

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 10.7.111 pertaining to bus) PROPOSED AMENDMENT
drivers)

TO: All Concerned Persons

1. On June 26, 2014, 10:15 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 rule.

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 June 19, 2014, 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 rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

10.7.111 QUALIFICATION OF BUS DRIVERS CERTIFICATION
REQUIREMENTS FOR REIMBURSEMENT (1) School bus drivers must ~~be fully~~ hold a valid Montana school bus driver certificate in order for a district to receive state reimbursement for ~~the that driver's bus routes~~. Qualifications for bus drivers are prescribed by 20-10-103, MCA, and by the Board of Public Education in ARM 10.64.201. ~~These require that the driver:~~

- ~~(a) have five years of licensed driving experience;~~
- ~~(b) is not less than 18 years of age;~~
- ~~(c) be of good moral character;~~
- ~~(d) hold a driver's license with the proper commercial vehicle operator's endorsement;~~
- ~~(e) have filed with the board of trustees a satisfactory report of a physical examination, signed by a licensed physician in the state of Montana, on a federal Department of Transportation (DOT) form;~~
- ~~(f) hold a valid basic first-aid certificate or certificate from an equivalent or more advanced first-aid course; and~~
- ~~(g) hold a valid certificate (form TR-35) as evidence of meeting the above qualifications.~~

(2) The bus driver certificate forms are provided electronically by the Superintendent of Public Instruction. The school district must input all necessary documentation into the Office of Public Instruction's electronic pupil transportation system, which generates the completed certificate. The chair of the board of trustees

signs the certificate which is issued to a driver who is authorized and qualified to drive a school bus pursuant to all applicable rules, regulations and laws. The district retains a copy of each bus driver's certificate, provides a copy to the bus service contractor, if applicable, and files a copy with the county superintendent. The bus driver is also given a hard copy of the certificate, which must be carried at all times while driving a school bus.

(3) The first aid certificate required by ARM 10.64.201 must include certification in CPR, be signed by a certified instructor, and be received after an initial in-person training of at least four hours with annual renewals.

~~(2)~~ (4) State reimbursement for bus transportation for the full school term will be made only when a new driver of the bus has completed the ~~first-aid~~ first aid requirement within 60 days from the employment date. Any bus operated by a driver not so qualified will not be eligible for state reimbursement for that portion of the term that the driver is not qualified. Drivers who have driven the previous year must have the ~~first-aid~~ first aid requirement completed before the expiration date on their certificate.

~~(3)~~ (5) In the event a district (or contractor) is obligated to employ a driver as a replacement for a driver employed at the beginning of the school year, or must employ an additional driver, a period of 60 days will be permitted for the new driver to acquire the ~~first-aid~~ first aid certificate. If after 60 days following the date of first employment of the additional or replacement driver, the ~~first-aid~~ first aid requirement has not been met, the bus operated by the driver will not qualify for state reimbursement for that portion of the year that the driver is not qualified, including the 60-day grace period.

~~(4)~~ The holding of a Montana school bus driver certificate is proof that the driver meets all the qualifications of the school transportation law. The bus driver certificate forms are provided electronically by the Superintendent of Public Instruction for use by the board of trustees. The board issues a certificate to each driver who is authorized and qualified to drive, and files a copy with the county superintendent and electronically files the certification information with the Superintendent of Public Instruction.

~~(5)~~ (6) A school bus driver certificate remains valid until the earliest expiration date of the commercial vehicle operator's endorsement, the ~~first-aid~~ first aid certificate, and/or physical examination. A new certificate must be issued to the driver when any of the above items expires and is renewed. A driver may not operate a school bus without a valid, current certificate.

~~(6)~~ (7) The qualifications of all bus drivers are reviewed at the time the state verification of transportation claims is made, as the qualifications of the bus driver are one of the criteria for eligibility for reimbursement. With the exception of ~~(2)~~ (4) and ~~(3)~~ (5), the State Superintendent will not reimburse for routes driven by drivers without a current certificate on file with the Office of Public Instruction. If any license, certificate, or examination was expired for any period of time, the Office of Public Instruction will withhold transportation reimbursement funding for the number of days the driver was not qualified.

(7) remains the same but is renumbered (8).

AUTH: 20-3-106, 20-10-103, 20-10-112, MCA

IMP: 20-10-103, 20-10-112, MCA

REASON: A 2013 Legislative Audit on Pupil Transportation recommended the establishment of criteria for, and review of, bus driver license status and character qualifications. The Board of Public Education (BPE) establishes the qualifications of bus drivers. The Office of Public Instruction issues rules and forms related to bus driver first aid certification and for implementing and administering the pupil transportation policies established by the BPE. While not duplicating law in rule, the amendments clarify the process for obtaining bus driver certification.

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: 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., June 26, 2014.

5. Ann Gilkey, Chief Legal Counsel for the Superintendent of Public Instruction, has been designated to preside over and conduct this hearing.

6. 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 4 above or may be made by completing a request form at any rules hearing held by the agency.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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/ Ann Gilkey
Ann Gilkey
Rule Reviewer

/s/ Denise Juneau
Denise Juneau
Superintendent of Public Instruction

Certified to the Secretary of State May 12, 2014.