

CHAPTER 142

ADMINISTRATIVE RULE REVIEW

SENATE BILL 00-120

BY SENATORS Perlmutter, Blickensderfer, Matsunaka, Wattenberg, Wham, and Hernandez;
also REPRESENTATIVES Kaufman, Grossman, Miller, Morrison, Smith, Gagliardi, and Gotlieb.

AN ACT

CONCERNING IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMITTEE ON LEGAL SERVICES IN
CONNECTION WITH LEGISLATIVE REVIEW OF RULES AND REGULATIONS OF STATE AGENCIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Rules and regulations scheduled for expiration May 15, 2000 - extension - exceptions. (1) Except as indicated, the expiration of all rules and regulations of agencies in the following principal departments, which rules and regulations were adopted or amended on or after November 1, 1998, and before November 1, 1999, and that are therefore scheduled for expiration May 15, 2000, is postponed, and the provisions of section 24-4-108 or 24-34-104, Colorado Revised Statutes, shall apply:

(a) Department of agriculture;

(b) Department of corrections;

(c) Department of education; except that the following rules of the state board of education concerning accreditation of schools and school districts (1 CCR 301-1) are not extended:

(I) Rule 2202-R-4.01 (1) (d), concerning districts joining the Colorado department of education's approved pilot project to develop more extensive longitudinal academic growth data;

(II) Rule 2202-R-4.02 (1), concerning Hearing/Appeal process;

(d) Department of health care policy and financing;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(e) Department of higher education;

(f) Department of human services; except that the following rules are not extended:

(I) The following rules of the state board of human services concerning child care facility licensing (12 CCR 2509-8):

(A) Rule 7.701.13 A., concerning waivers for a person who has applied for or been issued a certificate to operate a child care facility or a child placement agency;

(B) Rule 7.707.2 A. 1., concerning care being provided for 6 children from birth to 13 years of age;

(C) Rule 7.707.2 C. 1., concerning child care being provided to children from 24 months to 13 years of age;

(D) Rule 7.707.2 D. 3. a., concerning at least 50 calendar days prior to the proposed date of operation as an experienced provider, the applicant must submit certain items;

(E) Rule 7.707.58 A., concerning any child who is less than four years old and less than forty pounds being transported by vehicle;

(F) Rule 7.707.7 A. 5., concerning all pieces of permanently installed playground equipment;

(G) Rule 7.707.81 G., concerning an adequate number of high chairs and other suitable equipment;

(H) Rule 7.701.33 A., concerning each applicant for an original license or certificate for a family care home, or original license for a center, facility, or agency;

(I) Rule 7.701.33 B., concerning only in the case of a children's resident camp operating fewer than 90 consecutive days each calendar year;

(J) Rule 7.701.33 C., concerning at the time the annual declaration of compliance is submitted to the department, a criminal record is required;

(K) Rule 7.701.33 D., concerning each adult (18 or over) hired by a facility or agency must submit to CBI a complete set of fingerprints;

(II) The following rule of the state board of human services concerning policies and procedures manual (12 CCR 2510-1) of rules on fiscal administration and grants management for state and area agencies on aging: Rule 10.401 F., concerning funds appropriated by the General Assembly above the federally required amount being awarded in the following manner;

(g) Department of labor and employment;

(h) Department of law; except that the following rule is not extended: Rule 2 (b), concerning a majority of the total positions of the Board, excluding vacancies, shall

constitute a quorum for purposes of conducting official business, of rules of the peace officer standards and training board concerning P.O.S.T., operational manual (4 CCR 901-1);

(i) Department of local affairs;

(j) Department of natural resources;

(k) Department of personnel;

(l) Department of public health and environment; except that the following rules are not extended:

(I) The following rules of the air quality control commission, concerning Regulation No. 2, odor emissions (5 CCR 1001-4):

(A) Rule I.A. of Part B of Regulation No. 2, concerning the applicability of existing housed commercial swine feeding operations not being subject to the requirements of Part B, Regulation No. 2;

(B) Rule I.A.1., concerning the operation not being capable of housing 800,000 pounds or more of the live animal weight of swine;

(C) Rule I.A.2., concerning the operation contracting to produce swine for an affiliated agricultural cooperative;

(D) Rule I.A.3., concerning the operation being in existence as of November 3, 1998;

