



Legislative Research Council

Rules Review Committee Minutes

**Three hundred forty-second meeting
Tuesday
July 8, 2014**

**Room 414
State Capitol
Pierre, South Dakota**

The three hundred forty-second meeting of the Rules Review Committee was called to order by Chair Representative Timothy Johns at 10:00 a.m. CDT, on July 8, 2014, in Room 414 at the State Capitol, Pierre, South Dakota, and via the Digital Dakota Network (DDN) at the following locations: Department of Human Services, 2361 Dakota Ave. S., Huron, South Dakota; Mitchell Technical Institute, 1800 E. Spruce, Room TC 155, Mitchell, South Dakota; South Dakota School of Mines and Technology, 501 E. St. Joseph St., Room CB 110, Rapid City, South Dakota; University Center, 4801 N. Career Ave., Room FADM 145, Sioux Falls, South Dakota; and the Department of Transportation, 1306 W. 31st St., Yankton, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Jim Bradford, Jean Hunhoff, and Mike Vehle (Vice Chair); and Representatives Peggy Gibson, Anne Hajek, and Timothy Johns (Chair). Staff members present were Doug Decker, Code Counsel, and Kris Schneider, Senior Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For the purpose of continuity, these minutes are not necessarily in chronological order. This meeting was recorded by South Dakota Public Broadcasting. The archived recording is available at the LRC website at <http://legis.sd.gov> under "Interim."

Approval of Minutes

Representative Hajek moved, seconded by Senator Hunhoff, that the minutes of the June 3, 2014, meeting be approved. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Rules Reviewed

Department of Game, Fish and Parks – Adopt an Application for License rule to require all deer hunters possessing an archery, muzzleloader, youth or mentor deer license to obtain a free access permit to hunt on the Hill Ranch Game Production Area (Unit 27L), Custer National Forest (Unit 35L), and Little Moreau Game Production Area (Unit 24B); amend Archery Restrictions rules to eliminate existing archery equipment restrictions which prohibit a person hunting with a bow and arrow from using or possessing (a) barbed points except for taking fish and frogs, (b) bolts or darts, (c) mechanical broadheads while hunting elk,

