



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

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THE RULES DIGEST

April, 2005

Scheduled for committee review
Thursday March 31 and Friday, April 1, 2005
Senate Room #116

Reference
XXVII IAB No. 19(03/16/05)
XXVII IAB No. 20(03/30/05)

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HUMAN SERVICES DEPARTMENT

9:10

Limits on shelter care services, IAB Vol. XXVII, No. 20,
ARC 4076B, ADOPTED.

This filing sets limits on eligibility and duration
for rehabilitative treatment services for children
placed in emergency shelter care, foster group care
and children placed in psychiatric medical
institutions.

Provisions which relate to shelter care were
informally reviewed by the committee in
December, 2004. They provide that children placed
in emergency shelter care are not eligible for
family-centered supervision services; other types
of services are limited to 8 units of therapy and
counseling and 12 units of skill development, all
provided within 30 days for the purpose of family
reunification.

Shelter care is designed to provide emergency
care for youth until they can be safely returned
home or longer term treatment can be arranged.
The department's position is that shelter care is a
short-term, interim service and long-term services

should not be provided in those shelters.
Representatives of the facilities are concerned this
change, along with other administrative changes
that are not going through the rulemaking process
will reduce funding and ultimately reduce the
viability of shelter services, especially in rural
Iowa.

AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT

9:30

Livestock importation, IAB Vol. XXVII, No. 20, ARC
4075B, NOTICE.

The department proposes to centralize the
importation requirements for all livestock species,
along with horses, dogs and cats. into a single
chapter.

No animal that has or has been exposed to any
communicable disease or that originates from a
quarantined area may enter Iowa, unless approved
by the State Veterinarian. The importation of
certain exotic pets, such as prairie dogs or African
pouch rats is flatly prohibited.

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All imported livestock must be accompanied to a certificate of veterinary inspection, unless going directly to slaughter. Animals may not be imported from a quarantined area. Testing requirements and exemptions vary with the particular species.

A new program is established for a "Swine Production Health Plan" administered by a swine production enterprise. This type of operation consists of multiple production sites, often in separate states, that are connected by ownership or contractual relationships; the animals move between sites while remaining under the control of a single owner or a group of contractually connected owners.

Under this program swine may move into Iowa without individual identification if they have been kept on an identified premises and were subject to veterinary inspection every 30 days; several other conditions also apply.

PUBLIC SAFETY DEPARTMENT

9:45

Regulatory analysis: minimum training standards for fire fighters, IAB Vol. XXVII, No. 19.

At its August 2004 meeting the Administrative Rules Review Committee voted to request a regulatory analysis concerning the impact of ARC 3482B, relating to minimum training standards for firefighter training. That notice was published in July, 2004. In essence the proposal would require persons engaged in "structural fire fighting" to complete a training curriculum equivalent to what is established by the National Fire Protection Association as the training requirements for certification as a Fire Fighter I.

The effect of the analysis request is to postpone the final adoption of the rule until twenty days after a summary of the analysis is published in the IAB. This publication in the Bulletin triggers the 20 day period, from March 16, 2005; thus the rule can be adopted in final form as early as April 5th.

The summary basically states that implementation of the proposed standard would cost approximately \$300,000 to individual fire fighters or their departments and approximately

\$1.1 million being paid by the state out of the fire fighter training and equipment fund. The analysis emphasizes that it provides estimate only, since an accurate count of volunteer firefighters does not exist. The full text of the analysis is available on the departments electronic website: www.state.ia.us/government/dps.

ENVIRONMENTAL PROTECTION DIVISION

10:30

Title V permits: general revisions, IAB Vol. XXVII, No. 19, ARC 4059B, NOTICE.

The EPC proposes a scattered series of amendments to 571 IAC chapters 20 through 25, relating to air pollution. The bulk of these amendments relate to Chapter 22—Title V permits. Most any significant source of air contamination is required to obtain a Title V permit from the division, in effect licensing and regulating that source. These permits are subject to review and public comment prior to issuance. The permitting requirement does not apply to such things as automobiles, most farm equipment or pollution control devices and other minor sources of pollution.

Many of these revisions are in response to changes in federal regulations and simply update existing citations----many relating to acid rain; others are clarifications to existing rules, none appear to be controversial.

ENVIRONMENTAL PROTECTION DIVISION

10:30

Solid waste comprehensive planning, IAB Vol. XXVII, No. 19, ARC 4062B, NOTICE.

