



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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September 15, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Andrew A. Brown
Division of Labor
Capitol Complex
Building 3, Room 319

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Amusement Rides and Amusement Attraction Safety Act, 42CSR17**

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 Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

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ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Division of Labor

Subject: Amusement Rides and Amusement Attractions Safety Act,
42CSR17

PERTINENT DATES

Filed for public comment: June 30, 1999
Public comment period ended: August 3, 1999
Filed following public comment period: August 4, 1999
Filed LRMRC: August 4, 1999
Filed as emergency:

Fiscal Impact: Not clear from the fiscal note

OFFICE OF THE ATTORNEY GENERAL
JUL 12 1 27 PM '99

ABSTRACT

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

Section 2 defines terms. It has been amended by deleting definitions of terms that are contained in the statute.

Section 10 relates to permit application requirements. It has been amended to require that applications be received by the Commissioner 15 rather than 7 days before the amusement rides intended use. This amendment is based on the statutory changes.

Section 11 relates to the fee schedule. It sets forth the statutory fees and requires that the annual permit and inspection fees be submitted with the application. Inspection fees are to be paid directly to an authorized inspector where one is utilized.

AUTHORITY

Statutory authority: W.Va. Code, §21-10-3, which provides, in part, as follows:

The division of labor shall propose legislative rules for promulgation for the safe installation, repair, maintenance, use, operation and inspection of all amusement rides and amusement attractions as the division finds necessary for the protection of the general public using amusement rides and amusement attractions...

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 PROVISION OF THE CODE?

Yes. However, the fiscal note does not reflect the increased revenue to be received from the increase in fees.

VIII. OTHER.

Counsel has technical modifications to suggest.