes. The amended rule will be transferred to the new subchapter.

24.16.111 (24.16.3004) STATUS OF CERTAIN PERSONAL ASSISTANTS FOR THE PURPOSE OF WAGE AND HOUR LAWS

(1) For the purposes of wage and hour laws, a person with a disability ~~who receives~~ receiving services of a personal assistant or an immediately involved representative of the disabled person, such as a parent or guardian, is not the employer of the personal assistant despite ~~the exercise of control over~~ controlling the selection, management, and supervision of the personal assistant if:

(a) remains the same.

(b) the personal assistant is the employee of another person or entity that ~~has the right to exercise~~ exercises an employer's control over the personal assistant, including ~~the right to~~ employee discipline and ~~terminate employment~~ termination.

AUTH: 53-6-145, MCA

IMP: 53-6-145, MCA

REASON: It is reasonably necessary to modernize language and style of this rule as well as to simplify the rule's title or catchphrase.

24.16.211 (24.16.3007) EXECUTIVE, ADMINISTRATIVE, AND PROFESSIONAL EMPLOYEES - GENERAL POLICY GUIDANCE (1) ~~In order to ease any disparity between state and federal requirements, and to make it easier for employers and employees to understand the wage and hour provisions applicable to bona-fide executive, administrative, professional employees, and for persons employed in an outside sales capacity, the commissioner finds that it is appropriate that Montana harmonize its treatment of those employees under state wage and hour laws with the federal treatment of those same classes of persons under the Fair Labor Standards Act, 29 USC 201, et seq. The department adopts and incorporates by reference the following sections of the Code of Federal Regulations, October 27, 2023, edition:~~

~~(2) The following federal regulations are adopted by reference:~~

~~(a) 29 CFR part 541, subpart subparts A, B, C, D, F, G, and H as in effect on July 1, 2009.~~

~~(b) 29 CFR part 541, subpart B, as in effect on July 1, 2009.~~

~~(c) 29 CFR part 541, subpart C, as in effect on July 1, 2009.~~

~~(d) 29 CFR part 541, subpart D, as in effect on July 1, 2009.~~

~~(e) 29 CFR part 541, subpart F, as in effect on July 1, 2003.~~

~~(f) 29 CFR part 541, subpart G, as in effect on July 1, 2009.~~

~~(g) 29 CFR part 541, subpart H, as in effect on July 1, 2009.~~

~~(3) (2) Copies of the regulations incorporated by reference are available as follows: CFR regulations incorporated by reference are available at <https://erd.dli.mt.gov/labor-standards/administrative-rules>.~~

~~(a) A printed copy of the regulations incorporated by reference is available for inspection and purchase at cost from the department and the U.S. Government printing office. The address for the department is: Montana Department of Labor and Industry, Employment Relations Division, Labor Standard Bureau, 1805 Prospect Avenue, P.O. Box 8011, Helena, Montana, 59604. The address of the U.S. Government printing office is: U.S. Government Bookstore, 710 North Capitol Street N.W., Washington, D.C.~~

~~(b) An electronic copy of the regulations incorporated by reference is available at <http://erd.dli.mt.gov/labor-standards/wage-and-hour-payment-act> (Montana Department of Labor and Industry web site).~~

AUTH: 39-3-403, MCA

IMP: 39-3-401, 39-3-406, 39-3-408, MCA

REASON: It is reasonably necessary to amend this rule to update the adopted sections of the CFR to reflect the current federal regulations and accommodate several recent updates. The rule is further amended to utilize the same style and language as proposed in NEW RULES I through IV.

24.16.1508 (24.16.3022) TIPS OR SERVICE CHARGES (1) through (1)(b) remain the same.

~~(c) Tips may be distributed pursuant to a valid tip pool agreement. A tip pool agreement for the purpose of distribution of tips is valid only where voluntarily entered into by employees without the involvement of management. Employees must first determine whether to enter into a tip pool agreement, and if so, the details of that agreement. Where a valid tip pool agreement has been created, management may enforce the agreement.~~

(2) and (3) remain the same.

