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Revenue and Transportation Interim Committee

62nd Montana Legislature

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November 27, 2011

TO: Committee Members
FROM: Jaret Coles, Staff Attorney
RE: Administrative Rule Activity

Department of Revenue

All notices are available on the Internet at:

http://revenue.mt.gov/formsandresources/administrative_rules/default.mcp

Notice of Proposed Rules:

Housekeeping Rules. 42-2-871. No public hearing is contemplated and the public comment period ended November 10, 2011. The Department proposes to amend two rules. The first proposed amendment updates an internal reference. The second proposed amendment updates a rule by providing citation to individual statutes instead of an entire part.

Notice of Adopted Rules:

Reduction of State Mark-Up On Liquor Sold by the State -- Senate Bill No. 215 (2011). MAR 42-2-865. Adopted one rule and amended one rule on October 28, 2011. Public comments were received from distillery representatives and Senator Gallus as the primary sponsor of Senate Bill No. 215. The Department made a slight change to the sentence structure of the new rule, but the substantive portions remained intact and a reduced mark-up rate of 20% is applied on a nationwide basis. Additionally, an amendment to a definition section was adopted as proposed.

Corporate License or Income Tax Administration -- Issuing Tax Certificates Relating to Dissolution, Withdrawal, Suspension, Forfeiture, and Good Standing -- Senate Bill No. 429. MAR 42-2-868. Adopted one new rule on November 11, 2011. No public comments were received and the rule was adopted as proposed with a further amendment to include a citation reference to another existing Department rule.

Department of Transportation

Notice of Proposed Rules:

Outdoor Advertising -- MAR 18-130. No public hearing is contemplated and the public comment period ends December 23, 2011. The Department of Transportation proposes to adopt one new rule and amend 17 rules. The proposed new rule lists criteria for determining whether a sign can be placed near an interstate or primary highway in an unzoned commercial area. The proposed amendments provide further definitions, distinguish between commercial and industrial activity, provide for transfer procedures and permitting of signs, and cover a variety sign safety standards.

Comment: A proposed amendment to ARM 18.6.246 provides that a political sign shall not be placed within 100 feet of any entrance to the building in which a polling place is located.

Section 75-15-121, MCA, gives the Transportation Commission authority to adopt rules to control the erection and maintenance of outdoor advertising along the interstate and primary highway systems. However, the 100-foot statutory prohibition against electioneering on election day is in section 13-35-211, MCA, not Title 75 (Environmental Protection). Consequently, absent a public safety reason the Department of Transportation does not appear to have authority to draft rules regarding a 100-foot prohibition.

Notice of Adopted Rules:

None as of November 25, 2011.

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