



Administrative Rules Review Committee

# THE RULES DIGEST

August 2012

**Scheduled for Committee review**  
**Tuesday August 14<sup>th</sup>, 2012**  
**Room #116**

Reference  
XXXV IAB No. 01(07/11/12)  
XXXV IAB No. 02(07/25/12)

## **HIGHLIGHTS IN THIS ISSUE:**

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<i>MIXED DRINKS AND COCKTAILS, Alcoholic Beverages Division, .....</i>	<i>2</i>
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## **PUBLIC SAFETY DEPARTMENT**

9:05

*Electrical inspection of farm installations, 661 IAC 552.1, SELECTIVE.*

A state board licenses electricians and electrical contractors; this licensing program requires inspection for “[a]ll new electrical installations for commercial or industrial applications.” The licensing board responsible for the program defined a commercial installation as: “an installation intended for commerce, but does not include a residential installation.” Rule 661-551.1(2). Rule 661-551.2(1), then states in part: “An electrical installation on a farm ... shall require a state electrical permit, and may be subject to a state electrical inspection...”

This rulemaking came before the Committee in January 2010. After extensive discussion the Committee referred this issue to the General Assembly, but took no further action. During the legislative session, the General Assembly also took no action.

In January, 2012 the Governor filed an objection to rules 661-551.1(2) and 661-551.2(1) on the grounds they were beyond the authority of the agency. In part the objection states:

Iowa Code chapter 103 does not grant authority to the Electrical Examining Board to adopt rules to regulate electrical installations on farms by requiring a request for an inspection, a permit and/or an inspection. I find that the Electrical Examining Board went beyond the authority delegated to the agency when it included farm electrical installations within the definition of a "commercial installation" in Iowa Admin. Code r. 661-551. 2. I further object to that portion of the third sentence of EXCEPTION 1 to Iowa Admin. Code r. 661-552.1(1) which requires a state electrical permit and/or an electrical inspection for a farm electrical installation as it is beyond the delegated authority of the agency.

An objection reverses the burden of proof in any subsequent litigation challenging the validity of the rule at issue. Litigation is now pending on these issues.

In an order dated June 22, 2012 the Commissioner of Public Safety issued an order which terminated mandatory inspections of farm facilities "in order to more efficiently allocate resources of the State."

## **TRANSPORTATION DEPARTMENT**

9:50

*Rest Area Sponsorship Program, Highway Helper Sponsorship Program, 07/11/12 IAB, ARC 1087C, ADOPTED.*

The Department adopts two new clean-up programs for rest stops and highways. The rest area sponsorship program allows a person, a firm, or an entity to sponsor a rest area by providing a monetary contribution, in exchange for an acknowledgment sign on the main-traveled way of an interstate highway and an interior sign within the primary rest area building. The sponsors will provide the sign, which must measure 24 inches high and 48 inches wide. The department shall review the acknowledgment sign proposed by the sponsor; the acknowledgment will not contain an advertisement or a partisan endorsement.

The highway helper sponsorship program allows a person, a firm, or an entity to provide a monetary contribution to assisting in the funding of that service, in exchange for an acknowledgment sign on the main-traveled way of an interstate highway patrolled by the highway helper vehicles.

## **ALCOHOLIC BEVERAGES DIVISION**

10:00

*Mixed drinks and cocktails, 06/13/12 IAB, ARC 0163C, ADOPTED.*

2012 Iowa Acts, House File 2465, §22 requires the division to develop rules allowing mixed drinks or cocktails to be mixed by the licensee that are not for immediate

consumption and may be stored, for no longer than seventy-two hours, in a labeled container in a quantity that does not exceed three gallons. The Act also provides that the mixed drinks or cocktails shall not include hallucinogenic substances or added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine (e.g.: Red Bull).

Any mixed drink or cocktail not consumed within 72 hours of the contents being placed into the empty container shall be destroyed. The licensee must maintain detailed records for three years on each batch of mixed drinks; the record must contain:

- The month, day, and year the contents are placed into the empty container.
- The exact time the contents are placed into the empty container.
- Each alcoholic beverage, including the brand and the amount, placed in the container.
- Each nonalcoholic ingredient.
- The recipe title and directions for preparing the contents.
- The size of the batch.
- The identity of the person who prepared the contents.
- The exact time, month, day, and year the contents of the container are destroyed and disposed of or entirely consumed.
- The method of destruction and disposal.
- The identity of the person who destroyed and disposed of the contents.

## **ENVIRONMENTAL PROTECTION COMMISSION**

10:10

*Septic tanks and private water systems, 07/11/12 IAB, ARC 0208C, ADOPTED .*

This filing amends existing rules relating to septic tanks and private systems. The rules in part implement 2011 Iowa Acts, Senate File 321, relating to the disposal of wastewater from small-scale farm food processing operations, such as cheese-making, honey, and winery operations. The rules limit the amount of wastewater that can be applied to farmland and limits the harvesting of crops that have been in contact with the wastewater. The application rate cannot exceed 30,000 gallons per acre per year or

1,500 gallons per acre per day. Only 30,000 gallons of “septage” per acre of cropland per year may be applied.

These amendments also implement 2010 Iowa Acts, House File 2437; the Act provides certain exemptions to the requirement that systems be inspected when the property is transferred. Other changes include the system setback distance to wells.

### **PROFESSIONAL LICENSURE DIVISION**

1:20

*Sign language interpreters and transliterators, 07/25/12 IAB, ARC 0228C, NOTICE.*

Iowa law requires that all persons providing interpreting services must be tested and licensed. This rulemaking revises the tests required for persons who wish to be licensed as sign language interpreters and transliterators. In the past the testing requirements have been controversial. At a 2009 meeting an earlier set of requirements were reviewed; at that time Opponents noted the high rate of failure for the required tests and the looming shortage of licensed interpreters. Concerned parents commented about the lack of available interpreters, noting the unavailability of stand-in interpreters when the regular interpreter is absent. Opponents also stated that graduates of interpreter classes were insufficient to fill the need, and that the graduates are struggling to pass the test.

The board has schedule a public hearing for this proposal, on the morning of the ARRC meeting. That hearing should provide insight as to whether the underlying issues have now been resolved.

### **REVENUE DEPARTMENT**

2:10

*Sourcing of taxable services, 07/11/12 IAB, ARC 0199C, NOTICE.*

This rulemaking establishes new Administrative Code chapter 223, which provides detailed rules for sourcing sales of services that are taxable in Iowa under Iowa Code section 423.2. The proposed new chapter is intended to implement 2011 Iowa Code chapter 423, otherwise known as the Streamlined Sales and Use Tax Act. The proposed new chapter defines relevant terms, clarifies, and provides examples of, where a sale of services performed on tangible personal property should be sourced, and also clarifies, and provides examples of, where a sale of personal care services should be sourced.

### **HUMAN SERVICES DEPARTMENT**

2:30

*Speech-language pathologists, 07/11/12 IAB, ARC 0203C, NOTICE.*

Senate File 2158 requires the department to adopt rules allowing licensed speech pathologists, "including" those in independent practice, to receive Medicaid payments. The rules proposed by the Department differ from the statutory provisions. The Act allows all licensed speech pathologists to participate in the Medicaid program, while the proposed rules limit eligibility to speech pathologists who are "in private practice independent of the administrative and professional control of an employer such as a physician, institution, or rehabilitation agency."