

BEFORE THE BOARD OF PRIVATE SECURITY  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 24.182.301 definitions,	)	
24.182.401 fee schedule, 24.182.420	)	
firearms, 24.182.421 requalification,	)	
24.182.501 application, 24.182.503	)	
experience requirements, 24.182.505	)	
written examination, 24.182.507	)	
temporary permit, 24.182.511 trainee,	)	
24.182.520 firearms licensure, and	)	
24.182.2301 unprofessional conduct	)	

TO: All Concerned Persons

1. On March 11, 2010, the Board of Private Security (board) published MAR notice no. 24-182-32 regarding the public hearing on the proposed amendment of the above-stated rules, at page 606 of the 2010 Montana Administrative Register, issue no. 5.

2. On April 5, 2010, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the April 13, 2010, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: Several commenters opposed the fee increases in ARM 24.182.401 and encouraged the board to investigate budget cuts or a more efficient use of resources instead of raising fees. The commenters referred generally to the current economic recession, asserted that a fee increase would negatively affect small businesses in particular, and stated that the magnitude of the increase was unreasonable.

RESPONSE 1: Prior to proposing any fee increases and following considerable discussion of the board's budget, the board determined that the proposed fee increases are necessary to generate enough revenue to cover expenses and comply with the statutory mandate of 37-1-134, MCA, to set and maintain fees commensurate with program costs. The fee increase will generate only enough revenue to cover the board's actual costs and any lesser increase would leave the board's continued operation in peril. While aware of current economic stressors, the board is also mindful of its duty to regulate for the protection of the public.

The board has investigated and made budget cuts, specifically to indefinitely suspend the board-provided training, hold meetings for a single day rather than having two-day meetings, and use technology to facilitate meetings and reduce the

travel and per diem costs. The board also notes that both the department and the board continually seek and implement ways to reduce costs associated with board functions. Examples of this are the recent shift to using electronic board books instead of paper ones, and having some board meetings by telephone conference, instead of in-person attendance. The board is amending ARM 24.182.401 exactly as proposed.

COMMENT 2: One commenter questioned why the board is proposing to strike the renewal fee in ARM 24.182.401 for training program certification.

RESPONSE 2: The board is striking the renewal provision from this rule because training program certifications are not renewable. If a training program changes, licensees are required to reapply for certification.

COMMENT 3: One commenter supported the proposed amendment to ARM 24.182.420 to no longer restrict firearms by type and caliber, but asked whether the change would open the door to allow shotguns, rifles, or subcompact rifles for security use.

RESPONSE 3: The board approves firearm curricula for each firearm type on a case-by-case basis and if a curriculum is approved for shotguns, rifles, or other firearms, then these firearms would be allowed for security use. To list all types of firearms that it might possibly approve would be overly burdensome.

COMMENT 4: A commenter supported the amendments to ARM 24.182.421, clarifying that armed licensees may requalify with either a Montana POST certified firearms instructor or a Montana licensed certified firearms instructor.

RESPONSE 4: The board appreciates all comments received during the rulemaking process.

COMMENT 5: A commenter opposed the limitation on renewal of trainee licenses proposed in ARM 24.182.511(5), stating that there may not be enough demand in the market to allow a trainee to gain the required work hours to be eligible to take the test in that amount of time. The commenter suggested the board instead monitor the total amount of all trainee hours via quarterly time sheets, and deny renewal only when a trainee exceeds the minimum required hours to take the exam.

RESPONSE 5: The board notes that some individuals have held trainee licenses for several years, without ever applying to become fully licensed as a private investigator. The board concluded that limiting trainee licenses to five total years and requiring trainees to test for private investigator licensure within a year after meeting the other minimum requirements, furthers legislative intent and the public's protection. Therefore, the board is amending ARM 24.182.511 exactly as proposed.

4. The board has amended ARM 24.182.301, 24.182.401, 24.182.420, 24.182.421, 24.182.501, 24.182.503, 24.182.505, 24.182.507, 24.182.511, 24.182.520, and 24.182.2301 exactly as proposed.

BOARD OF PRIVATE SECURITY  
HOLLY DERSHEN-BRUCE,  
CHAIRPERSON

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

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 3, 2010