AUTH: 39-3-202, 39-3-403, MCA

IMP: 39-3-201, 39-3-218, 39-3-402, MCA

REASON: The 2021 Montana Legislature enacted Senate Bill 190, an act providing requirements for tip pools. Previously, Montana allowed only tip pools created voluntarily by employees, without management's involvement. It is reasonably necessary to strike (1)(c) from this rule to align with the statutory changes. Citations are amended to reflect all statutes implemented through the rule.

6. The rule proposed to be transferred is as follows:

24.16.2101 (24.16.3025) JOINT EMPLOYMENT

AUTH: 39-3-403, MCA

IMP: 39-3-402, MCA

7. The proposed new rules are as follows:

NEW RULE I (24.16.3010) HOURS WORKED - GENERAL POLICY

GUIDANCE (1) To ease disparity between state and federal requirements and clarify the practices and policies that may guide the department's administration and enforcement of Montana wage and hour law, the department adopts and incorporates by reference the following sections of the Code of Federal Regulations, October 27, 2023, edition. These provisions provide examples describing the most frequently occurring situations and questions regarding hours worked in wage and hour regulation.

(a) 29 CFR 785.5, 785.6, and 785.8; and

(b) 29 CFR 785.11 through 785.48, except not adopt 29 CFR 785.39, which is replaced with the following:

(i) Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly worktime when it cuts across the employee's workday. The employee is simply substituting travel for other duties. The time is not only hours worked on regular working days during normal working hours but also during the corresponding hours on nonworking days. Thus, if an employee regularly works from 9 a.m. to 5 p.m. from Monday through Friday the travel time during these hours is worktime on Saturday and Sundays as well as on the other days. Regular meal period time is not counted.

(2) CFR regulations incorporated by reference are available at <https://erd.dli.mt.gov/labor-standards/administrative-rules>.

AUTH: 39-3-403, MCA

IMP: 39-3-404, 39-3-405, MCA

REASON: See GENERAL REASONABLE NECESSITY. The department is adopting this rule to replace ARM 24.16.1002, 24.16.1004, and 24.16.1005 through 24.16.1012, which are proposed for repeal.

NEW RULE II (24.16.3019) EMPLOYER RECORD KEEPING - GENERAL POLICY GUIDANCE (1) To ease disparity between state and federal requirements and clarify the practices and policies that may guide the department's administration and enforcement of Montana wage and hour law, the department adopts and incorporates by reference the following sections of the Code of Federal Regulations, October 27, 2023, edition. These provisions provide examples describing the most frequently occurring situations and questions regarding employer record keeping in wage and hour regulation.

(a) 29 CFR 516.1 through 516.8, except not adopt 29 CFR 516.6, which is replaced with the following:

(i) Supplementary basic records: Each employer required to maintain records under this part shall preserve for a period of at least three years:

(A) Basic employment and earning records. From the date of last entry, all basic time and earnings cards or sheets on which are entered the daily starting and stopping time of individual employees, or of separate work forces, or the amounts of work accomplished by individual employees on a daily, weekly, or pay period basis (for example, units produced) when those amounts determine in whole or in part the pay period earning or wages of those employees; and

(B) Wage rate tables. From their last effective date, all tables or schedules of the employer which provide the piece rates or other rates used in computing straight-time earnings, wages, or salary, or overtime computation;

(ii) Order, shipping, and billing records. From the last date of entry, the originals or true copies of all customer orders or invoices received, incoming or outgoing shipping or delivery records, as well as all bills of lading and all billings to customers (not including individual sales slips, cash register tapes or the like) which the employer retains in the usual course of business operations;

(iii) Records of additions to or deductions from wages paid: Each employer who makes additions to or deductions from wages paid shall preserve for at least three years from the date of last entry:

(A) Records of individual employee accounts for total additions to or deductions from wages paid each pay period; and

(B) All records used by the employer in determining the original cost, operating and maintenance cost and depreciation and interest charges, if such costs and charges are involved in the additions to or deductions from wages paid.

