

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION AND
Rules I through VII and the) AMENDMENT
amendment of ARM 23.3.231,)
23.18.301, 23.18.302, 23.18.303,)
23.18.304, 23.18.305, 23.18.306,)
23.18.308, and 23.18.309 pertaining)
to the Montana 24/7 Sobriety)
Program Act)

TO: All Concerned Persons

1. On October 9, 2020, the Department of Justice published MAR Notice No. 23-18-249 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1804 of the 2020 Montana Administrative Register, Issue Number 19.

2. The department has adopted New Rules I (23.18.310), II (23.18.311), III (23.18.312), IV (23.18.313), V (23.18.314), VI (23.18.315), and VII (23.18.316) as proposed.

3. The department has amended ARM 23.3.231, 23.18.301, 23.18.302, 23.18.303, 23.18.304, 23.18.305, 23.18.306, 23.18.308, and 23.18.309 as proposed.

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: Jake Heard of Intoxalock provided written comment regarding the proposed changes to ARM 23.18.301. Mr. Heard commented that Intoxalock supports the inclusion of ignition interlock devices within the definition of "remote breath testing device."

RESPONSE TO COMMENT 1: The department agrees with the comments made by Intoxalock.

COMMENTS 2-3: Matthew Mitchell of SCRAM Systems Inc. provided written comment regarding the proposed changes to ARM 23.18.301 and 23.18.304. Mr. Mitchell requested that the department rewrite the definition of "24/7 sobriety program" or "program" to clarify whether the definition applies to all court-ordered alcohol and drug testing. Mr. Mitchell also commented that the department should consider eliminating the distinction between a primary testing methodology and a hardship testing methodology.

RESPONSE TO COMMENTS 2-3: The department disagrees. The department concluded that ARM 23.18.301, as amended, sufficiently defines the "24/7 sobriety program" or "program." Further, the department determined that the distinction between the primary testing methodology and the hardship testing methodology as stated in amended ARM 23.18.304 appropriately follows the statutory framework set out in 44-4-1203, MCA.

/s/ Hannah E. Tokerud
Hannah E. Tokerud
Rule Reviewer

/s/ Timothy C. Fox
Timothy C. Fox
Attorney General

Certified to the Secretary of State December 15, 2020.