

CHAPTER 25  
REGULATION OF MEMBERSHIP CAMPGROUND OPERATORS

**61—25.1(557B) Place of filing.** Information required to be filed by the membership campground statute, Iowa Code chapter 557B, or these rules shall be submitted to the Office of the Attorney General, Consumer Protection Division, Hoover Building, 2nd Floor, Des Moines, Iowa 50319. Whenever these rules state that a document be “filed,” the document must be delivered to the attorney general’s office by United States Postal Service or personal service and shall be considered filed on the date of the United States Postal Service mark or the date personal service is made.

**61—25.2(557B) Definitions.** Unless otherwise defined, the terms used in these rules have the same definitions found in Iowa Code section 557B.1.

REGISTRATION

**61—25.3(557B) Registration.**

**25.3(1) Who must register.** A person shall not offer or sell a membership camping contract in this state unless the membership camping contract is covered by a membership camping registration. The application for registration must be filed with the attorney general’s office at the address indicated in rule 25.1(557B). The following transactions are exempt from the requirement of registration:

- a. An offer, sale, or transfer by any one person of not more than one membership camping contract in any 12-month period.
- b. An offer or sale by a government, government agency, or other subdivision of government.
- c. A bona fide pledge of a membership camping contract.
- d. Transactions subject to regulation pursuant to Iowa Code chapter 557A.

**25.3(2) Contents of application.** The application for registration must contain all of the information required by Iowa Code section 557B.3. A form which may be used by the applicant for registration is available. Copies of this form, which is designated as Form 557B-1, may be obtained from the consumer protection division at the address stated in rule 25.1(557B). If an alternative format is used, the information must be supplied in a readable, coherent, and complete manner, or the application will be denied.

**25.3(3) Fee for registration.** The application for registration must be accompanied by a nonrefundable fee of \$200. Applications which are received without payment will be returned to the sender.

**25.3(4) Effective date.** Registration is effective for one year from the date the application is granted either by the attorney general’s office or by operation of law. The attorney general’s office will notify each registrant of the effective date of its registration.

**25.3(5) Amendments to registration and fee.** An application for registration must be amended and the amendment must be filed with the attorney general within 25 days of any material change in the information included in the application. Amendments must be accompanied by a nonrefundable fee of \$50.

**25.3(6) Renewal of registration.** A membership camping operator’s registration must be renewed annually by filing an application for renewal no later than 30 days prior to the anniversary of the current registration. An application for renewal must be accompanied by a nonrefundable fee of \$200. The renewal application must include all changes in the information which had been provided in the previously filed application.

## SANCTIONS AND HEARINGS

**61—25.4(557B,252J) Sanctions.**

**25.4(1) *Statement of charges.*** A membership campground registration may be denied, suspended or revoked or a penalty of not more than \$5000 may be imposed or a combination of suspension or revocation and penalty may be imposed for any of the reasons set forth in Iowa Code section 557B.6. If any action of this type is taken, a representative of the consumer protection division shall mail by certified mail a statement of charges to the applicant or registrant. The applicant or registrant has 30 calendar days from the date of mailing the statement of charges to request a hearing. Requests for hearing must be filed within the 30-day time period or the applicant or registrant will not be permitted to contest the matter. Such requests must be filed at the address specified in rule 25.1(557B). Within this 30-day period, the applicant or registrant may also file an answer or other responsive pleading to the statement of charges.

**25.4(2) *Hearings.*** If a request for hearing is filed, the contested case will be referred to an independent administrative law judge. Upon request, the Iowa department of inspections and appeals will establish a time and provide an administrative law judge to conduct the contested case. A representative of the consumer protection division will prosecute these cases on behalf of the state.

**25.4(3) *Notice of hearing.*** The applicant or registrant shall be mailed by certified mail a notice of hearing which will include:

- a. The date, time, and place of hearing.
- b. A statement that the party may be represented by legal counsel.
- c. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- d. A statement that the respondent has the right to appear at a hearing and be heard.
- e. A reference to the statute or rules involved.
- f. A copy of the statement of charges referred to in subrule 25.4(1).

