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SENATE BILL 6270

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State of Washington

53rd Legislature

1994 Regular Session

By Senators Moore, Amondson, Prentice, McAuliffe, Deccio, Sellar, Vognild, Newhouse, Oke, Bauer, Moyer, Winsley, Roach and Ludwig

Read first time 01/18/94. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to termination of agency rules; amending RCW  
2 34.05.380; and adding a new section to chapter 34.05 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 34.05.380 and 1989 c 175 s 11 are each amended to read  
5 as follows:

6 (1) Each agency shall file in the office of the code reviser a  
7 certified copy of all rules it adopts, except for rules contained in  
8 tariffs filed with or published by the Washington utilities and  
9 transportation commission. The code reviser shall place upon each rule  
10 a notation of the time and date of filing and shall keep a permanent  
11 register of filed rules open to public inspection. In filing a rule,  
12 each agency shall use the standard form prescribed for this purpose by  
13 the code reviser.

14 (2) Emergency rules adopted under RCW 34.05.350 become effective  
15 upon filing unless a later date is specified in the order of adoption.  
16 All other rules become effective upon the expiration of thirty days  
17 after the date of filing, unless a later date is required by statute or  
18 specified in the order of adoption.

1 (3) A rule may become effective immediately upon its filing with  
2 the code reviser or on any subsequent date earlier than that  
3 established by subsection (2) of this section, if the agency  
4 establishes that effective date in the adopting order and finds that:

5 (a) Such action is required by the state or federal Constitution,  
6 a statute, or court order;

7 (b) The rule only delays the effective date of another rule that is  
8 not yet effective; or

9 (c) The earlier effective date is necessary because of imminent  
10 peril to the public health, safety, or welfare.

11 The finding and a brief statement of the reasons therefor required  
12 by this subsection shall be made a part of the order adopting the rule.

13 (4) With respect to a rule made effective pursuant to subsection  
14 (3) of this section, each agency shall make reasonable efforts to make  
15 the effective date known to persons who may be affected by it.

16 (5) A rule, the violation of which subjects a person to a penalty  
17 or administrative sanction; that establishes, alters, or revokes a  
18 qualification or standard for the issuance, suspension, or revocation  
19 of a license to pursue a commercial activity, trade, or profession; or  
20 that establishes, alters, or revokes a mandatory standard for a product  
21 or material that must be met before distribution or sale may not remain  
22 effective for more than five years after its adoption or for more than  
23 five years after the effective date of this act, whichever is later.  
24 An agency may readopt a rule subject to this subsection according to  
25 the procedures established in this chapter.

26 NEW SECTION. Sec. 2. A new section is added to chapter 34.05 RCW  
27 to read as follows:

28 (1) RCW 34.05.380(5) does not apply to a rule for which an agency  
29 shows, to the satisfaction of the governor, that it is not necessary or  
30 appropriate. The showing must be made at least one year before the  
31 date the rule would become ineffective under RCW 34.05.380(5). In  
32 making a determination under this section, the governor shall consider:

33 (a) Whether the agency has established an adequate internal rules  
34 review process, allowing public participation, and has subjected the  
35 rule to that review;

36 (b) The nature of complaints and other comments received from the  
37 public about the rule;

1 (c) Whether the rule conflicts with, overlaps, or duplicates any  
2 other provision of federal, state, or local law and, if so, whether the  
3 agency has taken steps to mitigate adverse effects of the conflict,  
4 overlap, or duplication;

5 (d) The extent to which technology, social or economic conditions,  
6 or other relevant factors have changed since the rule was adopted, and  
7 whether, given those changes, the rule continues to be necessary and  
8 appropriate; and

9 (e) Whether the statute that the rule implements has been amended,  
10 repealed, or ruled invalid in court.

11 (2) The governor shall make the determination based on a written  
12 request from the director of the agency that adopted the rule. The  
13 agency shall file a notice that the request has been made with the code  
14 reviser for publication in the Washington State Register. No sooner  
15 than thirty days after the publication, the governor shall issue a  
16 written determination and explanation of that determination. The  
17 governor shall file the determination and explanation with the code  
18 reviser for publication in the Washington State Register.

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