

Administrative Rules Committee
September 12, 2013
License Fee Increases
North Dakota Department of Health

Good morning, Mr. Chairman and members of the Administrative Rules Committee. My name is Kenan Bullinger, and I am the director of the Division of Food and Lodging for the North Dakota Department of Health. Following is some information on proposed regulation changes the Department of Health has recently proposed involving annual license fees for various food, lodging, body art and tanning facilities.

1. These rule changes did not result from any statutory changes made by the Legislative Assembly.
2. These rules are not related to any federal statute or regulation.
3. A Notice of Intent to Amend Administrative Rules was sent to Legislative Council on June 24, 2013. Public notices on the administrative rules hearing were printed in the state's major newspapers in late June and early July of 2013. A public hearing was held on July 31, 2013, and a thirteen-day written comment period after the hearing date was established.
4. No one attended the hearing and no written comments were received on these proposed changes.
5. The approximate cost of giving the public notice and holding the hearing on the proposed rules was approximately \$1563.
6. Various annual license fees were increased for all food and lodging facilities to generate the special funds necessary to replace an existing and outdated electronic licensing and inspection data management system. This new information management system will allow the Department the ability to send electronic license renewals and also conduct and submit inspection reports electronically.
7. Attached for your information is the regulatory analysis for these proposed changes.
8. Also attached for your information is the economic impact statement on small entities.
9. These rules will increase license fees and generate approximately \$150,000 in additional special fund revenues per biennium.
10. A constitutional takings assessment was not prepared as these rules will not limit the use of private real property.
11. These rules were not adopted as emergency rules under NDCC 28-32-03.

I am happy to answer any questions you may have.

**Changes to NDAC Articles 33-31, 33-33, 33-39, 33-41, and 33-42
Various License Fees for Food, Lodging, Body Art and Tanning Facilities**

Regulatory Analysis:

1. Describe the classes of people likely to be affected by the proposed rule, including classes bearing the cost of the proposed rule and classes benefiting from the proposed rule: *The owners of various food, lodging, body art and tanning facilities licensed and inspected by the Department will be affected by the proposed rules.*
2. Describe the probable impact, including the economic impact, of the proposed rule: *The impact of these proposed rules is economic. Increased annual license fees are proposed to generate the special fund revenue to replace an old licensing information data management system.*
3. Describe the probable costs to the agency of implementation and enforcement of the proposed rule and any anticipated effect on state revenues: *The estimated cost to replace the current licensing information data management system is approximately \$110,000. In addition, maintenance costs to support the new system are estimated at \$45,000 per year.*
4. Describe any alternative methods of achieving the purpose of the proposed rule that were considered: *The Department originally requested increased general funds in their 2013 executive budget request to replace the data management system.*

Small Entity Regulatory Analysis:

1. Was establishment of less stringent compliance or reporting requirements for small entities considered? *Less stringent requirements were not considered. The proposed rules deal strictly with license fee increases.*
2. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? *Less stringent schedules or deadlines are not applicable with these proposed rules. However, most of our license fees are based on size of the establishment. Lower fees are established for smaller entities.*
3. Was consolidation or simplification of compliance or reporting considered? *Consolidation or simplification of compliance or reporting was not applicable with these proposed rules.*
4. Were performance standards established for small entities for replacement design or operational standards required in the proposed rules? *No changes in performance or operational standards were part of these proposed rules.*
5. Was exemption for small entities from all or part of these requirements in the proposed rules considered? *No exemption for small entities from any part of these rules was considered.*

Small Entity Economic Impact Statement:

1. Which small entities will be subject to these proposed rules? *All food, lodging, body art and tanning facilities, large and small, are subject to these proposed rules.*
2. What are the administrative and other costs required for compliance with the proposed rules? *The costs required for compliance with these rules are simply the increased license fees for existing establishments.*
3. What is the probable cost and benefit to the private persons and consumers who may be affected by these proposed rules? *There should be no consumers affected by these rules unless the licensed establishments pass those increased license fees onto the consuming public.*
4. What is the probable affect on state revenues? *These proposed rules should generate approximately \$170,000 in additional revenue.*
5. Are there less intrusive or less costly methods of achieving the purpose of the proposed rules? *Less intrusive or less costly methods were not pursued because lesser increases would not have allowed the department to generate the special fund revenue needed to replace the existing data management system and sustain the costs of annual maintenance to the system.*