**25.4(4) *Prehearing conferences.*** The administrative law judge either on the administrative law judge's own motion or at the request of either party may hold a prehearing conference which shall be scheduled not less than two days prior to the hearing. Notice by ordinary mail shall be given to each party of the date, time, and place of the prehearing conference.

**25.4(5) *Informal settlement.*** Nothing in these rules shall be construed to discourage or limit the parties in their right to pursue an informal settlement of the contested case. Any such settlement shall be subject to review and approval by the attorney general.

**25.4(6) *Failure by respondent to appear.*** If a respondent, upon whom a notice of hearing has been served, fails to appear either in person or by counsel at the hearing, the administrative law judge may proceed with the conduct of the hearing. The results of the hearing shall be binding to the same extent as if respondent had been present.

**25.4(7) *Conduct of hearings.*** Hearings under this rule will be held pursuant to the Iowa administrative procedure Act. These hearings will generally be conducted according to the following format, subject to modification at the discretion of the administrative law judge:

- a. The representative of the consumer protection division may make an opening statement.
- b. The respondent(s) may make an opening statement or may elect to reserve the opening statement until just prior to the presentation of evidence by the respondent.
- c. The evidence on behalf of the consumer protection division is presented.
- d. The evidence on behalf of the respondent(s) is presented.
- e. Rebuttal evidence, if any, on behalf of the consumer protection division is presented.
- f. Rebuttal evidence, if any, on behalf of the respondent(s) is presented.
- g. Each party may make a closing argument.

**25.4(8) *Continuances.*** No ex parte continuance shall be granted to any party.

**25.4(9) *Interlocutory appeal.*** Any party to a contested case may seek an interlocutory appeal on a procedural question with the attorney general by filing a timely request.

**25.4(10) *Discovery and subpoenas.*** The provisions of Iowa Code section 17A.13 relating to discovery and subpoenas shall govern in contested cases held pursuant to these rules.

**25.4(11) Proposed decision.** The administrative law judge who presides over the case will render a proposed decision which shall be in writing or stated in the record. The decision may include any of the following:

- a. Dismissal of the charges against respondent.
- b. Denial of an application for registration.
- c. Suspension of a registration for a specified period.
- d. Revocation of a registration.
- e. Imposition of a penalty not to exceed \$5000.

**25.4(12) Further review.** Any party, including the consumer protection division, who is adversely affected by a proposed decision, may seek further review with the attorney general by complying with the following procedure:

- a. A request for further review must be filed with the attorney general within 20 days of the date of the administrative law judge's decision.
- b. Within ten days after filing the request for further review, the requesting party must file written exceptions to the proposed decision of the administrative law judge and must set forth the specific relief requested as well as all of the grounds upon which the request for relief is based. The party seeking further review may also file a written brief and argument along with its exceptions.
- c. The opposing party has 14 days following service of the exceptions to file a responsive brief and argument if desired.

**25.4(13) Notification of decision.** All parties to a contested case shall be promptly furnished with a copy of any final or proposed decision either by personal service or by certified mail.

**25.4(14) Judicial review.** A party who has exhausted administrative remedies may seek judicial review of the decision pursuant to the Iowa administrative procedure Act.

