

Administrative Rules Review Committee
Annual Report
1979

In 1979 the Committee reviewed a total of 413 items which were adopted into the Iowa administrative code, up approximately 16% since 1978. Each item contained from one rule change up to several entire chapters; containing in total approximately 1600 individual rule adoptions, ammendments or repealers. The changes are as follows, with the number in brackets representing last years changes:

social services	98 (78)	nursing home admin.	3 (1)
health	39 (37)	planning and programming	3 (4)
environmental quality	30 (20)	accountancy	2 (9)
revenue	31 (9)	beer and liquor control	2 (3)
transportation	23 (23)	city development	2 (1)
conservation	21 (24)	arts council	2 (-)
merit	16 (10)	soil conservation	2 (1)
job service	13 (14)	veterans affairs	2 (-)
pharmacy	9 (4)	aging commission	1 (2)
commerce	8 (6)	blind commission	1 (-)
banking	8 (5)	city finance	1 (-)
mental health	7 (-)	educational radio and tv	1 (1)
credit union*	7 (-)	employment agency licensing	1 (1)
energy policy council	6 (-)	egg council	1 (1)
labor	6 (5)	industrial commissioner	1 (-)
public instruction	6 (1)	Iowa development commission	1 (2)
auditor	6 (-)	library department	1 (-)
regents	5 (6)	livestock advisory council	1 (1)
dentistry	5 (1)	nursing board	1 (4)
insurance	5 (2)	parole board	1 (-)
engineering	4 (3)	professional occupation *	1 (-)
fair board	4 (-)	public employment relations	1 (1)
comptroller	4 (2)	real estate examiners	1 (1)
civil rights comm.	4 (6)	shorthand reporters	1 (1)
college aid comm.	4 (1)	substance abuse	1 (7)
public safety	4 (4)	voter registration	1 (7)
agriculture	3 (11)	county finance *	1 (-)

*denotes new agency

Over seventy bills enacted into law in 1979 required or empowered administrative agencies to adopt rules; the topics ranged from elder care to anaerobic lagoon to unemployment compensation to credit unions and beyond. Curiously, although the volume of rulemaking has increased, and three new agencies have joined in the process, the total number of agencies making rules has remained constant throughout the years at between 54 and 56. Even more curious and significant is the fact committee objections are decreasing. Between July 1975 and January 1977, the committee voted 74 objections, in 1977 it voted 36 objections, in 1978 23 objections and in 1979 only 13 objections were voted on adopted rules. Thus in its 4 and a half year history the committee has voted only 157 objections on over 5000 adopted rule changes, less than 3% of the total

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number of rules adopted. As agencies, the public and the committee become more familiar with one another it is becoming apparent that a spirit of compromise is growing and negotiation is replacing objection.

OBJECTIONS IMPOSED IN 1979-listed by subject matter

Civil Rights-The Iowa civil rights commission adopted rules which greatly expanded the scope and coverage of the Civil Rights Act. Subrule 1.1(8) narrowed the statutory definition of "retirement plans and benefit systems", which are exempt from coverage of the Act. By narrowing the exclusion the application of the Act was broadened.

OBJECTION CORRECTED.

1.1(9) defined an actionable injury as including an offense against dignity. It was the feeling of the committee such a vague injury could not be adequately measured in terms of damages.

OBJECTION NOT CORRECTED.

Subparagraph 6.2(6)a(2) provided that Iowa's employers must make "reasonable accommodation" to an applicant's physical or mental handicaps. It was the feeling of the committee the Act required only that a handicapped individual who was capable of performing the job could not be discriminated against, while the rule would require the job to be tailored to individuals handicap.

OBJECTION CORRECTED. (Rule has subsequently been re promulgated).

Deposits on beverage containers-The department of environmental quality adopted subrules 34.3(2) and 34.8(2) which required beverage containers to be marked with a specified type and forbade a distributor from crushing cans. It was the opinion of the committee that the printing requirement was unduly restrictive, while the ban on crushing placed an unfair burden on retailers who needed to crush cans to save space.

