

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 44.5.131 pertaining to rules )  
governing the registration of )  
business/mark names )

TO: All Concerned Persons

1. On September 24, 2015, the Secretary of State published MAR Notice No. 44-2-197 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1469 of the 2015 Montana Administrative Register, Issue Number 18.

2. The Secretary of State has amended the above-stated rule as proposed.

3. No member of the public commented on the rule notice. The Secretary of State received the following comment from Senator Dee L. Brown, the Chair of the State Administration and Veterans' Affairs Interim Committee.

COMMENT: Regarding (5) of ARM 44.5.131, which states, "The Secretary of State reserves the right to not register business names that are vulgar or grossly offensive," Senator Brown states "Are we becoming the filter for freedom of speech issues? Should there be a bigger group than one deciding this? Is there a standard already set by various agencies/states? Though I certainly agree with that some words are offensive, should there be some standards in place referencing what constitutes vulgar and grossly offensive instead of SOS being on the hook to decide?"

RESPONSE: This is an interesting question and one the Secretary of State struggled with. However, it was concluded that as the Legislature has criminalized profane language in 45-8-101, MCA, the Secretary of State should not allow it. If a name was rejected, the filer would have the option of seeking a court order to force the filing.

/s/ JORGE QUINTANA  
Jorge Quintana  
Rule Reviewer

/s/ LINDA MCCULLOCH  
Linda McCulloch  
Secretary of State

Dated this 2nd day of November, 2015.