(d) mechanical broadheads with a cutting diameter greater than two inches, (e) electronically lighted sight pins, (f) broadheads with a diameter at least 7/8 inch wide, and except for turkey hunting, be at least as long as it is wide, and (g) blunt points less than 9/16 inch wide to hunt turkey; and provide exceptions to the general prohibition against using electronic devices mounted to a bow by allowing use of cameras, video cameras or cell phones used exclusively for photographic purposes, lighted sight pins and illuminated arrow nocks; prohibit a person hunting with a bow and arrow from using or possessing any of the following: (a) electronic string releases, (b) compound bows shorter than 28 inches as measured from the top of the upper wheel or cam to the bottom of the lower wheel or cam, (c) an arrow, including the attached broadhead, weighing less than 275 grains when hunting big game animals, (d) an arrow that is less than 26 inches long when measured from the notch of the nock to the end of the shaft, not including the blunt or broadhead, (e) an arrow without a broadhead (fixed or mechanical) that has at least two metal cutting edges, except blunt points may be used when hunting turkeys, and (f) a bow that measures less than 40 pounds pull when hunting elk or a bow that measures less than 30 pounds pull when hunting all other big game animals; and repeal ARSD § 41:06:05:02; amend a Waterfowl Hunting Seasons (Goose Hunting Season – August Management Take) rule to modify the season dates to run from the third Saturday of August to August 31; amend a Black Hills Deer Hunting Season rule to establish the number and types of licenses offered this year to none and eliminate Unit BHD-ZZ1; amend a West River Prairie Deer Season rule to establish the number and types of resident and nonresident licenses/tags available; eliminate Unit 53L (limited access unit) and include it in Unit 53A (Perkins North); and eliminate Units WRD-ZZ1 and WSD-ZZ1; amend East River Deer Hunting Season rules to establish the number and types of licenses available and eliminate Units ERD-ZZ1 and ESD-ZZ1; amend Archery Deer Hunting Season rules to change unlimited "any antlerless deer" licenses to unlimited "antlerless whitetail deer" licenses; for Unit ARD-LM1, "antlerless whitetail deer" licenses would not be valid in the following deer hunting units: BH1, 01A, 02C, 05A, 06A, 07A, 08A, 11A, 11B, 12A, 17A, 18A, 19A, 20A, 21A, 21B, 27A, 27B, 27L, 22A, 23A, 25A, 29A, 32A, 34A, 35A, 35C, 35L, 37A, 39B, 43A, 44A, 45D, 49A, 49B, 46A, 48A, 52A, 53A, 55A, 61A, 62A, 64A, 65A, and 67A; remove from the list of "restricted areas" that portion of Union County north of the Missouri River, west of Interstate 29, south of Union County Road 23, and east of the west boundary of the Adams Homestead and Nature Preserve; reduce the number of "any deer" archery access permits for the Adams Homestead and Nature Preserve; eliminate Unit ARD-LM2; provide that no person may apply for and receive more than 3 archery deer licenses of which only one can be an "antlerless whitetail deer" license; and change the season end date from January 15 to December 31 for Sand Lake National Wildlife Refuge; amend National Wildlife Refuge Deer Hunting Season rules to change "any whitetail deer" licenses to "any deer" licenses and offer no "antlerless deer" licenses for LaCreek National Wildlife Refuge; set the number of resident and nonresident "any deer" licenses for Waubay National Wildlife Refuge; and eliminate Unit RFD-ZZ1; amend a Youth Deer Hunting Season rule to eliminate Unit YOD-LMS and limit youth deer hunters to one single tag "any antlerless deer" license; amend General Muzzleloading Deer Hunting Season rules to change unlimited "any antlerless deer" licenses to unlimited "antlerless whitetail deer" licenses; for Unit MZD-LM1, "antlerless whitetail deer" licenses would not be valid in the following deer hunting units: BH1, 01A, 02C, 05A, 06A, 07A, 08A, 11A, 11B, 12A, 17A, 18A, 19A, 20A, 21A, 21B, 27A, 27B, 27L, 22A, 23A, 25A, 29A, 32A, 34A, 35A, 35C, 35L, 37A, 39B, 43A, 44A, 45D, 49A, 49B,

46A, 48A, 52A, 53A, 55A, 61A, 62A, 64A, 65A, and 67A; eliminate Units MZD-LM2 and MZD-ZZ1; and provide that no person may apply for and receive more than 2 muzzleloader deer licenses of which only one can be an "antlerless whitetail deer" license; and amend Trapping Prohibitions rules to prohibit the use of live mammals or live birds to aid in the taking of furbearers, predators and varmints via traps and snares; and require all trapping equipment including traps and snares (set and unset), stakes, cables, chains, wires, or other devices used for the purpose of attaching a trap or snare, to be removed from public lands and public road rights-of-way prior to May 1.

Mr. Tony Leif reviewed the proposed rules.

Representative Gibson moved, seconded by Representative Johns, that the review of the rules proposed by the Department of Game, Fish and Parks is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Revenue: SD Commission on Gaming – Amend Gaming rules to prohibit licensees employed by manufacturers or distributors from playing a device operated on a slot management system or a device sold or leased by the manufacturer; prohibit communication by use of electronic devices and to further prohibit electronic devices from being placed on or used during the play of any licensed gaming device; require licensees holding slot tournaments to provide additional information to the Executive Secretary prior to a game or slot tournament beginning; clarify that additional tournament buy-ins are permitted in the Executive Secretary's discretion, but to prohibit unconditional additional buy-ins; require tournament seating to be randomly assigned by a method approved by the Executive Secretary; require the periodic removal of cards used on a blackjack table and to set forth the procedure for the cards removal; allow for a variation of the play of blackjack known as Dead Man's Hand; allow for a variation of the play of blackjack known as War blackjack; require the periodic removal of cards used on a poker table and to set forth the procedure for the cards removal; provide for additional player rules in poker; define the criteria by which the Commission may place a person on the exclusion list pursuant to SDCL § 42-7B-61; and provide for the appropriate distribution and contents of the exclusion list.

