

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.35.112 pertaining to)
independent contractor exemption)
certificate)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On July 31, 2024, at 9:00 a.m., a public hearing will be held via remote conferencing to consider the proposed changes to the above-stated rule. 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/85329058988>
Meeting ID: 853 2905 8988, Passcode: 645296
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 853 2905 8988, Passcode: 645296

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 July 24, 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. The rule proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

24.35.112 INDEPENDENT CONTRACTOR EXEMPTION CERTIFICATE APPLICATION AFFIDAVIT (1) through (2)(b)(iv) remain the same.

(v) IRS Form 1099s (miscellaneous income) from multiple hiring agents or two quarterly self-employment tax payments (IRS form 1040ES) within the past three years; ~~or~~

(vi) trucking company lease agreement; ~~or~~

(vii) certification for Indian Preference by a federally recognized Indian tribe under the laws of that tribe.

(c) through (e) remain the same.

AUTH: 39-3-202, 39-3-403, 39-51-301, 39-71-203, 39-71-417, MCA

IMP: 39-3-201, 39-3-402, 39-51-201, 39-51-204, 39-71-417, 39-71-418, 39-71-419, MCA

REASON: There is reasonable necessity to amend this rule to recognize the review and certification of businesses by Tribal Employment Rights Organizations. These

organizations certify under the laws of the tribes on which they were established the ownership and independence of businesses for the purposes of establishing tribal preference. This work in certification is similar to the review done for ICEC applications. The department therefore proposes to recognize the certification for application points.

4. 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., August 2, 2024.

5. An electronic copy of this notice of public hearing is available at dli.mt.gov/rules and rules.mt.gov.

6. 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.

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

8. 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.

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

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

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

Certified to the Secretary of State June 25, 2024.