**25.4(15) Sanctions against individual membership camping operators relating to unpaid child support.** The following shall apply to the applications or registrations of individual membership camping operators under Iowa Code chapter 557B:

a. *Registration permit denial.* Pursuant to Iowa Code chapter 252J, the attorney general shall deny an application for registration under Iowa Code chapter 557B of a membership camping operator, if the membership camping operator is an individual and the attorney general has received a certificate of noncompliance from the child support recovery unit in regard to the individual, until the unit furnishes the attorney general with a withdrawal of the certificate of noncompliance.

b. *Registration permit suspension or revocation for nonpayment of child support.* Pursuant to Iowa Code chapter 252J, the attorney general shall suspend or revoke the registration of a membership camping operator under Iowa Code chapter 557B, if the membership camping operator is an individual and the attorney general has received a certificate of noncompliance from the child support recovery unit in regard to the individual, until the unit furnishes the attorney general with a withdrawal of the certificate of noncompliance.

c. *Notice of suspension, revocation or denial of registration based on nonpayment of child support.* The notice required by Iowa Code section 252J.8 shall be served upon the registrant or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Rules of Civil Procedure 56.1. Alternatively, the registrant or applicant may accept service personally or through authorized counsel.

d. *Effective date of suspension, revocation or denial based on nonpayment of child support.* The effective date of suspension, revocation or denial of registration, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the registrant or applicant.

e. *Obligation of registrants and applicants to notify attorney general concerning nonpayment of child support.* Registrants and applicants shall keep the attorney general informed of all court actions, and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J, and shall provide the attorney general copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

*f. Payment of fees following suspension or revocation.* If the attorney general suspends or revokes a permit pursuant to Iowa Code chapter 252J, a nonrefundable permit fee of \$200 for reinstatement must be paid by the applicant to the attorney general before a permit will be reinstated.

*g. Calculating effective dates of suspension, revocation or denial of registration based on nonpayment of child support.* In the event a registrant or applicant files a timely district court action following service of an attorney general notice pursuant to Iowa Code sections 252J.8 and 252J.9, the attorney general shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the attorney general to proceed. For purposes of determining the effective date of suspension or revocation, or denial of the issuance or renewal of a registration permit, the attorney general shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

*h. Relation to other subrules of this rule.* The requirements of subrule 25.4(15) shall be in addition to those stated in subrules 25.4(1) to 25.4(14). However, the provisions of subrules 25.4(1) to 25.4(14) shall not apply to any sanctions imposed against individual membership camping operators relating to unpaid child support. Sanctions imposed against individual membership camping operators relating to unpaid child support shall be governed by the provisions of subrule 25.4(15) and Iowa Code chapter 252J.

#### ADVERTISING

#### **61—25.5(557B) Advertising plans.**

**25.5(1) Prohibitions.** An advertisement shall not:

*a.* Make any untrue statement of material fact which would make the statements misleading in light of the circumstances under which the statements were made.

*b.* Misrepresent either explicitly or implicitly, the size, quantity, identity, or quality of any prize, gift, amount of money, or other item of value.

*c.* Represent to a consumer that the consumer is being notified for the second or final time of the right to collect a prize, gift, award, or other thing of value in exchange for participating in a sales presentation if, in fact, it is not the second or final attempt to notify the consumer.

*d.* Refer to a prize, gift, award, or any other type of inducement as being previously claimed or awarded unless, in fact, each of those prizes, gifts, awards, or other type of inducements has been awarded during the same promotional program.

*e.* Offer a prize, gift, award, or other inducement unless one of each is available at the beginning of the promotional program.

*f.* Refer to any item as a prize, gift, award, or words of similar meaning if the consumer must purchase anything or give, or promise to give, any consideration, other than visiting the property to claim the item.

*g.* Offer anything of value unless, contemporaneously with the offer, all expenses the recipient must pay (excluding the cost of travel to the sales presentation) are clearly and conspicuously disclosed on the face of the advertisement and within a reasonable proximity of the offer.

*h.* Represent that an offered prize, gift, award, or other type of inducement has a certain value or manufacturer's suggested price unless there is, in fact, a bona fide retail market for the item.

*i.* Represent directly or by implication that the number of participants in an advertising plan has been significantly limited or that any person has been selected to receive a particular prize, gift, money, or other item of value, unless the representation is true.

