MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF REVENUE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-292.3

Summary

Updates to Responsible Alcohol Sales and Service Training Program Requirements

Previous Notice(s) and Hearing Information

On October 10, 2025, the Department of Revenue (department) published MAR Notice No. 2025-292.1 pertaining to the public hearing on the proposed amendment of the department's rules in the 2025 Montana Administrative Register, Issue Number 19.

The department held the required public hearing on November 3, 2025. The attendees who provided oral comments at the hearing were Messrs. John Iverson of the Montana Tavern Association (MTA) and Brad Longcake of the Montana Petroleum Marketers and Convenience Store Association. Ms. Debra Pitassy of the Montana Beer and Wine Distributors Association (MBWDA) attended the public hearing but offered no comments. The department also received written comments from Brad Griffin, Executive Director, Montana Retail Association (MRA), Tom Kerr, Strike Kerr & Johns, legal counsel for the Adult Beverage Alliance (Alliance) and the MRA, and Representative Katie Zolnikov, as sponsor of House Bill 211 (2025) (HB 211).

On January 23, 2026, the department published a supplemental notice of proposed rulemaking in the 2026 Montana Administrative Register, Issue Number 2 (amended proposal notice). The amended proposal notice contained the department's amendments to the original proposal notice. The amendments attempted to resolve a majority of the commenters' concerns which were provided to the department at the public hearing or during the initial comment period.

No additional public hearing was held to consider the amended proposal notice. The department extended the comment period for the amended proposed notice in accordance with 2-4-305, MCA, until January 30, 2026.

Final Rulemaking Action – Effective March 7, 2026

AMEND AS PROPOSED

The department has amended the following rules as proposed in the January 23, 2026, amended proposal notice:

42.13.901 DEFINITIONS

42.13.902 STATE TRAINING PROGRAM; DEPARTMENT AND STATE TRAINER RESPONSIBILITIES

42.13.904 PRIVATE TRAINING PROGRAMS; DEPARTMENT AND STATE TRAINER RESPONSIBILITIES

42.13.905 STATE TRAINER APPLICATION AND APPROVAL PROCESS

42.13.906 PRIVATE TRAINING PROGRAM PROVIDER APPROVAL PROCESS

42.13.907 REQUIREMENTS FOR ON PREMISES AND OFF-PREMISES RASS TRAINING PROGRAMS

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment 1: Mr. Iverson raised the MTA's concerns about several proposed rule amendments potentially increasing administrative burden on trainers and licensed establishments and referenced the Governor's Red Tape Initiative and expressed doubt that some proposals would improve efficiency for the regulated community.

Response 1: Mr. Iverson's statement is overgeneralized. The rulemaking clarifies existing expectations, aligns rule language with the requirements of the Responsible Alcohol Sales, Service, and Delivery (RASS or RASSD) Act, and supports consistent statewide delivery of responsible alcohol sales and service training. No significant reporting, recordkeeping, or procedural obligations are introduced, and the department expects the amendments to improve, rather than increase, licensee or trainer workload.

Comment 2: The MTA objects to amending the five-year RASS curriculum review cycle in favor of a two-year cycle. Mr. Iverson argued that the core content of alcohol server training does not change frequently enough to warrant such frequent reviews, and that maintaining a five-year review would be sufficient, less disruptive, and that essential "soft skills" in responsible alcohol service do not change that quickly.

Response 2: The department understands the concerns shifting to a two-year review cycle for RASS curriculum review, but the rules already require review after a legislative session (i.e. every two years) and statutory changes affecting alcohol licensing, sales, service, liability, and enforcement have increased substantially over the last four legislative sessions. The department also contends a two-year review cycle will increase accuracy for provider curricula and promote consistency and compliance in responsible alcohol service without measurably increasing licensee or trainer burden.

Comment 3: The MTA commented its opposition to the requirement for trainers to notify the department at least two weeks in advance of every training session. Mr. Iverson commented that the alcohol service industry is characterized by high employee turnover and nontraditional schedules, so requiring such advance notice would create operational bottlenecks. He also believes this requirement was not driven by statutory changes and asked the department to justify its benefits.

Response 3: Mr. Iverson is correct that the proposal was not driven by statutory changes, but not all proposals in rulemaking were characterized that way – nor were they required to be. Nor should employee turnover and nontraditional schedules affect a trainer providing notice of a training session. The two-week advanced notice is based on department experiences and serves two primary purposes: (1) it affords the department sufficient time to mail training materials to trainers who request them; and (2) it provides the department with an opportunity to conduct periodic observations across the state as a supportive quality assurance. These observations help confirm the curriculum is being delivered as designed, promote statewide consistency, and provide the trainers with feedback, clarification, and support where needed.

