

BEFORE THE PUBLIC SAFETY OFFICERS
STANDARDS AND TRAINING COUNCIL
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 23.13.215 and 23.13.702) PROPOSED AMENDMENT
pertaining to the certification of public)
safety officers)

TO: All Concerned Persons

1. On March 22, 2023, at 10:00 a.m., the Public Safety Officers Standards and Training (POST) Council will hold a public hearing in Room 205 in the Karl Ohs Building at the Montana Law Enforcement Academy, 2260 Sierra Road East, at Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The POST Council 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 POST Council no later than 5:00 p.m. on March 8, 2023, to advise us of the nature of the accommodation that you need. Please contact Katrina Bolger, POST Council, 2260 Sierra Road East, Helena, Montana 59602; telephone (406) 444-9974; or e-mail kbolger@mt.gov.

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

23.13.215 FIREARMS PROFICIENCY STANDARDS (1) and (1)(a) remain the same.

(b) designate a ~~POST-certified~~ firearms instructor as defined in these rules to conduct or oversee and document annual firearms proficiency. The instructor need not be a POST-certified instructor but ~~also~~ must have attended a minimum 40-hour POST-approved firearms instructor course or its equivalent, which includes the following topics:

(i) through (5) remain the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 7-32-303, 44-4-403, MCA

REASON: On August 23, 2022, the Montana POST Council's Administrative Rule Committee met, and Montana Law Enforcement Academy Administrator Glen Stinar informed the committee that the academy does not believe that an officer needs to meet the requirements of a POST-certified instructor in order to oversee firearms qualifications. The academy also noted difficulty in meeting the training needs of agencies throughout the state, due to the requirement that the designated firearms instructor be a POST-certified instructor. The POST Council proposes to amend this

rule to address these concerns while still requiring the instructor to have attended a POST-approved firearms course meeting minimum requirements.

23.13.702 GROUNDS FOR DENIAL, SANCTION, SUSPENSION, OR REVOCATION OF POST CERTIFICATION (1) through (3)(c) remain the same.

(d) unauthorized use of or being under the influence of an intoxicating substance, including alcoholic beverages or marijuana, while on duty, or the use of an intoxicating substance, including alcoholic beverages or marijuana, in a manner which tends to discredit the officer, the officer's employing authority, or the profession;

(e) through (4) remain the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: Recreational marijuana was legalized in Montana in 2020. To address this change to state law, the POST Council proposes to amend this rule so that, like alcohol, the use of recreational marijuana or other intoxicating substances by public safety officers is sanctionable if the use leads to impairment while on duty or violates the policy of the officer's employing agency.

4. 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: Katrina Bolger, POST Council, 2260 Sierra Road East, Helena, Montana, 59602; telephone (406) 444-9974; or e-mail kbolger@mt.gov, and must be received no later than 5:00 p.m., April 19, 2023.

5. J. Stuart Segrest, Attorney at Law, has been designated to preside over and conduct this hearing.

6. The council 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 4 above or may be made by completing a request form at any rules hearing held by the department.

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

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

Sheriff Jesse Slaughter
Chairman
Public Safety Officers Standards and
Training Council

/s/ DAVID ORTLEY

David Ortley
Deputy Attorney General
Rule Reviewer

/s/ CHRISTIAN CORRIGAN

Christian Corrigan
Solicitor General
Department of Justice

Certified to the Secretary of State February 14, 2023.