*j.* Contain an offer which is represented as urgent, nor shall it convey a sense of urgency by use of description, narrative copy, or phrasing on the envelope unless there is a limited time period in which a recipient must accept the terms of the offer which is clearly stated in the advertisement.

*k.* Represent directly or by implication that the membership camping contracts are offered without risk or the possibility of loss.

*l.* Make any statement, representation, or pictorial presentation of proposed improvements or nonexistent scenes without clearly indicating that the improvements are proposed and the scenes do not exist.

*m.* Misrepresent in any manner the odds of receiving a particular gift, prize, amount of money, or other item of value.

*n.* Label any offer a notice of termination or notice of cancellation.

*o.* Misrepresent, in any manner, the offer, plan, or program.

**25.5(2) Required disclosures.** An advertisement shall:

*a.* Disclose on the face of the advertisement that, in order to claim an offered prize, gift, award, or other item of value, the recipient must listen to a sales presentation if that is the case.

*b.* Disclose the name and address of the owner of the real or personal property or the provider of the services which are the subject of the sales presentation, visit, or contact with a sales agent.

*c.* Include a general description of the business of the owner or provider so identified and the purpose of any requested visit, sales presentation, or contact with a sales agent, including a general description of the facilities or services which are the subject of the sales presentation.

*d.* Contain a statement of the odds, in Arabic numerals, of receiving each item offered.

*e.* Clearly and conspicuously disclose all restrictions, qualifications, and other conditions that must be satisfied before the recipient is entitled to receive an offered prize, gift, award, or other item of value, including, but not limited to, all of the following:

(1) Any deadline by which the recipient must visit the location, attend the sales presentation, or contact the sales agent in order to receive the item;

(2) The approximate duration of any visit and sales presentation;

(3) Any other conditions, such as a minimum age qualification, a financial qualification, or a requirement that if the recipient is married both husband and wife must be present in order to receive the item.

These conditions must be disclosed on the face of the advertisement or in the alternative, the conditions may be stated on the back of the advertisement or on a separate sheet if they are printed in boldfaced type of a minimum size of ten points and the following statement is printed in bold-faced type of a minimum size of ten points conspicuously on the face of the advertisement:

**CHECK THE CONDITIONS OF PARTICIPATION TO SEE IF YOU  
ARE ELIGIBLE FOR ANY OF THE MERCHANDISE.**

*f.* Clearly disclose that a particular promotion has multiple sponsors, if that is the case.

*g.* Contain a statement that the owner or provider reserves the right to provide a rain check or a substitute or like item, if these rights are reserved.

*h.* Contain a statement that a recipient who receives an offered item may request and will receive evidence showing that the item provided matches the item randomly or otherwise selected for distribution to that recipient.

*i.* Disclose all other rules, terms, and conditions of the offer, plan, or program.

**25.5(3) Vacation inducements.** If an advertisement offers a vacation or vacation certificate as an inducement to the recipient to visit or attend a sales presentation, all material conditions of the vacation must be clearly and conspicuously disclosed in the advertisement including, but not limited to, any required deposits, points of departure if outside of Iowa, the nature of the accommodation, procedures for redeeming the certificate and all charges or fees incident to the vacation. If the vacation or vacation certificate is actually provided by a person other than the membership campground operator, the advertisement must disclose the name and address of the person responsible for providing the vacation.

**25.5(4)** A violation of any of the advertising rules contained in subrule 25.5(1), 25.5(2), or 25.5(3) constitutes a deceptive, false, or misleading practice and may subject the violator to sanctions under subrule 25.4(1).

**61—25.6(557B) Applicability of other rules.** To the extent that they are not inconsistent with the provisions of this chapter, the rules found in 61—Chapters 11 and 12 regarding petitions for adoption, amendment, or repeal of a rule (61—11.9(17A) and 61—11.10(17A)) for declaratory rulings (61—12.1(17A) to 61—12.6(17A)) shall govern similar petitions which may be brought under this chapter.

These rules are intended to implement Iowa Code chapter 557B.

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