Mr. Larry Eliason, Executive Secretary, **Mr. Mike Shaw**, Attorney for the Commission, Pierre, and **Mr. Craig Sparrow** reviewed the proposed rules.

Representative Gibson moved, seconded by Representative Hajek, that the review of the rules proposed by the Department of Revenue: SD Commission on Gaming is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Social Services: Division of Economic Assistance – Amend rules to update the federal poverty level; update terminology and applicable definitions to reflect current language; modify eligibility requirements for multiple groups by removing resource requirements for modified adjusted gross income eligibility groups and reference to aid to

families with dependent children income requirements; and modify residency requirements for certain program eligibility.

Ms. Teresa Schulte reviewed the proposed rules.

Representative Hajek moved, seconded by Senator Vehle, that the review of the rules proposed by the Department of Social Services: Division of Economic Assistance is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Labor and Regulation: SD Athletic Commission – Adopt rules to establish the requirements for approval of a boxing, kickboxing or mixed martial arts contest; prohibit certain types of contests; establish requirements for bout contracts; establish safety requirements for contests; establish the grounds for denial of an application for registration or licensure under Article 20:81; establish drug and pregnancy testing requirements for contestants; recognize medical, administrative or disciplinary actions of other jurisdictions; establish disciplinary action for infractions of SDCL 42-12 and Article 20:81; set the schedule of fees for registration or licensure of contestants, contests, and parties involved in contests; set the fee for the review of a request for exemption of an amateur organization or educational institution for certain provisions of SDCL 42-12 and Article 20:81; set the requirements for registration or licensure of all contestants, contests and parties involved in contests; set the minimum requirements for boxers, contests, scoring, and rings, participating in or used in a boxing contest; establish a list of prohibited drugs, stimulants and nonprescription preparations; provide for an automatic suspension of contestants following a contest; adopt rules for amateur boxing contests; set the minimum requirements for mixed martial artists, contests, scoring, and rings, participating in or used in a mixed martial arts contest; establish a list of prohibited drugs, stimulants and nonprescription preparations; provide for an automatic suspension of contestants following a contest; adopt rules for amateur mixed martial arts contests; adopt the World Kickboxing and Karate Association's rules of competition for all kickboxing events; establish requirements for tickets sold for a boxing, kickboxing or mixed martial arts contest; define gross revenue from a contest for purposes of determining the contest fee; establish the financial records required to be maintained and submitted to the Commission; establish the criteria the Commission will use to recognize amateur organizations and educational institutions for exemptions from the provisions of SDCL 42-12 and Article 20:81; and establish the process by which the Commission will receive, investigate and handle complaints for infractions of SDCL 42-12 and Article 20:81.

Ms. Jennifer Stalley, Executive Director, Pierre, reviewed the proposed rules and the process that had been followed. She noted a formatting correction on page 16, line 3 – indent and insert (7) and on line 13 – change (7) to (8).

Representative Johns noted on page 61, line 12, "heat" should probably be "head". Ms. Stalley agreed that it was a typo and would correct it.

Public Testimony

Dr. Greg Lowenberg, Rapid City, past president of the SD Board of Chiropractic Examiners, and a member of the SD Chiropractic Association, testified in opposition to the definition of a "Physician" as written in ARSD § 20:81:01:01(10). He provided testimony in support of adding chiropractors to the definition. He provided a copy of a letter from the SD Board of Chiropractic Examiners dated July 3, 2014, which stated it was within the scope of practice of chiropractors (**Document 1**). He asked that the rule be reverted back to a prior step so that it could be amended to include doctors of chiropractic.