After consultation with an advisory committee in 2004 the EPC proposes revisions to its rules concerning the comprehensive planning requirements for solid waste disposal systems. The revisions consist of taking material currently in manual form and adding it to the rules and updating existing provisions.

Every city and county must provide for an integrated solid waste management system for the

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waste generated within its jurisdiction; the system must be designed to meet the state's waste reduction and recycling goals. Perhaps the most important aspect of the solid waste planning requirements is the statutory goal set out in §455D.3 which call for the reduction of the volume of waste entering landfills from a 1988 baseline: the goal is a 25% reduction by 1992 and a 50% reduction by 2000. Systems which fail to meet this goal must pay a fifty cents per ton fee to the department of natural resources; funds raised by this fee are used to fund alternatives to landfills. The system must also conduct a local educational and promotional program on recycling.

§455B.310, 2005 Code, authorizes the department to collect fees for the disposal of solid waste at sanitary landfills. The fees deposited in the solid waste account of the groundwater protection fund. Proposed rule 110.13 sets out a detailed procedure for the calculation of these fees. All sanitary landfills which are subject to the permitting requirements of the department must pay the required fee for each ton of solid waste disposed of in the landfill. The amount of the fee varies depending on compliance with the waste diversion requirements.

ETHICS AND CAMPAIGN FINANCE DISCLOSURE COMMISSION

No Rep

Honorariums, IAB Vol. XXVII, No. 19, ARC 4041B, NOTICE.

§68B.23, 2005 Code, provides that, a government official or employee shall not accept compensation or anything of value, from a restricted donor, in relation to a speaking engagement. A restricted donor is defined in §68B.2(24) and basically includes any person who has financial or regulatory dealings with the official or employee. The proposed rule clarifies this prohibition, allowing payment of actual expenses for registration, food, beverages, travel, or lodging paid in return for participation on a panel or for a speaking engagement at a meeting. Non-monetary items that are given as an

honorarium must be either donated to a charity or other public.

ETHICS AND CAMPAIGN FINANCE DISCLOSURE COMMISSION

No Rep.

Misuse of state property, IAB Vol. XXVII, No. 20, ARC 4083B, ADOPTED.

§68B.32A(12), 2005 Code, directs the ethics board to establish rules relating to the misuse of public property by executive branch officials and employees, as well as candidates for statewide office. This final rule provides a brief, non-exclusive list of the more common types of misuse; they include using public property:

- To engage in an outside employment or activity that leads to an unacceptable conflict of interest;
- To knowingly and purposefully send, receive, or view obscene material;
- For personal financial gain;
- For personal benefit to the detriment of the state;
- By removing it from a state building or facility for personal use.
- To engage in political activities

When these rules appeared as a notice of intended action, it was noted that the misuse of public property had already been addressed as a state personnel issue. The department of administrative services has rules set out in 11 IAC Chapters 60, 65 and 66 contain provisions relating to the discipline and conduct of executive branch employees. Board representatives responded: first, that the provisions of section 68A.32 mandate rule making concerning the misuse of government property; and second, that the board rule has broader application because it regulates candidates for statewide office as well as state employees and officials.

REAL ESTATE COMMISSION

No Rep.

Discipline of unlicensed persons, IAB Vol. XXVII, No. 19, ARC 4052B, NOTICE.

§543B.34, 2005 Code, clearly states that the jurisdiction of the board applies to any "person who assumes to act [as a broker or real estate sales person] capacity within this state." That section goes on to list a variety of actions that can result in

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discipline. The proposed rules establish a number of additional disciplinary grounds for unlicensed persons; these include:

- Performing acts or practices which require licensure.
- Representing oneself to the public as a real estate broker, broker associate, or salesperson, without first obtaining a license.
- Violating one or more of the provisions of Iowa Code section 543B.34 as they relate to acts or practices by unlicensed persons.
- Use of an expired, suspended, revoked, or nonexistent license.
- Falsely impersonating a licensed real estate professional.
- Providing false or forged evidence to obtain a license.
- Knowingly aiding or abetting an unlicensed person in any activity identified in this rule.

Since an unlicensed person cannot have a license suspended or revoked, the proposed rules state that the commission can issue a cease and desist order and may impose civil penalties against an unlicensed person of up to the greater of \$10,000 or 10 percent of the real estate sale price.