(b) 29 CFR 516.25 through 516.27; and

(c) not adopt 29 CFR 516.30, which is replaced with the following:

(i) Learners, apprentices, students, student-employees, or workers with disabilities employed under special certificates as provided in 39-3-406, MCA.

(A) Items required. With respect to persons employed as learners, apprentices, student-employees, messengers, or full-time students employed outside of their school hours in any retail or service establishment or workers with disabilities at special minimum hourly rates under special certificates pursuant to 39-3-406, MCA, employers must maintain and preserve records containing the same information and data required with respect to other employees employed in the same occupations.

(B) Segregation or designation on payroll and use of identifying symbol. Employers must also segregate on payroll or pay records the names and required information and data with respect to those employed under Special Certificates. A symbol or letter before each name must indicate the person is a "learner," "apprentice," "student-employee," "messenger," "student," or "worker with disabilities" employed under a Special Certificate.

(2) CFR regulations incorporated by reference are available at <https://erd.dli.mt.gov/labor-standards/administrative-rules>.

AUTH: 39-3-403, 41-2-117, MCA

IMP: 39-3-404, 39-3-405, 39-3-406, 41-2-103, 41-2-107, 41-2-109, 41-2-110, MCA

REASON: See GENERAL REASONABLE NECESSITY. The department is adopting this rule to replace ARM 24.16.6101 and 24.16.6102, which are proposed for repeal.

The department is adopting (1)(a) to adopt the federal provisions regarding employer record keeping but require retention of basic employment records for three years instead of the two-year retention in the federal regulations.

It is reasonably necessary to adopt (1)(c) to implement House Bill 282 (2021), which allows student-employees 16 years or older to perform work functions in certain circumstances. The language of (1)(c) adds student-employees to the federal provision on employer record keeping.

NEW RULE III (24.16.3013) WAGE PAYMENTS - GENERAL POLICY

GUIDANCE (1) To ease disparity between state and federal requirements and clarify the practices and policies that may guide the department's administration and enforcement of Montana wage and hour law, the department adopts and incorporates by reference the following sections of the Code of Federal Regulations, October 27, 2023, edition. These provisions provide examples describing the most frequently occurring situations and questions regarding wage payments in wage and hour regulation.

(a) 29 CFR 531.2;

(b) 29 CFR 531.3;

(c) 29 CFR 531.6(a) and (c);

(d) not adopt 29 CFR 531.6(b), which is replaced with the following:

(i) A collective bargaining agreement shall be deemed to be "bona fide" when it is made with a labor organization certified by the National Labor Relations Board,

or which is the certified representative of the employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended, or the Montana Collective Bargaining for Public Employees Act, or the Montana Collective Bargaining for Nurses Act.

- (e) 29 CFR 531.26, 29-32, 33(b), and 35;
- (f) 29 CFR 547.0 through 547.2;
- (g) 29 CFR 549.0 through 549.3; and
- (h) 29 CFR 776.5 and 776.6.

(2) CFR regulations incorporated by reference are available at <https://erd.dli.mt.gov/labor-standards/administrative-rules>.

AUTH: 39-3-403, MCA

IMP: 39-3-402, MCA

REASON: See GENERAL REASONABLE NECESSITY. The department is adopting this rule to replace ARM 24.16.502, 24.16.503, 24.16.1501 through 24.16.1507, 24.16.5501, and 24.16.6901, which are proposed for repeal.

It is reasonably necessary to adopt (1)(d) to restate the federal provision on "bona fide" collective bargaining agreements with the addition of two Montana-specific collective bargaining statutes.

NEW RULE IV (24.16.3016) OVERTIME COMPENSATION - GENERAL POLICY GUIDANCE (1) To ease disparity between state and federal requirements and clarify the practices and policies that may guide the department's administration and enforcement of Montana wage and hour law, the department adopts and incorporates by reference the following sections of the Code of Federal Regulations, October 27, 2023, edition. These provisions provide examples describing the most frequently occurring situations and questions regarding overtime compensation in wage and hour regulation.