It was noted that the chiropractors had a good argument that they should be included. It was suggested that they propose a change to the administrative rule during the next legislative session as there was not sufficient time to revert the rule back to a prior step as events were planned for August and the rules needed to be in place.

Representative Johns moved, seconded by Senator Hunhoff, that the review of the rules proposed by the Department of Labor and Regulation: SD Athletic Commission is complete. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Department of Health: SD Board of Nursing – Amend rules to update the definition section to include certified registered nurse anesthetist and clinical nursing specialist in the definition of licensee; update the references to the American Nurses Association Nursing Scope and Standards of Practice and Guide to the Code of Ethics for Nurses: Interpretation and Application for registered nurses and the National Association of Practical Nurse Education and Service's Standards of Practice and Educational Competencies of Graduates of Practical/Vocational Nursing Programs; repeal the course outline and criteria for approval of a course for the preparation of licensed practical nurses for kidney dialysis functions and grants authority for licensed practical nurses to perform kidney dialysis functions if a course is completed that includes required content; include the delegation of insulin administration by the subcutaneous route to unlicensed assistive personnel in accordance with a required protocol; require registration for individuals trained to perform insulin administration, for individuals that have completed a 20 hour medication administration training program and for dialysis technicians; remove certification language from the rules for certified registered nurses anesthetists and replace it with licensure; change the Nurse Education Loan Assistance Program to a scholarship program; and change the number of days that a nurse may practice on a former home state license when changing primary residence from 30 to 90 days.

Ms. Gloria Damgaard, Executive Director, SD Board of Nursing, Sioux Falls, reviewed the proposed rules and provided background on the process and pilot project that had occurred since HB 1152 (2008 Legislative Session).

Public Testimony

Ms. Mary Oyos, RN, CNS, Avera McKennan Hospital, Sioux Falls, spoke in support of the proposed rules. She was part of the pilot project and spoke highly of the model used.

Ms. Tammy Hybertson, RN, Centerville, spoke in support of the proposed rules as a parent of a child with diabetes.

Mr. Ben Tiensvold, SD Diabetes Coalition, Sioux Falls, spoke in support of the proposed rules.

Ms. Rita Baszler, RN, board member of the SD School Nurses Association, Huron, spoke in opposition to the proposed rules. She raised concerns regarding persons other than school nurses administering insulin to children and also questioned whether they should be calculating the dose. She asked that the rules concerning the delegation of insulin administered by unlicensed personnel be reverted back to a prior step for additional consideration.

Ms. Ann Fenske, parent of a child with diabetes and a school district employee, Huron, spoke in opposition to the proposed rules regarding the delegation of insulin administered by unlicensed personnel.

Representation Hajek noted on page 45, (6) – 30 days has been changed to 90 days, however on page 46, (7) – 30 days had not been changed. Ms. Damgaard stated this was an error and both should be 90 days.

Representation Gibson requested a copy of the virtual nurse study.

Representative Hajek moved, seconded by Representative Johns, that the review of the rules proposed by the Department of Health: SD Board of Nursing is complete.

A substitute motion was made by Representative Gibson that ARSD § 20:48:04.01:16 be reverted back to a prior step. Substitute motion died for a lack of a second.

Representative Hajek's motion prevailed on a roll call vote with 5 ayes, 1 nay. Members voting aye: Bradford, Hajek, Hunhoff, Johns, and Vehle. Member voting nay: Gibson.

Next Meeting

The next meeting of the Interim Rules Review Committee will be on Tuesday, August 12, 2014.

Adjournment

Senator Bradford moved, seconded by Senator Vehle, that the meeting be adjourned. Motion prevailed on a roll call vote with 6 ayes. Members voting aye: Bradford, Gibson, Hajek, Hunhoff, Johns, and Vehle.

Chair Johns adjourned the meeting at 12:58 p.m.