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OCT 18 8 45 AM '00

OFFICE OF THE SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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October 16, 2000

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

TO: Ken Hechler, Secretary of State, State Register

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

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Regulations Defining the Terms to be Used Concerning all Hunting and Trapping Regulations, 58CSR46**

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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Division of Natural Resources

Subject: Regulations Defining the Terms to be Used Concerning All
Hunting and Trapping Regulations, 58CSR46

PERTINENT DATES

Filed for public comment: July 31, 2000

Public comment period ended: August 31, 2000

Filed following public comment period: September 1, 2000

Filed LRMRC: September 1, 2000

Filed as emergency:

Fiscal Impact: None

OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE

SEP 25 10 24 AM '00

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ABSTRACT

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

Subsection 2.9 defining the word "paraplegic" has been deleted.

Subsection 2.10 redefines the term "An Individual Permanently Disabled in the Lower Extremities". Currently it is defined as "an individual who is missing both legs or who has a disability affecting both legs which requires permanent use of a wheelchair or crutches". The proposed rule defines the term as "an individual who is permanently and totally disabled from the waist down and is unable to ambulate without the full time use of a walker, two crutches or a wheelchair".

AUTHORITY

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

...(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.