

MINUTES
HOUSE BUSINESS COMMITTEE
HIXON SUBCOMMITTEE
Rules

DATE: Tuesday, January 27, 2015

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Hixon, Representatives Collins, Monks, Beyeler, Jordan

**ABSENT/
EXCUSED:** None

GUESTS: Susan Gambee, Shorthand Reporters; Merrillyn Cleland, Cosmetology Board; Tana Cory, Occupational Licenses; Michael Larsen, ID Dept. of Finance; Holly Cook, City of Caldwell; Tom Donovan, DOI; Tony Smith, ID Cosmetology School Owners; Tyler Porter, Idaho Assn. Mortgage Professionals; Jason Shaw, Administrative Rules

Chairman Hixon called the meeting to order at 1:30 PM.

DOCKET NO. 24-0201-1401: **Roger Hales**, Administrative Attorney on behalf of the Bureau of the Occupational Licenses, presented **Docket No. 24-0201-1401**, a Pending Rule for the Board of Barber Examiners which reduces regulation, simplifies the licensing of barber shops, and clarifies the sanitation rules. He said, in Idaho, an individual must possess a license to practice as a barber and, generally, must practice in a licensed shop for sanitation reasons. There are two types of shop licenses: primary and contiguous. A primary license is for the shop owner which allows the shop's employees to work in the shop without their own shop license. A contiguous shop license is for individuals who operate their own business and lease space in the shop from its owner. They are not employees but independent contractors who need their own shop license to comply with independent contractor laws.

Mr. Hales said the current rules requiring a contiguous license specifically describe the location of the contiguous work space. If a licensee moves their work space to the next station, they would need a new license. This proposal allows the contiguous shop to be located anywhere within the primary shop without filing new licensing paperwork. The proposed rules also clarify the inspection and sanitary rules of the Board.

In response to questions, **Mr. Hales** said those shops with living quarters will continue to require separation by a closing door. The additional language stating a primary license will not be issued for any location that is already licensed as a primary shop should not affect the transfer of ownerships. If needed, one license can be terminated and another instated on the same day. **Mr. Hale** said **Korinne Sword** brought this issue to the Board a year ago and has worked since then to provide flexibility to those working in a primary shop.

For the record, no one indicated their desire to testify.

MOTION: **Rep. Collins** made a motion to recommend the full committee approve **Docket No. 24-0201-1401**.

SUBSTITUTE MOTION: **Rep. Monks** made a substitute motion to send **Docket No. 24-0201-1401** to the full committee without recommendation for further discussion.

ORIGINAL MOTION WITHDRAWN: **Rep. Collins** withdrew his original motion to recommend the full committee approve **Docket No. 24-0201-1401**.

Mr. Hales informed the committee that Rep. Crane brought this rule change to the board on behalf of his constituent.

**VOTE ON
SUBSTITUTE
MOTION:**

Chairman Hixon called for a vote on the substitute motion to send Docket No. 24-0201-1401 to the full committee without recommendation for further discussion. Motion carried by voice vote.

**DOCKET NO.
24-0401-1401:**

Roger Hales, Administrative Attorney on behalf of the Bureau of Occupational Licenses, presented Docket No. 24-0401-1401, a Pending Rule of the Idaho Board of Cosmetology which reduces regulation by simplifying the licensing of cosmetology establishments. He said, this Pending Rule is similar to the Pending Rule for the Board of Barber Examiners. The current rules require a contiguous license specifically describe the location of the contiguous work space. If a licensee moves their work space to the next station, they would need a new license. This proposal allows the contiguous shop to be located anywhere within the primary shop. He said the Board sent postcards to more than 18,000 license holders advising them of the rule changes. No opposition was received.

MOTION:

Rep. Beyeler made a motion to recommend the full committee approve Docket No. 24-0401-1401.

**SUBSTITUTE
MOTION:**

Rep. Collins made a substitute motion to send Docket No. 24-0401-1401 to the full committee without recommendation for further discussion.

**ORIGINAL
MOTION
WITHDRAWN:**

Rep. Beyeler withdrew his original motion to recommend the full committee approve Docket No. 24-0401-1401.

**VOTE ON
SUBSTITUTE
MOTION:**

Chairman Hixon called for a vote on the substitute motion to send Docket No. 24-0401-1401 to the full committee without recommendation for further discussion. Motion carried by voice vote.

**DOCKET NO.
24-2501-1401:**

Roger Hales, Administrative Attorney on behalf of the Bureau of Occupational Licenses, presented Docket No. 24-2501-1401, a Pending Rule from the Idaho Driving Businesses Licensure Board. He said current law requires an individual to obtain certain classroom instruction and behind-the-wheel training hours in an approved apprenticeship program. Last year, the Legislature passed H 359 which allows the Board to waive the apprenticeship requirement for those applicants that have the required training and experience, and for those who hold an equivalent license in another state. He said the proposed rule implements the new law. The rule allows a waiver of the apprentice training program if an individual holds a current active unrestricted license from another state, or an individual has held an active unrestricted public driver education instructor license from the Idaho Department of Education for two years.

For the record, no one indicated their desire to testify.

MOTION:

Rep. Collins made a motion to recommend the full committee approve Docket No. 24-2501-1401. Motion carried by voice vote.

