

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 37.111.124 pertaining to Public ) PROPOSED AMENDMENT  
Sleeping Accommodations )

TO: All Concerned Persons

1. On January 15, 2024, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/89263075491?pwd=L21ZUUxINW82Y1FIM21Cai9iUEcwZz09>, meeting ID: 892 6307 5491, and password: 835916; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 892 6307 5491, and password: 835916. Find your local number: <https://mt-gov.zoom.us/u/kcFxxg2QT4g>.

2. The Department of Public Health and Human Services 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 of Public Health and Human Services no later than 5:00 p.m. on January 2, 2024, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhus, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [hhsadminrules@mt.gov](mailto:hhsadminrules@mt.gov).

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.111.124 FOOD SERVICE REQUIREMENTS (1) An establishment preparing or serving food that meets the definition of a "retail food establishment" under 50-50-102, MCA, must obtain a separate retail food license. ~~An establishment licensed as a public accommodation is exempt from the requirement to obtain a retail food license if it serves food only to registered guests and day visitors pursuant to 50-50-102(21)(c)(xii), MCA.~~

(2) An establishment licensed as a public accommodation is exempt from the requirement to obtain a retail food license if it serves food only to registered guests and day visitors pursuant to 50-50-102(21)(c)(xii), MCA. The establishment must comply with all other food safety rules contained under ARM Title 37, chapter 110, subchapter 2.

AUTH: 50-51-103, MCA  
IMP: 50-51-103, MCA

#### 4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.111.124 to address food safety requirements for public sleeping accommodations serving food that are exempt from obtaining a retail food license under 50-50-102(21)(c)(xii), MCA.

In 2022, the department generally revised the public sleeping accommodation rules. See MAR Notice No. 37-981. These rule amendments resulted in the inadvertent removal of prior rule language addressing food safety requirements for public sleeping accommodations who serve food, but are exempt from obtaining a retail food license. The department is proposing to amend ARM 37.111.124 to address the inadvertent removal of the prior food safety requirements. The proposed rule amendment is necessary to ensure public sleeping accommodations exempt from obtaining a retail food license adhere to basic food safety and sanitary requirements when providing food service.

#### Fiscal Impact

There is no fiscal impact anticipated from this rulemaking.

5. The proposed rule amendment is intended to be effective upon the day after the date of publication of the adoption notice.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [hhsadminrules@mt.gov](mailto:hhsadminrules@mt.gov), and must be received no later than 5:00 p.m., January 19, 2024.

7. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

8. 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 mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above.

9. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

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

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

/s/ Robert Lishman  
Robert Lishman  
Rule Reviewer

/s/ Charles T. Brereton  
Charles T. Brereton, Director  
Department of Public Health and Human  
Services

Certified to the Secretary of State December 12, 2023.