



**MONTANA  
ADMINISTRATIVE  
REGISTER**



**DEPARTMENT OF REVENUE**

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**NOTICE OF PROPOSED RULEMAKING**

**MAR NOTICE NO. 2025-249.1**

**Summary**

Amendment of ARM 42.13.203 to reorganize rule content, to remove certain redundancies in content, and to clarify circumstances when distinct beer collaborations require label approvals

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**Hearing Date and Time**

Tuesday, September 16, 2025, at 11:00 a.m.

**Hearing Information**

Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana

**Comments**

Comments may be submitted using the contact information below. Comments must be received by Tuesday, September 23, 2025, at 5:00 p.m.

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**Accommodations**

The agency 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. Requests must be made by Friday, August 29, 2025, at 5:00 p.m.

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**Contact**

## Rulemaking Actions

### AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

#### 42.13.203 BEER LABEL APPROVALS

- (1) ~~Each~~All beer or malt beverage products that a brewer or beer importer desires to sell in the state of Montana must be approved by the department and conform to ~~the provisions of ARM 42.13.201 prior to the product entering the Montana market.~~In order to consider the product for approval, the department must receive copies of:
  - (a) the primary packaging, unless a traditional container is used. Traditional containers include aluminum cans, glass bottles, kegs, and boxes that are typically associated with alcoholic beverages; and
  - (b) the Certificate of Label Approval for products that are regulated by the Alcohol and Tobacco Tax and Trade Bureau (TTB); or
  - (c) the label for products that are regulated by the U.S. Food and Drug Administration.
- (2) Any changes to the product packaging or labels described in (1)(a) through (c) require department approval prior to the product entering the Montana market.
- ~~(2)~~(3) A brewer of malted beverages who has an annual nationwide production of less than 10,000 barrels is exempt from the requirements in ~~(3)~~(1)(a) through (1)(c).
- ~~(3)~~ In order to consider the product for approval, the department must receive copies of:
  - ~~(a)~~ the primary packaging unless a traditional container is used. Traditional containers include aluminum cans, glass bottles, kegs, and boxes that are typically associated with alcoholic beverages. Any change to the primary packaging must be approved by the department prior to entering the Montana market if a nontraditional container is used; and
  - ~~(b)~~ the Certificate of Label Approval for products that are regulated by the Alcohol and Tobacco Tax and Trade Bureau (TTB). Any change to the label that

~~requires approval from the TTB must be approved by the department prior to the product entering the Montana market; or~~

~~(c) the label for products that are regulated by the U.S. Food and Drug Administration. Any changes to the label must be approved by the department prior to entering the Montana market.~~

(4) Beer containing more than 8.75 percent but not more than 14 percent alcohol by volume must:

(a) meet the definition of beer provided in 16-1-106(5)(a), MCA;

(b) be approved by the department prior to being sold or distributed within the state; and

~~(b) be made by the alcoholic fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted cereal grain, in which the sugars used for fermentation of the alcoholic beverage are at least 75 percent derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients; and~~

(c) note the alcohol content by volume on the label.

(5) ~~To obtain approval from the department for all~~In addition to the requirements in (1)(a) through (1)(c), for beer or formula changes that meet the criteria in (4), the following documents are also required:

(a) The brewer or beer importer must file a form, supplied by the department, attesting that the formula meets the requirements in (4).

(b) If the brewer or beer importer is required by federal law or regulations to file its formula with TTB, the brewer or beer importer is also required to send a copy of the formula filed with the TTB to the department.

(c) At the department's request and sole discretion, brewers or beer importers must file a formula for verification of its compliance with Montana statutes.

(d) All formulas filed with the department are protected by the privacy act and will not be released by the department unless otherwise required by law or by court order.

(6) The department will process the request and provide approval or denial in writing within 30 days of receipt of all required information.

(7) Each brewer actively involved in a distinct beer collaboration pursuant to 16-3-213(4), MCA, must file for a beer label approval if the collaboration beer meets the criteria provided (4).

**Authorizing statute(s):** 16-1-303, MCA

**Implementing statute(s):** 16-1-102, 16-1-106, 16-1-302, 16-4-105, MCA

### **Reasonable Necessity Statement**

ARM 42.13.203 provides the department's beer product packaging and labeling label approval requirements for brewers or beer importers selling product in the state of Montana.

As described in the summary of this rulemaking, the department proposes amendments to the rule to reorganize content and improve consistency and clarity of the rule by:

1. moving/consolidating content from current (3) into (1) because the content is complementary and reads better when combined;
2. restating, for brevity, the redundancies at the end of current (3)(a) through (c) into proposed (2) that any changes to the required packaging and labeling in proposed (1)(a) through (1)(c) also require department approval;
3. renumbering current (2) to proposed (3) because it is an exception to the previously-stated label approval requirements and exceptions should follow the stated standard. A clarifying amendment to the end of (3) is also proposed because small breweries are not exempt from the requirements of ARM 42.13.201 which is in the first sentence of (1).
4. removing an unnecessary redundancy to the statutory definition of beer in (4)(b) and, alternatively, cross-referencing the authority in the interest of brevity.
5. clarifying in (5) that for a beer or formula change that meets the criteria in (4), a brewer must provide the information in (5)(a) through (d) in addition to that in (1)(a) through (1)(c). While the department contends it has been always been understood and applied - by the department and brewers alike - that both sets of information/documents are required, text indicating that would be beneficial for improved understanding of the rule.

The changes described in #1 through #5 also meet the criteria and goals for improved agency rulemaking under Governor Gianforte's Red Tape Relief Initiative.

Finally, the department proposes an amendment to the rule, as proposed (7), to clarify that all brewers actively involved in a distinct beer collaboration, authorized under 16-3-213(4), MCA, must seek department approval of the distinct collaboration beer if the beer contains more than 8.75 percent but not more than 14 percent alcohol by volume. The department acknowledges that requiring all brewers actively involved in the collaboration to file for label approval for the produced beer may be viewed as an additional administrative task, but is necessary because each brewer has its own licensing account with the department and lists all approved labels/brands for the brewer; there is no cost-effective manner in the department's systems to combine label approvals across collaboration brewer accounts.

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### **Small Business Impact**

With regard to the small business impact analysis requirements of 2-4-111, MCA, as amended by HB 592 (2025), the department has determined that the group or class of businesses directly affected by this rulemaking are the current Montana Domestic Breweries – of which there are approximately 120. However, the department has determined that the proposed amendment of the above-referenced rule does not have any new or significant business impact on those affected because ARM 42.13.203 already requires brewers to obtain label approvals for each product sold in the state; and the proposed amendment in (7) clarifies that label approvals apply to distinct collaboration beers (as defined in 16-3-213, MCA) when the product meets the criteria in (4) of the rule.

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### **Bill Sponsor Notification**

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

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### **Interested Persons**

The Department of Revenue 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, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the contact person in this notice or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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### **Rule Reviewer**

Todd Olson

### **Approval**

Brendan Beatty, Director of Revenue