- (a) 29 CFR 548;
- (b) 29 CFR 778.5;
- (c) 29 CFR 778.101 through 106;
- (d) 29 CFR 778.108 through 121;
- (e) 29 CFR 778.200 through 214;
- (f) 29 CFR 778.215 through 217(c)(1), and 217(d);
- (g) 29 CFR 778.218 through 225;
- (h) 29 CFR 778.301 through 315;
- (i) 29 CFR 778.318 through 333;
- (j) 29 CFR 778.400 through 421;
- (k) 29 CFR 778.500 through 503; and
- (l) 29 CFR 778.600 and 601.

(2) CFR regulations incorporated by reference are available at <https://erd.dli.mt.gov/labor-standards/administrative-rules>.

AUTH: 39-3-403, MCA

IMP: 39-3-404, 39-3-405, MCA

REASON: See GENERAL REASONABLE NECESSITY. The department is adopting this new rule to replace ARM 24.16.501, 24.16.2501 through 24.16.2505, 24.16.2512 through 24.16.2525, 24.16.2531 through 24.16.2533, 24.16.2541 through 24.16.2544, 24.16.2551 through 24.16.2557, 24.16.2571, and 24.16.2581, which are proposed for repeal.

The department is incorporating by reference 29 CFR 548.1-548.4, 29 CFR 778.214(a) through (e), 29 CFR 778.312-314, 778.400-421, and 778.601 to provide updated examples of frequently occurring situations and questions regarding overtime compensation since 1972.

8. The rules proposed to be repealed are as follows:

24.16.501 WORKWEEK

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

REASON: For all 59 rules proposed for repeal, see GENERAL REASONABLE NECESSITY and REASONS for NEW RULES I through IV.

24.16.502 COVERAGE NOT DEPENDENT ON METHOD OF COMPENSATION

AUTH: 39-3-403, MCA
IMP: 39-3-404, MCA

24.16.503 COVERAGE NOT DEPENDENT ON PLACE OF WORK

AUTH: 39-3-403, MCA
IMP: 39-3-404, MCA

24.16.1002 GENERAL REQUIREMENTS

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.1004 EFFECT OF CUSTOM, CONTRACT OR AGREEMENT

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.1005 EMPLOYEES "SUFFERED OR PERMITTED" TO WORK

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.1006 REST AND MEAL PERIODS

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.1007 SLEEPING TIME AND CERTAIN OTHER ACTIVITIES

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.1008 PREPARATORY AND CONCLUDING ACTIVITIES

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.1009 LECTURES, MEETINGS AND TRAINING PROGRAMS

AUTH: 39-3-402, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.1010 TRAVEL TIME

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.1011 ADJUSTING GRIEVANCES, MEDICAL ATTENTION, CIVIC AND CHARITABLE WORK, AND SUGGESTION SYSTEMS

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.1012 RECORDING WORKING TIME

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.1501 PURPOSE AND SCOPE

AUTH: 39-3-403, MCA
IMP: 39-3-402, MCA

24.16.1502 BOARD, LODGING OR OTHER FACILITIES

AUTH: 39-3-403, MCA
IMP: 39-3-402, MCA

24.16.1503 EFFECTS OF COLLECTIVE BARGAINING AGREEMENTS

AUTH: 39-3-403, MCA
IMP: 39-3-402, MCA

24.16.1504 RELATION TO OTHER LAWS

AUTH: 39-3-403, MCA
IMP: 39-3-402, MCA

24.16.1505 DEFINING THE TERM "FURNISHED" AS APPLIED TO BOARD, LODGING, OR OTHER FACILITIES

AUTH: 39-3-403, MCA
IMP: 39-3-402, MCA

24.16.1506 "REASONABLE COST"; "FAIR VALUE"