**DOCKET NO.
49-0101-1401:**

Roger Hales, Administrative Attorney on behalf of the Bureau of Occupational Licenses, presented Docket No. 49-0101-1401, the Pending Rule from the Idaho Certified Shorthand Reporters Board which clarifies the standards of the examination, its content, and qualifications for temporary permits. He said essentially the certified short hand reporters must possess certain skills. Through this rule, the Board is trying to provide measurable objectives for those skills. In addition, it provides clarification for those who apply for a temporary permit. In response to a question, Mr. Hales said there are currently 148 licensed shorthand reporters in Idaho and another 58 eligible to renew.

MOTION: **Rep. Monks** made a motion to recommend the full committee approve **Docket No. 49-0101-1401. Motion carried by voice vote.**

DOCKET NO. 12-0110-1401: **Michael Larsen**, Consumer Finance Bureau Chief for the Department of Finance, presented **Docket No. 12-0110-1401**, the Pending Rule which would promote consistent, uniform, and familiar industry standards in the marketplace by updating references to federal laws and regulations as amended through January 1, 2015. The pending rule also updates hyperlinks to referenced laws and regulations to provide the public with instant internet access in the Idaho Administrative Code to the referenced laws and regulations. He said updating these references is a regular undertaking by the Department to ensure against inconsistencies in federal and state requirements for individuals and businesses licensed under the Idaho Residential Mortgage Practices Act. In response to a question, Mr. Larsen said negotiated rule making was not used because this was a housekeeping issue meant to mirror federal law and regulations.

Tyler Porter, President of the Idaho Association of Mortgage Professionals, testified in support of **Docket No. 12-0110-1401.**

For the record, no one further indicated their desire to testify.

MOTION: **Rep. Collins** made a motion to recommend the full committee approve **Docket No. 12-0110-1401. Motion carried by voice vote.**

DOCKET NO. 18-0146-1401: **Tom Donovan**, Acting Director of the Department of Insurance, presented **Docket No. 18-0146-1401.** He said this Pending Rule tracks the National Association of Insurance Commissioners model regulation, developed by actuaries representing regulators and industry representatives, which allows companies to adjust reserves over time. Generally, the rule will result in higher reserves being held by companies. He said, there has been a national effort to make the changes set forth in this model widespread. Currently, 27 states have adopted these changes; five other states in addition to Idaho have the rule pending; and, it is believed another three states will adopt it this year.

For the record, no one indicated their desire to testify.

MOTION: **Rep. Collins** made a motion to recommend the full committee approve **Docket No. 18-0146-1401. Motion carried by voice vote.**

DOCKET NO. 18-0153-1401 **Tom Donovan**, Acting Director of the Department of Insurance, presented **Docket No. 18-0153-1401.** He said the first substantive change was to add a new definition for licensee to include an individual licensed as one of three categories of licenses: producer, adjuster, and public adjuster. The producer, previously and generally referred to as an agent or broker, is someone who sells, solicits or negotiates insurance. The adjuster is one who adjusts insurance claims hired by and working for the insurance carrier as an independent contractor or for fee or commission. The public adjuster is one who, for compensation, acts on behalf of an insured in first-party claims on real or personal property. This rule also applies continuing education requirements to adjusters. Language added also clarifies that courses approved in the producer's subject areas should be used by producers and vice-versa. This recognizes that the existing language allows for classes in other topics than those listed if the licensee demonstrates they contribute to professional competence.

For the record, no one indicated their desire to testify.

MOTION: **Rep. Beyeler** made a motion to recommend the full committee approve **Docket No. 18-0153-1401. Motion carried by voice vote.**

DOCKET NO. 18-0144-1401: **Tom Donovan**, Acting Director of the Department of Insurance, presented **Docket No. 18-0144-1401**, a Pending Fee Rule. He said, in addition to minor technical changes eliminating surplus language, the pending rule expressly provides that the \$500 registration fee is applicable to self-funded student plans; provides that adjusters pay the same licensure fee as public adjusters; adds public adjuster to the fee provisions concerning taking an examination for licensure and for license renewal; and, changes the fee charged for an examination of someone seeking a producer, adjuster, or public adjuster license from a flat \$60 to an amount not to exceed \$80. The fee change, which has not changed in 13 years, follows a renegotiation of the contract for examination services and the changing market and allows for greater flexibility with a not to exceed amount.

In response to a question, **Mr. Donovan** said this proposed fee increase is to recognize that things change over time and get more expensive. The companies view the \$60 fee as an artificial ceiling that is not being accurately priced. There are at least two vendors that provide this service.

MOTION: **Rep. Hixon** made a motion to recommend the full committee reject **Docket No. 18-0144-1401**.

Mr. Donovan clarified that the competitive bidding process is not used in this circumstance because the government is not actually paying the fees nor do they receive any portion thereof. Discussion continued as to the purpose of this rule identifying the amount charged for the examination fee and whether this line should be recommended to be stricken from the rules.

For the record, no one indicated their desire to testify.

Chairman Hixon put the committee at ease at 2:53 PM. He reconvened the meeting at 2:56 PM.

ROLL CALL VOTE: Roll call vote was requested. The motion to recommend the full committee reject **Docket No. 18-0144-1401 failed by a vote of 2 AYE, 2 NAY, and 1 Absent/Excused. Voting in favor of the motion: Reps. Hixon and Monks. Voting in opposition to the motion: Reps. Beyeler and Jordan. Rep. Collins was absent/excused.** The motion will be sent to the full committee with no recommendation.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:09 PM.

Representative Hixon
Chair

Francoise Cleveland
Secretary