

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.142.402 fee schedule,)	PROPOSED AMENDMENT AND
24.142.404 licensee responsibilities,)	REPEAL
24.142.502 elevator mechanic and)	
limited mechanic licensure)	
qualifications, 24.142.509)	
examinations, 24.142.510 licensure by)	
reciprocity or endorsement, and the)	
repeal of 24.142.405 apprentice)	
registration, pertaining to elevator)	
licensing)	

TO: All Concerned Persons

1. On February 11, 2021, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment and repeal of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/92728672482>, Meeting ID: 927 2867 2482, Passcode: 051763; or
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656, Meeting ID: 927 2867 2482, Passcode: 051763.

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

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 need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on February 4, 2021, to advise us of the nature of the accommodation that you need. Please contact Carrie Baker, Elevator License Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2004; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or cbaker@mt.gov.

3. GENERAL REASON: Following a January 2020 internal transfer of the Elevator License Program (program) from the Building Codes Program to the Professional Licensing Bureau, department staff performed an in-depth review of the program's statutes and administrative rules. The department determined it is reasonably necessary to amend several program rules at this time to align with and gain efficiencies from standardized department procedures, remove conflicts

between statutes and the implemented rules, and streamline the rules for better organization and ease of use for the reader.

The department is amending several rules to remove provisions on registered apprentices since the program no longer administers apprenticeship standards and individual apprenticeship agreements. The department's Workforce Services Division, Registered Apprenticeship Program, is the registration agency approved by the U.S. Department of Labor, Office of Apprenticeship, to develop and administer apprenticeship standards for all apprenticeable occupations, sponsor qualifications, and individual apprentice agreements.

Where a more specific reason for a proposed amendment exists, the department will identify those reasons immediately following that rule.

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

<u>24.142.402 FEE SCHEDULE</u> (1) through (8) remain the same.	
(9) Apprentice registration	25
<u>(9) Reexamination fee</u>	50
(10) and (11) remain the same.	

AUTH: 37-1-101, 37-73-102, MCA

IMP: 17-2-302, 17-2-303, 37-1-101, 37-1-134, 37-73-102, 37-73-201, 37-73-204, 37-73-208, 37-73-212, 37-73-216, 37-73-221, MCA

REASON: The department is adding a reexamination fee at (9) to address confusion regarding whether a full application fee is required when taking a reexamination. The department estimates that approximately 2 persons will be affected by the proposed fee, resulting in a \$100 increase in annual revenue.

24.142.404 LICENSEE RESPONSIBILITIES (1) Licensed elevator mechanics, limited mechanics, elevator contractors, limited elevator contractors, and elevator inspectors shall have their licenses available on job sites at all times when employed in these capacities. ~~Elevator mechanic or limited mechanic apprentices shall have their registration card, issued by the department, on their persons at all times when so employed. Failure to comply with this provision may result in disciplinary action against the apprentice's supervising licensee.~~ As provided by 37-73-225, MCA, a licensed elevator mechanic and a limited elevator mechanic are subject to a fine for failure to produce proof of licensure upon request.

(2) through (6) remain the same.

AUTH: 37-73-102, MCA

IMP: 37-1-406, 37-1-410, 37-73-102, 37-73-201, 37-73-203, 37-73-208, 37-73-212, 37-73-225, MCA

24.142.502 ELEVATOR MECHANIC AND LIMITED MECHANIC LICENSURE QUALIFICATIONS (1) remains the same.

~~(2) Elevator mechanic applicants who can under oath provide verifiable proof of employment as an elevator mechanic for at least three years prior to October 1, 2005, and who possess the requisite experience for licensure, may be licensed without examination upon payment of the application fee.~~

~~(3) and (4) remain the same but are renumbered (2) and (3).~~

AUTH: 37-73-102, 37-73-203, MCA

IMP: 37-73-102, 37-73-201, 37-73-203, 37-73-204, MCA

REASON: The department is striking (2) to remove outdated and unnecessary language that allowed mechanics having experience prior to the program's beginning to be licensed without examination.

24.142.509 EXAMINATIONS (1) remains the same.

(2) A person who has failed to pass any examination may, upon the payment of the appropriate reexamination fee, take the next scheduled examination. Failure of examination means receiving a test score below 70 percent. Applicants who fail the test a second time may not take the test again within a two-month period after the last failed exam.

(3) and (4) remain the same.

AUTH: 37-73-102, MCA

IMP: 37-73-102, 37-73-201, 37-73-204, MCA

REASON: The department is amending (2) to reflect the addition of the specific reexamination fee to ARM 24.142.402 in this notice.

24.142.510 LICENSURE BY RECIPROCITY OR ENDORSEMENT

(1) remains the same.

(2) Where no reciprocity agreement is applicable, mechanics licensed in other states may apply for licensure by endorsement in Montana. As used in this rule, "licensure by endorsement" means a formal reciprocal licensure agreement has not been signed with another specific state, but the qualifications for licensure in that state are ~~similar to or greater than~~ substantially equal to Montana's qualifications for the same level of licensure.

(3) The department may issue a license by endorsement to an applicant licensed in another state provided that the applicant is seeking a license comparable to the predicate license, and the applicant:

(a) submits a completed application with the required fees; and

(b) holds a comparable current, valid active license in good standing to practice in another state or jurisdiction;

~~(c) supplies a copy of the laws and rules in effect at the time of application to this state which shows that the standards in the other state are equivalent to or greater than the standards in effect in this state, as determined solely by the department; and~~

~~(d) provides official written or electronic verification directly from the other state(s) or jurisdiction(s) that the applicant's license is in good standing.~~

AUTH: 37-73-102, ~~50-60-203~~, MCA

IMP: 37-73-102, 37-73-201, 37-73-203, 37-73-204, MCA

REASON: The department determined it is reasonably necessary to amend (2) to reflect the same standard used in 37-73-204, MCA, authorizing licensure of persons licensed in other states.

Section (3)(b) is amended to specify that the comparable out-of-state license must be active and in good standing to align with the standardized department licensure procedures. The department is striking (3)(c) and (d) as department licensure staff verifies this information and it is no longer necessary for applicants to submit these documents.

Authority citations are being amended to provide the complete statutory sources of the department's rulemaking authority.

5. The rule proposed to be repealed is as follows:

24.142.405 APPRENTICE REGISTRATION

AUTH: 37-73-102, 50-60-203, MCA

IMP: 37-73-202, MCA

6. 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 to the Elevator License Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to cbaker@mt.gov, and must be received no later than 5:00 p.m., February 12, 2021.

7. An electronic copy of this notice of public hearing is available at <http://boards.bsd.dli.mt.gov/elp> (department and program's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

8. The department 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, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all program administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Elevator License Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to cbaker@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

10. Regarding the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 24.142.402, 24.142.404, 24.142.502, 24.142.509, and 24.142.510 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the department has determined that the repeal of ARM 24.142.405 will not significantly and directly impact small businesses.

Documentation of the department's above-stated determinations is available upon request to the Elevator License Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2004; facsimile (406) 841-2305; or to cbaker@mt.gov.

11. Carrie Baker, Program Manager, has been designated to preside over and conduct this hearing.

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

/s/ BRENDA NORDLUND
Brenda Nordlund, Acting Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 30, 2020.