AUTH: 39-3-403, MCA
IMP: 39-3-402, MCA

24.16.1507 "FREE AND CLEAR" PAYMENT; "KICKBACKS"

AUTH: 39-3-403, MCA
IMP: 39-3-402, MCA

24.16.2501 RELATION TO OTHER LAWS GENERALLY

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2502 MAXIMUM NONOVERTIME HOURS

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.2503 APPLICATION OF OVERTIME PROVISION GENERALLY

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2504 THE WORKWEEK AS THE BASIS FOR APPLYING SECTION 39-3-405, MCA

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2505 DETERMINING THE WORKWEEK

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2512 THE REGULAR RATE

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.2513 PAYMENTS OTHER THAN CASH

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.2514 COMMISSION PAYMENTS - GENERAL

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2515 PAYMENTS THAT MAY BE EXCLUDED FROM THE
"REGULAR RATE"

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2516 EXTRA COMPENSATION PAID FOR OVERTIME

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2517 BONUSES

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2518 CONDITIONS FOR EXCLUSION OF BENEFIT PLAN
CONTRIBUTIONS

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2519 PAYMENTS NOT FOR HOURS WORKED AND
REIMBURSEMENT FOR EXPENSES

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2520 PAY FOR CERTAIN IDLE HOURS

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2521 PAY FOR FOREGOING HOLIDAYS AND VACATIONS

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2522 "SHOW-UP" OR "REPORTING PAY"

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2523 "CALL-BACK" PAY

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2524 PAY FOR NONPRODUCTIVE HOURS DISTINGUISHED

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2525 OTHER SIMILAR PAYMENTS

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2531 CHANGE IN THE BEGINNING OF THE WORKWEEK

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2532 RETROACTIVE PAY INCREASES

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2533 HOW DEDUCTIONS AFFECT THE REGULAR RATE

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2541 THE OVERTIME RATE IS AN HOURLY RATE

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2542 FIXED SUM FOR VARYING AMOUNTS OF OVERTIME

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2543 FLAT RATE FOR SPECIAL JOB PERFORMED IN OVERTIME HOURS

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2544 PAYMENT FOR ALL HOURS WORKED IN OVERTIME WORKWEEK IS REQUIRED

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2551 PRODUCTIVE AND NONPRODUCTIVE HOURS OF WORK

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2552 PAYING FOR BUT NOT COUNTING HOURS WORKED

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2553 DECREASE IN HOURS WITHOUT DECREASING PAY—GENERAL

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2554 REDUCING THE FIXED WORKWEEK FOR WHICH A SALARY IS PAID

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2555 REDUCTION OF REGULAR OVERTIME WORKWEEK WITHOUT REDUCTION OF TAKE HOME PAY

AUTH: 39-3-403, MCA

IMP: 39-3-405, MCA

24.16.2556 ALTERNATING WORKWEEKS OF DIFFERENT FIXED LENGTHS

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2557 PRIZES AS BONUSSES

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2571 DEVICES TO EVADE THE OVERTIME REQUIREMENTS

AUTH: 39-3-403, MCA
IMP: 39-3-405, MCA

24.16.2581 VETERANS SUBSISTENCE ALLOWANCES

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.5501 SCOPE OF REGULATIONS

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.6101 FORM OF RECORDS

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.6102 GENERAL REQUIREMENTS

AUTH: 39-3-403, MCA
IMP: 39-3-404, 39-3-405, MCA

24.16.6901 REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN"

AUTH: 39-3-403, MCA
IMP: 39-3-402, MCA

9. Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728; Helena, Montana 59624. Comments must be received no later than 5:00 p.m., February 23, 2024.

10. An electronic copy of this notice of public hearing is available at dli.mt.gov/rules and sosmt.gov/ARM/register.

11. The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728; Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

12. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on October 16, 2023 (HB 282) by electronic mail.

13. Pursuant to 2-4-111, MCA, the agency has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

14. Department staff has been designated to preside over and conduct this hearing.

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 16, 2024.