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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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WEST VIRGINIA
SECRETARY OF STATE

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September 16, 2002

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Lt. Col. W.B. Daniel
Natural Resources, Division of
Capitol Complex
Building 3, Room 840

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Revocation of Hunting and Fishing Licenses, 58CSR23**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

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SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Division of Natural Resources

Subject: Revocation of Hunting and Fishing Licenses, 58CSR23

PERTINENT DATES

Filed for public comment: June 21, 2002

Public comment period ended: July 21, 2002

Filed following public comment period: July 26, 2002

Filed LRMRC: July 26, 2002

Filed as emergency:

Fiscal Impact: None

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DEPT. OF NATURAL RESOURCES
SECRETARY OF STATE

ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 3 relates to the revocation of licenses. It has been amended to increase the period of suspension of the hunting and fishing licenses of any person convicted of killing a deer in violation of the law from one to two years.

Section 5 relates to the restoration of license privileges. Current law requires the Director to hold a hearing and make a full investigation before reinstating the license of a person who has been convicted of an offense which resulted in the killing of a human being, other than a negligent shooting. The proposed rule removes the requirement for a hearing.

Section 6 relates to the assignment of points. It has been amended to require the assignment of six points to any person found guilty of taking fish by an illegal method, exceeding the daily creel limit or using prohibited bait in a restricted area.

AUTHORITY

Statutory authority: W.Va. Code, §20-1-7, which provides, in part, as follows:

In addition to all other powers, duties and responsibilities granted and assigned to the director in this chapter and elsewhere by law, the director is hereby authorized and empowered to:

...(30) Promulgate rules, in accordance with the provisions of chapter twenty-nine-a of this code, to implement and make effective the powers and duties vested in him or her by the provisions of this chapter and take such other steps as may be necessary in his or her discretion for the proper and effective enforcement of the provisions of this chapter.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.