



STATE OF NEW HAMPSHIRE
JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES
ROOM 219
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312

Action Minutes

APRIL 21, 2017

Members Present: Senators Reagan and French, and Representatives McGuire, Schmidt, Ladd, Hatch, Graham, Ebel*, and Matthews*. (*) Indicates alternate member.

(**) Part 1, Article 28-a of the N.H. Constitution was not an issue in the Committee's discussions or decisions in this meeting.

1. The meeting was convened at 9:00 a.m. by Sen. Reagan as Chair.

Members present at this time, aside from Sen. Reagan, were Sen. French and Reps. Schmidt, Ladd, Graham, Ebel, and Matthews.

Sen. Reagan designated Rep. Ebel as an alternate for Rep. Hatch until he arrived, and then for Sen. Feltes, who were absent. Sen. Reagan also designated Rep. Matthews as an alternate for Rep. McGuire until she arrived, and then for Sen. Avard, who were absent.

2. The Committee discussed the minutes of the Committee meeting on March 17, 2017.

Rep. Schmidt moved that the minutes be approved.

Rep. Ladd seconded.

Adopted.

3. The Committee discussed the following items on the Consent Agenda:

CONSENT AGENDA

2. Committee Approval of Final Proposals:

FP 2016-187 PESTICIDE CONTROL BOARD
Worker Protection Amendment

FP 2016-214 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Commissioner
Certification Payment Standards for Community-Based Behavioral Health Service
Providers

FP 2016-243 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Former Division of Human Services
Medicaid General Program Information and Provider Requirements

FP 2017-25 DEPARTMENT OF SAFETY
Commissioner
Limited Privilege Driver's License Rules

FP 2017-26 DEPARTMENT OF SAFETY
Commissioner
Wholesale Dealer Physical Requirements Rules

3. Committee Conditional Approvals:

FP 2016-201 DEPARTMENT OF ENVIRONMENTAL SERVICES
Air Related Programs
Asbestos Management and Control

Rep. Schmidt moved that the Committee approve the Consent Agenda, that is, approve the Final Proposals in Item #2 and conditionally approve Final Proposal 2016-201 in Item #3 based on the agency's conditional approval request.

Sen. French seconded.

Adopted.

4. The Committee discussed whether to postpone action on certain items to another Committee meeting.

Rep. Schmidt moved that the Committee postpone action on the following item to the next Committee meeting:

11. BOARD OF AUCTIONEERS

ROR 2016-139 Complaints and Hearing Procedures, Licensing Requirements, Continued Status, and Ethical Standards
(Response not yet received. Agency Response Deadline May 1, 2017. JLCAR Deadline June 20, 2017. Former rules expired January 1, 2006.)

Rep. Ladd seconded.

Adopted.

5. The Committee discussed an emergency rule filed by the Department of Environmental Services (Document #12160, effective April 17, 2017, Oil and Remediation Programs, Test Methods for Primary Containment Systems Testing of Diesel Fuel Tanks). Peter Demas represented the Department.

Rep. Hatch arrived during the discussion of this item. Rep. Ebel was now a voting member for Sen. Feltes, who was absent.

It was the consensus of the Committee to take no further action.

6. The Committee discussed Proposed Expedited Repeal EXP 2017-1 from the Lottery Commission (Racing and Charitable Gaming Division, Repeal of the Greyhound Racing Rules).

Rep. McGuire arrived during the discussion of this item. Rep. Matthews was now a voting member for Sen. Avard, who was absent.

Rep. Schmidt moved that the Committee approve Proposed Expedited Repeal 2017-1.

Rep. McGuire seconded.

Adopted.

7. The Committee discussed Final Proposal 2016-178 from the Liquor Commission (Liquor Rules Governing Meeting Procedures, Post Adjudicative Hearing Procedures). Daniel St. Hilaire and Rosemary Wiant testified for the Commission.

The Commission had submitted a conditional approval request in a letter dated April 20, 2017 and amended rules dated April 18, 2017.