The department recognizes that alcohol server training may occur on short notice, but in-person training still requires a degree of planning and structure; and the requirement is not intended to delay or restrict training availability. In those cases where a two-week notice is not possible, the trainer must notify the department as soon as practicable and complete the training. After the training, the department will work with the trainer to minimize future scheduling challenges.

Comment 4: The MTA supports the elimination of the $15 trainer fee cap, agreeing with the department's reasoning that this would help attract trainers to smaller markets.

Response 4: The department appreciates the MTA's support for this change.

Comment 5: Mr. Iverson seeks some additional clarification on whether there will be two separate exams (on-premises licensee and off-premises licensee), suggesting that clear differentiation is needed since training requirements and knowledge bases differ for each.

Response 5: The department can confirm that there will be two separate exams: one for on-premises licensees (with delivery options); and another for off-premises licensees (with delivery

options). The two-exam approach is a necessary program modification to implement House Bill 157 (2025) (HB 157).

Comment 6: Mr. Iverson stated the MTA's biggest objection is to the requirement in ARM 42.13.904(2) that private trainers contact participants who fail compliance checks and report back to the department. He described this as "red tape," unworkable, likely to discourage trainers, and unsupported by legislation. Mr. Iverson also objected to triggering a full review of a training provider if five of their trainees fail compliance checks in four months, noting that stings often catch many employees at once, that trainers serving larger regions can be disproportionately affected, and that compliance checks (which do not typically result in harm) should not be overly penalized.

Response 6: The intent of this provision is educational and improvement-focused, not punitive. Adoption of the requirement in rule formalizes the department's current practice of notifying the trainer after a trainee fails a compliance check so the department and trainer can better understand the circumstances of the failure and determine whether clarification, reinforcement, or additional emphasis within the state-developed curriculum may be helpful. Because the department develops and maintains the curriculum, feedback from compliance checks serves as an important quality assurance tool. The limited provider review threshold is not designed to penalize trainers for isolated or situational failures. Rather, it allows the department to identify patterns that indicate a need for curriculum clarification, delivery support, or additional trainer guidance. The department agrees it will consider mitigating circumstances, such as multiple employees being checked at a single location, when evaluating a training program. This approach supports continuous improvement, promotes statewide consistency, and strengthens collaboration between the department and trainers in delivering the state-approved responsible alcohol service curriculum.

Comment 7: Mr. Iverson and the MTA support reducing the minimum training content from three hours to two hours, stating that most competent trainers and servers can cover the required material in less time, minimizing the burden on staff and industry.

Response 7: The department appreciates the MTA's position and its support for the change.

Comment 8: Mr. Longcake stated at the public hearing that Mr. Iverson had summarized the relevant issues well and that he had no additional comments. He planned to consult his members to determine if further comment was needed before the close of the public comment period.

Response 8: The department did not receive any additional comments from Mr. Longcake or his organization's members. The department appreciates Mr. Longcake's appearance and involvement in the rulemaking process and refers him to Responses 1 through 7 in response to this comment.

Comment 9: The MRA understands that the RASS rules have not been updated for many years and the department desires to create two rule sets: one for off-premises training and one for on-premises training. However, as HB 211 was drafted, the MRA discussed training with department management in that each delivery platform already has its own training regarding the delivery of alcohol which it contends complies with the law and is why Section 11 of HB 211 reads: "The department shall certify all delivery training programs that include the following. . . ." The MRA believes the proposed rules ignore HB 211, ignore the customized training modules contained within each delivery platform, and that including third-party delivery licensee training requirements with off-premises licensees is not appropriate.

Response 9: While the department understands the MRA's HB 211 implementation concerns, HB 211 was not the only piece of legislation that impacted RASS training as the legislature also enacted HB 157, of which the MRA was unaware or fails to acknowledge. The MRA also fails to acknowledge that agency implementation of legislation is often accomplished in the most practicable manner possible (i.e., multiple bills involving similar subject matter) in the interest of the department, licensees, and the public. So, the requirement of two separate training programs for on-premises and off-premises licensees supports HB 157, not HB 211, and the department cannot change that legislative implementation requirement.

