

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PROPOSED
Rule I pertaining to common carrier	)	ADOPTION
reporting of alcoholic beverage	)	
shipments	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. The Department of Revenue proposes to adopt the above-stated rule.

2. The Department of Revenue 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 department no later 5:00 p.m. on January 22, 2021, to advise us of the nature of the accommodation you need. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail todd.olson@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I REPORTING REQUIREMENTS FOR COMMON CARRIERS

(1) A common carrier that delivers shipments identified as containing alcoholic beverages to a person or entity in the state shall maintain those shipping records for 30 months and, upon request from the department, report such deliveries to the department as provided in (2).

(2) Reports must be filed electronically on a form provided by the department on or before the 15th day of each January, April, July, and October for deliveries made during the previous quarter, and include the following information about each delivery:

- (a) name and address of the consignor of the alcoholic beverages;
- (b) name and address of the consignee of the alcoholic beverages;
- (c) date of delivery;
- (d) weight of the package; and
- (e) freight tracking information for the shipment.

(3) If the department determines that a reported delivery transaction violates the Alcoholic Beverage Code or a rule of the department, then the department will notify the common carrier of the basis of the violation so the carrier may take the appropriate action to cease further deliveries of alcoholic beverages in Montana from that consignor until otherwise notified by the department.

AUTH: 16-1-303, MCA

IMP: 16-3-101, 16-6-108, 16-6-302, MCA

**REASONABLE NECESSITY:** The department has been monitoring retailer complaints regarding the increase in unlawful shipments of alcoholic beverages from unlicensed or unregistered out-of-state sources to persons or entities in the state. The shipments are unlawful because they bypass the state's controlled taxation, distribution, and sales processes and are an express violation of 16-3-101, MCA. While a majority of these unlawful sales transactions originate from orders placed on the internet, the product is often shipped or delivered using national common carrier freight companies.

The department proposes the adoption of New Rule I which is necessary for the department to provide detailed guidance to common carriers about the shipping and delivery information sought by the department under its common carrier records inspection authority provided in 16-6-108, MCA, and in connection with the department's enforcement of 16-3-101, MCA, to reduce the amount of unlawful alcoholic beverages entering the state.

New Rule I is similar to regulations that have been adopted in other alcoholic beverage control states where common carriers conduct business and the department has been notified by national common carrier representatives that the shipping and delivery information is readily available and is commonly reported when a state has such a regulation as proposed in New Rule I.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail [todd.olson@mt.gov](mailto:todd.olson@mt.gov) and must be received no later than 5:00 p.m., February 15, 2021.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Todd Olson, at the above address, no later than 5:00 p.m. February 15, 2021.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be five common carriers based on the department's estimation that 50 common carriers in the state are, or may be, conducting the specific business activity impacted by the proposed rule.

7. The department 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 different 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 department.

8. An electronic copy of this notice is available through the Secretary of State's web site at [sosmt.gov/arm/register](http://sosmt.gov/arm/register).

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

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Todd Olson  
Todd Olson  
Rule Reviewer

/s/ Gene Walborn  
Gene Walborn  
Director of Revenue

Certified to the Secretary of State December 31, 2020.