OBJECTION ON PRINTING CORRECTED

OBJECTION ON CRUSHING CANS NOT CORRECTED

Labor-The department of labor adopted rule 8.5 prohibiting discrimination by a potential employer against an applicant who had exercised rights under the Occupational Safety Act. Committee objected on the grounds only discrimination by the employer was prohibited.

OBJECTION NOT CORRECTED.

Rule 8.16 provided that a statutory mandate was "advisory" in nature. Committee objected that a mandate could not be diluted by administrative rule.

OBJECTION CORRECTED

Licensee's, advertising-The board of dental examiners proposed rules greatly restricting a dentist's right to advertise. Objection based on the grounds rules were unduly restrictive and violative of principles enunciated by the US Supreme Court.

OBJECTION NOT CORRECTED

Licensee discipline-real estate commission proposed rule 2.2 which established a statute of limitations for the imposition of licensee discipline. Objection based on the grounds statute did not contain

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nor did it contemplate a time limitation for the filing of a disciplinary complaint.

OBJECTION NOT CORRECTED

Licensee qualifications-The real estate commission adopted rule 2.2 provided that an applicant for licensure first take the examination and then apply for licensure; the rule also required the submission of a credit bureau report. Objection based on the grounds such provisions were beyond the authority of the commission.

OBJECTION NOT CORRECTED

Nursing homes-The health department struck provisions which allowed nursing homes to make up 25% of their staffing by volunteers. It was the feeling of the committee the replacing of volunteers by paid staff would unduly raise bed costs without a commensurate rise in the quality of care.

OBJECTION NOT CORRECTED

Ombudsman-The department of job service proposed rules which in effect denied the ombudsman telephone access to claimant information when that information was necessary to investigate that claimant's problems. Objection based on the grounds ombudsman was a "public assistance agency" entitled to expedited access to information.

OBJECTION CORRECTED.

Pesticides-The department of agriculture implemented a mandatory reporting program for those wishing to apply a pesticide toxic to bees. Objection based on the grounds the statute did not provide for such a mandatory program.

OBJECTION NOT CORRECTED

Utility regulation-The commerce commission proposed rules which did not contain any maximum amount that could be demanded as a deposit for utility service. Objection based on the grounds that a maximum was necessary to ensure utilities did not "cull" unwanted customers by demanding an unreasonably high deposit.

OBJECTION CORRECTED

The committee voted three additional objections on proposed rules. While such an objection has no force, they served to put the agency on notice that the committee would definitely impose an objection if the rule as adopted remained the same. The objections and their ultimate disposition is as follows

Drivers license- The department of transportation, in deference to grocers and tavern owners, proposed to mark licenses issued to persons under the age of eighteen with a red bar; thus identifying that person as too young to purchase alcohol. Objection was based on the grounds this modern version of the scarlet letter was beyond the intent of Chapter 321, the Code, which was soley concerned with one's eligibility to drive a motor vehicle.

OBJECTION CORRECTED

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Mortgages, redlining-Due to poor drafting, Iowa's statutes outlawing redlining could be read to impose differing information requirements on Iowa's financial institutions. It was the opinion of the committee that submission of a federal disclosure report would meet the requirements of the state law.

OBJECTION CORRECTED

Social Welfare-The department of social services proposed the state pay for property repairs needs on ADC recipients homes costing more than \$10. Committee felt this discouraged even the simplest of do-it-yourself types of repairs and suggested the limit be raised to \$25.

OBJECTION CORRECTED

RULES SUSPENDED IN 1979

The committee used its power to delay the effective date of a rule into the following session of the General Assembly only twice in 1979.

Civil Rights-Rules requiring Iowa's employers to make "reasonable accomodation to handicapped job applicants were delayed pending legislative consideration.

RULE WITHDRAWN (Subsequently re promulgated)

Political Campaigns-The campaign finance committee proposed that out-of-state political committees must comply with Iowa's campaign finance laws. Both the committee and the Attorney General felt these provisions were beyond the statutory authority of the agency and the rule was delayed pending legislative consideration.

NO LEGISLATIVE ACTION

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