(II) The following rule of the water quality control commission, concerning the Colorado discharge permit system (5 CCR 1002-61) is not extended: Rule 61.3 (1) (d), concerning existing housed commercial swine feeding operations not being subject to requirements of section 61.13;

(m) Department of public safety;

(n) Department of regulatory agencies; except that the following rules are not extended:

(I) The following rules of the division of insurance, concerning life, accident, and health (3 CCR 702-4) of rules concerning non-discriminatory treatment of acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) related illness by life and health carriers: Paragraph M. of Section 5 of Regulation 4-2-9, concerning if an applicant is required to take an AIDS or HIV infection test in connection with an application for life or health insurance;

(II) The following rules of the state board of examiners of architects (3 CCR 706-1):

(A) Rule 100.103 B., concerning the Board communicating with a licensee requesting information and the licensee not responding to the request in the time

period indicated;

(B) Rule 100.303 A. 6., concerning the evaluation of experience;

(III) The following rules of the state board of nursing, concerning nursing (3 CCR 716-1), of Chapter XVII concerning rules and regulations for the Colorado certified nurse aide registry:

(A) Rule 4.2, concerning a finding of abuse, neglect or misappropriation of patient property may be removed;

(B) Rule 5.1. C., concerning the request is based upon evidence that the behavior was not a part of a pattern of abusive behavior or was a singular occurrence;

(C) Rule 5.2. A., concerning five years from the date of the final finding in cases of physical abuse, neglect in which harm to the patient resulted, or misappropriation;

(D) Rule 6.3. A., concerning evidence that the behavior that formed the basis of the finding was not part of a pattern of abusive behavior or neglect or that it was a singular occurrence;

(E) Rule 7.3. B., concerning a determination that the incident upon which the finding was based was not part of a pattern of abusive behavior or was a singular occurrence;

(F) Rule 7.3. C., concerning a determination that the evidence is sufficient to lead the board to believe that similar behavior will not be repeated;

(G) Rule 7.3. D., concerning a determination that the evidence is sufficient to show that the individual has been rehabilitated;

(IV) The following rules of the Colorado passenger tramway safety board concerning passenger tramway safety board rules and regulations (3 CCR 718-1): Rule 0.1, concerning Preamble and incorporation by reference;

(o) Department of revenue; except that the following rules are not extended:

(I) The following rule of the motor vehicle division concerning commercial driver's licenses (1 CCR 204-12): Rule F. (2) (a) (ii), concerning Harvesters or Beekeepers who are between the ages of 18 years old and 21 years may be issued a CDL and operate interstate during harvest operations;

(II) The following rules of the motor vehicle division concerning license plates, inspections, registration, ownership taxes, dealers, enforcement and hearing procedures (1 CCR 204-14):

(A) Paragraph 9., concerning violation of the restrictions and methods of use of depot plates will result in the following sanctions imposed by Motor Vehicle Registration Section, of rules on depot license plates;

(B) Paragraph 10., concerning licensees subject to loss of one or more depot plates

may request a hearing, in writing, within ten days of receiving notice of the pending action, of rules on depot license plates;

- (p) Department of state;
- (q) Department of transportation.

(2) The expiration of all rules and regulations of the public employee's retirement association, which rules and regulations were adopted or amended on or after November 1, 1998, and before November 1, 1999, and which are therefore scheduled for expiration May 15, 2000, is postponed.

(3) The recommendations of the committee on legal services as reflected in this act shall apply to the specified rules in the form in which said rules were considered and acted upon by the committee. Any amendments or other changes in the specified rules that became effective before November 1, 1999, that comply with the recommendations of the committee on legal services are not affected by this act. Any subsequent amendments or other changes in the specified rules that became effective on or after November 1, 1999, are not affected by this act.

SECTION 2. Repeal - property tax instructions. (1) The following instruction in the Assessors' Reference Library Volume 3, Chapter 5, dated December 17, 1998, of the division of property taxation, department of local affairs, is repealed: The listing of "horse boarding operations" under the example of "all other agricultural property" on page 5.15.

(2) The following instructions in the Assessors' Reference Library Volume 2, Chapter 6, as revised April 1999 and updated September 16, 1999, of the division of property taxation, department of local affairs, are repealed:

- (a) The listing of "horse boarding stables" in section 4180 4280, under all other agricultural properties;
- (b) The listing of "horse boarding stables" in section 4410, concerning personal property subclass code and description.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 10, 2000