

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 24.144.411) ON PROPOSED AMENDMENT
fees, and ARM 24.144.2102)
renewal of license or)
endorsement)

TO: All Concerned Persons

1. On December 15, 2005, at 1:00 p.m., a public hearing will be held in room B-07 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

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 who need an alternative accessible format of this notice. If you require an accommodation, contact the Fire Prevention Licensing Program no later than 5:00 p.m., December 9, 2005, to advise us of the nature of the accommodation you need. Please contact Wayne Johnston, Fire Prevention Licensing Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsdfpl@mt.gov.

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

24.144.411 PROCESSING FEE AND PRORATED FEES (1) ~~In the year of first application, the applicant shall pay an application processing fee in the amount of \$100 for a license and \$25 for an endorsement. The processing fee shall be in addition to the annual license and/or endorsement fee, and shall not be prorated.~~

~~(2) Annual license and endorsement fees in the first year of license or endorsement shall be prorated as follows:~~

~~(a) for new applications postmarked or hand delivered prior to September 1 of the license year in question, the annual fee will be charged as set forth in 50 39 105, MCA;~~

~~(b) for new applications postmarked or hand delivered on September 1 through November 30, inclusive, of the license year in question, the annual fee will be charged at 75% of the fee set forth in 50 39 105, MCA;~~

~~(c) for new applications postmarked or hand delivered on December 1 through April 15, inclusive, of the license year in question, the annual fee will be charged at 50% of the fee set forth in 50 39 105, MCA; and~~

~~(d) for applications postmarked or hand delivered after April 15 and before May 31 of the license year in question, the annual fee will be charged as set forth in 50 39 105, MCA, and will cover the remainder of the licensing year in which~~

~~application is made, as well as the license year immediately following the year in which application is made.~~

<u>(1) Endorsement to sell, service, or install fire alarm systems</u>	<u>\$100</u>
<u>(2) Endorsement to sell, service, or install special agent fire suppression systems</u>	<u>100</u>
<u>(3) Endorsement to sell, service, or install fire extinguishing systems</u>	<u>100</u>
<u>(4) Business entity license</u>	<u>200</u>
<u>(5) One-time processing fee in year of first application for endorsement</u>	<u>25</u>
<u>(6) One-time processing fee in year of first application for license</u>	<u>100</u>
<u>(7) Renewal of endorsement (per endorsement)</u>	<u>100</u>
<u>(8) Renewal of license</u>	<u>200</u>

AUTH: 50-39-107, MCA
IMP: 50-39-102, ~~50-39-105~~, MCA

REASON: The 2005 Montana Legislature enacted Chapter 467, Laws of 2005 (House Bill 182), an act generally revising and consolidating professional and occupational licensing laws and distinguishing between department and board or program duties regarding licensure, examination and fees. The bill was signed by the Governor on April 28, 2005 and became effective on July 1, 2005.

It is reasonable and necessary for the Department to amend ARM 24.144.411 in order to place the Fire Prevention Licensing Program's (Program) fee structure into rule as a result of the 2005 repeal of the Program's fee statute, 50-39-105, MCA, via House Bill 182. Pursuant to 37-1-134, MCA, the Department is required to set fees commensurate with costs. Amendment of this rule is necessary to prevent the Program from operating without a critical income source thus resulting in a significant cash deficit. This rule amendment will fund existing services only, as no new services are proposed at this time.

The current total Program revenue for FY 2005 was \$64,560.00; the beginning cash balance in FY 2005 was \$25,084.25; the cash balance at the end of FY 2005 was \$39,022.39; and the total expenditures for FY 2005 were \$54,948.63.

The majority of the Program license, endorsement and application processing fees remain unchanged from the fees formerly in statute. Renewal fees were not previously enunciated in the statute, but the fees charged by the Program for renewals remain unchanged. The prorated fee structure is being deleted in order to simplify the application process and standardize the Program's fee structure. An estimated annual increase in revenue of \$1,250.00 is anticipated as a result of the deletion of the prorated fee structure. This increase is based upon an estimated 50 applicants having an average annual fee increase of \$25.00 per applicant.

Implementation cites are being amended to accurately reflect the statute implemented through the rule and to delete reference to a repealed statute.

24.144.2102 RENEWAL OF LICENSE OR ENDORSEMENT (1) through (3) remain the same.

~~(4) For licenses and endorsements that were scheduled for a renewal date other than May 31 prior to March 22, 1996, the department will reduce the 1996 annual license fee on a pro-rated basis, 1/12th of the annual fee per month (1/12th reduction for licenses or endorsements scheduled to renew in June of 1996, 2/12ths reduction for licenses or endorsements scheduled to renew in July of 1996, and so on), according to the month in which the license or endorsement was previously scheduled to renew.~~

~~(5) (4)~~ Upon receipt of the application, the department shall grant a renewal of the license or endorsement if ~~it appears that~~ the applicant meets all of the requirements under the provisions of Title 50, chapter 39, part 1, MCA, and these rules, has committed no act which would constitute grounds for suspension or revocation under ~~50-39-104~~ 37-1-406, MCA, and remains properly equipped and staffed to provide the services intended to be performed.

~~(6) (5)~~ ~~Except for applications for the 1996 annual license covered under (4) above, each application~~ Applications for renewal must be accompanied by the fee(s) specified under ~~50-39-105, MCA~~ ARM 24.144.411.

AUTH: 50-39-107, MCA

IMP: 50-39-102, ~~50-39-105~~, MCA

REASON: It is reasonable and necessary for the Department to amend ARM 24.144.2102 to delete outdated language pertaining to 1996 renewals that is no longer applicable to the Program. The amendment is necessary to correctly reference the proposed location of the fee schedule in rule, following the repeal in 2005 of the former fee statute, 50-39-105, MCA, pursuant to House Bill 182. An erroneous statutory citation to 50-39-104, MCA, repealed in 1997, is also being corrected.

Implementation cites are being amended to accurately reflect the statute implemented through the rule and to delete reference to a repealed statute.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted by mail to: Wayne Johnston, Fire Prevention Licensing Program, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to dlibsdfpl@mt.gov and must be received no later than 5:00 p.m., December 23, 2005.

5. An electronic copy of this Notice of Public Hearing is available through the Department's web site on the World Wide Web at <http://fireprotectionlicense.mt.gov>, in the Rules Notices

section. The Department strives to make the electronic copy of this Notice of Public Hearing 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 Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Fire Prevention Licensing Program maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Program. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Fire Prevention Licensing Program administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Fire Prevention Licensing Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to dlibsdfpl@mt.gov or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA apply and have been fulfilled.

8. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

DEPARTMENT OF LABOR AND INDUSTRY
Fire Prevention and Fireworks
Wholesalers Program

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

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

Certified to the Secretary of State November 14, 2005.