However, after further consideration of the MRA's other concerns, which were echoed by the Alliance and Representative Zolnikov, the department amended its proposal, published under MAR Notice No. 2025-292.2, to remove the third-party delivery licensee references from this rulemaking. Since no additional commentary or objection to the amended proposal notice was received, the department concludes the commenters' concerns have been resolved.

Comment 10: As an extension of Comment 9, the MRA believes that the department should implement rules for third-party delivery licensees using language that is in HB 211, Section 11(1)(a) through (d) only. Mr. Griffin commented further that the proposed rules are very problematic for the delivery platforms, that the platforms may not apply for the delivery endorsement, and that HB 211 passed with all stakeholders, including the department, having input over the course of two legislative sessions. That is why it is so important to the MRA that the rules implement HB 211 as intended.

Response 10: The department refers the MRA to Response 9 in response to this comment.

Comment 11: The MRA submitted substantially similar comments to what the MTA stated in Comment 2 but notes a willingness towards acceptance of a three- or four-year RASS training review period.

Response 11: The department refers the MRA to Response 2 in response to this comment.

Comment 12: The Alliance and the MRA submitted a lengthy request for changes to the rulemaking for the department to approve a third-party delivery company's existing alcohol delivery training program on the basis that these companies operate in other jurisdictions

throughout the United States and already have alcohol delivery training built into their driver education curriculum, and provide this training when onboarding a driver. The Alliance and the MRA contend this approach has proven successful and aligns with the intent of HB 211.

Response 12: The department refers the Alliance and the MRA to Responses 9 and 14 in response to this comment.

Comment 13: Like Mr. Griffin's and the MRA's comments, and as an extension of Comment 12, the Alliance asked that the proposed rules be revised to separate third-party delivery licensee delivery training programs from RASS training.

Response 13: The department refers the Alliance and the MRA to Responses 9 and 14 in response to this comment.

Comment 14: The Alliance and the MRA also suggest the creation of a new regulation for delivery training programs, which would enable approval of the Alliance members' existing alcohol delivery training programs. They also contend that third-party delivery, including approval of delivery training programs, can go forward as of January 1, 2026, under the authority of HB 211, which does not require delivery training program regulations. However, if the department proceeds with delivery training program regulations, the Alliance and the MRA propose alternative language for the department's consideration.

Response 14: The department agrees that the administration of third-party delivery licensee training program certification can be addressed under a separate rule, which was a point of clarification in the amended proposal notice (MAR Notice No. 2025-292.2), and obviates the need for alternative rule language. The department also agrees that third-party delivery training program certification can proceed, initially, under the authority of HB 211. However, the department disagrees with the opinion that HB 211 does not require delivery training program regulation because the promulgation of administrative rules is not limited to what is provided in the newly enacted legislation, but through what is reasonably necessary to the department's administration of the law; and third-party delivery services are a new aspect of alcoholic beverage service in Montana.

As to the department's authority, section 11(1)(e) of HB 211 specifies delivery training programs to include " . . . other requirements adopted by the department supported by statute or rule relating to the delivery of alcoholic beverages" in addition to the rulemaking authority in section 11(3) to certify third-party delivery training programs. And should the department determine that third-party delivery training program certification necessitates the promulgation of other rules, the Montana Alcoholic Beverage Code already authorizes the department to adopt rules to implement the Responsible Alcohol Sales, Service, and Delivery Act (16-4-1009, MCA) and to "make rules not inconsistent with this code necessary to efficiently administer this code (16-1-303, MCA)."

Comment 15: Like Mr. Griffin's comments, the Alliance and the MRA commented that they have worked with stakeholders across the country to advance legislation, regulations, and policies that advance safe, responsible, and three-tier compliant alcoholic beverage delivery programs. To that end, the Alliance and the MRA worked closely with lawmakers, industry members, and the department on the passage of HB 211, making sure that the bill included all the necessary provisions required for responsible alcoholic beverage delivery.

Response 15: The department acknowledges its involvement in the legislative process for the passage of HB 211 as an informational witness, but this comment is a matter of opinion and policy that is outside the scope of the rulemaking. Accordingly, the department declines to respond.

Comment 16: Like Mr. Griffin's comments (above) and in Comment 15, the Alliance and the MRA commented their belief that HB 211 includes all of the necessary safeguards to ensure safe and responsible alcoholic beverage delivery and HB 211 was intended to allow approval of each delivery company's existing platform-specific delivery training program. Further, the proposed regulations would impose strict new requirements on delivery training programs, well beyond what was envisioned during the legislative process, and beyond what's required in nearly every other state. These requirements stem from the fact that the proposed regulations combine delivery training and off-premises RASS training. While RASS training requirements are suitable for employees of a physical alcohol retail establishment, they are not always workable under a third-party delivery model where independent contractors deliver to a customer's home. Combining these trainings is contrary to statutory directive and would render delivery training programs less effective.

