

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 10.13.310, 10.13.313, and) PROPOSED AMENDMENT
10.13.409 pertaining to traffic)
education)

TO: All Concerned Persons

1. On August 31, 2017, at 9:00 a.m., the Superintendent of Public Instruction will hold a public hearing in the Superintendent's conference room, 1227 11th Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Superintendent of Public Instruction 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, contact the Office of Public Instruction no later than 5:00 p.m. on August 23, 2017, to advise us of the nature of the accommodation that you need. Please contact Beverly Marlow, Office of Public Instruction, P.O. Box 202501, Helena, Montana, 59620-2501; telephone (406) 444-3172; fax (406) 444-2893; or e-mail bemarlow@mt.gov.

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

10.13.310 TRAFFIC EDUCATION TEACHERS (1) through (2)(d)(i) remain the same.

(ii) any conviction for driving under the influence of alcohol or drugs (DUI) under 61-8-401, 61-8-406, ~~or 61-8-410~~, 61-8-411, or 61-8-465, MCA, within the preceding 36 months, or any conviction for a violation of a substantially similar offense from any other jurisdiction within the preceding 36 months;

(iii) through (6) remain the same.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

10.13.313 LEARNER LICENSE (1) All students enrolled in the traffic education program and receiving behind-the-wheel instruction shall have in their immediate possession a valid Montana traffic education permit, a valid Montana traffic education learner license, ~~a valid Montana instruction permit~~ or a valid Montana driver license as prescribed in Title 61, chapter 5 of the Montana Code Annotated (MCA).

(a) remains the same.

(b) A ~~traffic education~~ learner license ~~(TELL)~~ is authorized and prescribed in 61-5-106(2) MCA. ~~It allows a student to practice driving only with~~ A driver with a learner license must be supervised from the front passenger seat of the motor vehicle by a

licensed parent or other legal guardian, or a qualified traffic education teacher, or some other licensed adult driver with permission of the parent or other legal guardian. ~~It does not allow the student to practice driving with any other licensed driver.~~ This license can only may be obtained while the student is successfully participating in, or has successfully completed, a state-approved traffic education program.

(2) A ~~TELL~~ learner license may be obtained:

(a) through (b)(ii) remain the same.

(iii) the student successfully completes an eye exam and written knowledge test through the CDTP school district as authorized by the Department of Justice, Motor Vehicle Division. The ~~permit~~ learner license is valid for one year from the date of successful completion of the written exam; and

(iv) the respective CDTP school district personnel places the student's name on the "Student List" form (TE04) with an indication of a waiver for the knowledge test, and transmits the student list, along with the "Certification" form (TE03) signed by the appropriate school district personnel to the local driver license exam office within three days of issuance of the ~~TELL~~ learner license to the student.

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

10.13.409 TRAFFIC EDUCATION CONTENT STANDARD 8 AND BENCHMARKS - DRIVING EXPERIENCE (1) To satisfy the requirements of traffic education content standard 8, a student must acquire behind-the-wheel driving experience under the ~~direction~~ supervision of a Montana-approved driver education teacher. Under Montana Graduated Driver License regulations (61-5-132, MCA), students are required to obtain additional driving experience under the ~~direction~~ supervision, from the front passenger seat of the motor vehicle, of a parent, or other legal guardian, or some other adult with permission of the parent or other legal guardian, with a valid driver's license.

(2) and (2)(a) remain the same.

(b) acquire additional behind-the-wheel driving experience with their parent, or other legal guardian's, or some other authorized adult's assistance in a variety of driving situations (i.e., night, adverse weather, gravel road, etc.).

AUTH: 20-7-502, MCA

IMP: 20-7-502, MCA

4. Statement of Reasonable Necessity: The Superintendent has determined that it is reasonable and necessary to amend these rules to be consistent with new language adopted by the 2017 Legislature under HB 144 and to clarify the supervision requirements. The addition of the statutes to ARM 10.13.310 is made at the recommendation of the Department of Justice.

5. 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: Beverly Marlow, Office of Public Instruction, P.O. Box 202501, Helena, Montana, 59620-2501; telephone (406) 444-3172; fax (406) 444-2893; or e-mail

bemarlow@mt.gov, and must be received no later than 5:00 p.m., September 5, 2017.

6. Kyle A. Moen, Chief Legal Counsel for the Superintendent of Public Instruction, has been designated to preside over and conduct this hearing.

7. The Office of Public Instruction 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 mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply. Representative Zach Brown, sponsor of HB 144 (2017 Legislative Session), was sent by e-mail a copy of a preliminary draft of the proposed amendments on June 28, 2017.

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

/s/ Kyle A. Moen
Kyle A. Moen
Rule Reviewer

/s/ Elsie Arntzen
Elsie Arntzen
Superintendent of Public Instruction

Certified to the Secretary of State July 24, 2017.