Rep. McGuire moved that the Committee conditionally approve Final Proposal 2016-178 based on the request.

Rep. Schmidt seconded.

Adopted.

8. The Committee discussed Final Proposal 2016-179 from the Liquor Commission (Liquor Rules Governing Procedures for Suspensions of Licenses Prior to Hearing). Daniel St. Hilaire and Rosemary Wiant testified for the Commission.

The Commission had submitted a conditional approval request in a letter dated April 20, 2017 and amended rules mistakenly dated April 3, 2017.

Rep. Schmidt moved that the Committee conditionally approve Final Proposal 2016-179 based on the request.

Rep. McGuire seconded.

Adopted.

9. The Committee discussed Final Proposal 2016-180 from the Liquor Commission (Enforcement Policy for Liquor Rules and Sales of Tobacco Products). Daniel St. Hilaire and Rosemary Wiant testified for the Commission.

The Commission had submitted a conditional approval request in a letter dated April 20, 2017 and amended rules dated April 18, 2017.

Rep. Schmidt moved that the Committee accept the conditional approval request and conditionally approve Final Proposal 2016-180 based on the request.

Sen. French seconded.

Adopted.

10. The Committee discussed Final Proposal 2016-181 from the Liquor Commission (Liquor Rules Governing Licensee Credit and Billing Procedures). Daniel St. Hiliare and Rosemary Wiant testified for the Commission.

The Commission had submitted a conditional approval request in a letter dated April 20, 2017 and amended rules dated April 18, 2017.

It was the consensus of the Committee to move on the next item so that Committee staff could work with agency staff on a further amendment to the conditional approval request.

11. The Committee discussed Proposed Interim Rule INT 2017-7 from the Department of Health and Human Services (Former Division of Public Health Services, Home Health Care Providers). Michael Holt testified for the Department.

Rep. McGuire moved that the Committee approve Proposed Interim Rule INT 2017-7.

Rep. Schmidt seconded.

Adopted.

12. The Committee discussed Proposed Interim Rule INT 2017-8 from the Department of Health and Human Services (Former Division of Public Health Services, Home Hospice Care Centers). Michael Holt testified for the Department.

Rep. McGuire moved that the Committee approve Proposed Interim Rule INT 2017-8.

Sen. French seconded.

Adopted.

13. The Committee discussed Proposed Interim Rule INT 2017-9 (Former Division of Public Health Services, Hospice House). Michael Holt testified for the Department.

Rep. Schmidt moved that the Committee approve Proposed Interim Rule INT 2017-9.

Rep. McGuire seconded.

Adopted.

14. The Committee briefly discussed the agency rule reports received by the Committee from state agencies as requested in the Governor's rulemaking moratorium on January 5, 2017.

No further action was taken at this time.

15. The Committee resumed discussion of Final Proposal 2016-181 from the Liquor Commission (Liquor Rules Governing Licensee Credit and Billing Procedures). Daniel St. Hilaire and Rosemary Wiant testified for the Commission.

The Commission had earlier submitted a conditional approval request in a letter dated April 20, 2017 and amended rules dated April 18, 2017.

Rep. Schmidt amended his earlier motion to conditionally approve Final Proposal 2016-181 based on the request to also base the conditional approval on amending Liq 906.02 to replace “and handling fees” with “costs” in the third to last sentence, and replace “The commission will determine whether to assess such fees based on whether the commission incurs costs or bears the financial risk of loss for recovering and transporting the merchandise” with “The licensee shall bear shipping costs unless the merchandise was received in defective condition, the merchandise was shipped by commission error, or the licensee is experiencing financial hardship.”

Rep. McGuire amended her motion.

The motion as amended was adopted.

16. The Committee discussed the continued meeting scheduled for May 5, 2017.

It was the consensus of the Committee to cancel the continued meeting.

17. The Committee adjourned by consensus at 9:20 a.m.

Remaining members continued to discuss the agency rule reports received by the Committee from state agencies as requested by the Governor’s rulemaking moratorium of January 5, 2017.