Response 16: While much of Comment 16 is a matter of opinion and policy that is outside the scope of the rulemaking, to which the department declines to respond, the department does refer the commenters to Responses 9 and 14 as well as the final adoption of this rulemaking which excludes third-party delivery service training program certification until a subsequent proposal can be finalized with more industry input.

Comment 17: The Alliance and the MRA commented their belief that there are important legal requirements in the delivery environment that support keeping delivery training separate from RASS training. First, delivery drivers are required to complete training before making their first beer and wine delivery. By contrast, off-premises sales employees are only required to complete RASS training within 60 days of hire (see 16-4-1005, MCA). The Alliance and the MRA state this distinction was addressed during the legislative process for HB 211 and discussed in terms of the understanding that delivery companies would be able to use their own platform-specific training programs. Delivery drivers also "shall use an identification scanning software technology or an alternative approved by the department to verify the age of the recipient at the time of delivery." HB 211, Section 1(7). No such technology is required in the off-premises sales environment. This distinction highlights the differences between off-premises sales training and delivery training and supports keeping the programs distinct.

Response 17: HB 211 does not require the department to create or separate delivery licensee training program certification from other licensee RASS training, or that the department should adopt the Alliance's delivery vendors' programs without appropriate vetting. The plain language of section 11 of HB 211 provides a non-exhaustive list of delivery training program criteria through which the department makes its program certification determinations. Section 11, however, is silent on third-party delivery licensee training program considerations except for the expedited processing timeline in (2). It was based on this plain reading of the law and the transactional nature of off-premises sales that it was reasonably necessary and administratively efficient for the department to combine third-party alcohol delivery licensee training requirements with that of RASS training for off-premises licensees - especially since HB 157 amended 16-4-1006(2), MCA, and directs the department to ". . . . [c]ertify two classes of training programs based on the nature of employment of the individual." And as stated in Response 9, the commenters fail to acknowledge the passage of HB 157 or the potential for coordinated implementation with HB 211.

Notwithstanding, the department understands the concerns of the Alliance, the MRA, and the bill sponsor, and as stated in Response 9, the rulemaking is adopted without third-party delivery licensee references, which will be addressed under a future proposal.

Comment 18: Like Mr. Griffin's comments in Comment 10, the Alliance and the MRA see the proposed regulations on training program (i.e., curricula) requirements as untenable for the Alliance members to implement for third-party delivery programs. They contend that the adoption of these regulations could result in Alliance members opting not to seek third-party delivery licenses in Montana. The Alliance and the MRA provide several examples of where they believe Montana-specific training program requirements are either inapplicable to the third-party delivery operators, or where they are not authorized under HB 211 – which they contend is the sole source of authority and implementation for third-party delivery training requirements. The Alliance and the MRA also provided several suggested edits of the proposed rules in support of their position for the department's consideration.

Response 18: The department refers the commenters to Responses 10 through 17, which are generally responsive to Comment 18.

Comment 19: Representative Zolnikov commented like the Alliance and the MRA's comments which are summarized predominantly in Comments 9, 10, 12, 14, 15, and 17. In particular, Representative Zolnikov stressed the legislative work and accomplishments in the development and passage of HB 211 and that her intent was for the delivery companies, who all have well-vetted training protocols, to submit their training to the department and be approved, just as they have been approved in over half the states that have adopted third-party delivery services. She urged the department to consider this as legislative intent of HB 211.
Representative Zolnikov also concurred with the comments made by the MTA, the Alliance, and the MRA summarized in Comments 2 and 11.

Response 19: The department appreciates Representative Zolnikov's feedback and involvement in this rulemaking and refers her to Response 2, and Responses 10 through 18, which are responsive to her comments.

Sponsor's Comments

Representative Zolnikov submitted written comments to the department on November 10, 2025. Those comments are described in the department's amended proposal notice. The department incorporated Representative Zolnikov's comments into Comments 9 and 19 and responded to them in Responses 9 and 19.

Contact

Todd Olson, Rule Reviewer - Department of Revenue, Legal Services Office
(406) 444-7905
todd.olson@mt.gov

Rule Reviewer

Todd Olson

Approval

Brendan Beatty, Director of Revenue