

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

\* \* \* \*

IN THE MATTER OF THE AMENDMENT)  
OF SDCL 15-6-51(a) )

RULE 93-5

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Pursuant to a hearing held on February 16, 1993, at Pierre, South Dakota, relating to the amendment of SDCL 15-6-51(a), the Court having considered the proposed amendment, the correspondence and oral presentations relating thereto, if any, and being fully advised in the premises, now, therefore, it is ORDERED that SDCL 15-6-51(a) be and it is hereby amended to read in its entirety as follows:

**15-6-51(a). Manner of preparation and giving instructions to jury.** After the close of evidence and prior to argument the court shall charge the jury. In charging the jury the court shall instruct as to the law of the case; if it states the testimony it must in addition inform the jury that they are the exclusive judges of all questions of fact.

The court, on its own motion or upon the motion of any party, after the jury is selected and sworn, but prior to opening statements, may in its discretion, give general and preliminary instructions to the jury on the conduct of the trial, but not on substantive legal issues.

All instructions except those given under § 15-6-51(c) shall be reduced to writing before being given, and after being settled shall be read to the jury by the court without any disclosure to indicate which are and which are not requested instructions.

All requests for instructions shall be in writing and in duplicate, and shall be presented to the court on or before the time fixed for settling instructions. In requesting instructions, counsel shall number only the carbon copies. At the same time counsel shall furnish to the judge the original of each such requested instruction and such originals shall not be numbered, and shall not in any way show that they are requested instructions, but shall have at the top of

each instruction a space for numbering. Such original requested instructions shall be typed, double-spaced, on letter-size, bond paper in such form that the judge can insert the original requested instruction in the set to be used by the jury in the event the instruction is adopted by the court. Such original instructions as are not adopted shall be discarded by the court. All requested instructions which are refused by the court shall be so endorsed by the court on the numbered copy. An additional numbered copy of each requested instruction shall be furnished to opposing counsel.

The court shall in no case qualify, modify, or in any manner explain to the jury any written instruction given, unless such qualification, modification, or explanation shall first have been reduced to writing and made a part of such instruction and settled.

The court may, after the giving of instructions and at any time before verdict, recall the jury for further instructions, which, if given, shall be given in full compliance with the provisions of § 15-6-51(a) and (b).

After the jury have retired for deliberation if there be a disagreement between them as to any part of the testimony or if they desire to be informed of any point of law arising in the case, they may require the officer to conduct them into court. Upon their being brought into court the information required, if given, must be given in the presence of, or after notice to the parties or counsel, and the instruction given shall be taken down by the court reporter.

In all cases the instructions shall be taken by the jury in their retirement, and returned into court with their verdict. No instruction taken by the jury shall be marked so as to indicate it was requested.


IT IS FURTHER ORDERED that this rule shall become effective July 1, 1993.

DATED at Pierre, South Dakota, this 1st day of March, 1993.

BY THE COURT:

ATTEST:

  
Clerk of the Supreme Court  
(SEAL)

  
Robert A. Miller, Chief Justice

SUPREME COURT  
STATE OF SOUTH DAKOTA  
**FILED**

MAR 1 1993

  
Clerk