

SENATE BILL REPORT

HB 1804

AS REPORTED BY COMMITTEE ON GOVERNMENT OPERATIONS,  
FEBRUARY 18, 1994

**Brief Description:** Clarifying procedures for temporary remedies from agency action.

**SPONSORS:** Representatives Campbell, Mastin and Flemming

**HOUSE COMMITTEE ON STATE GOVERNMENT**

**SENATE COMMITTEE ON GOVERNMENT OPERATIONS**

**Majority Report:** Do pass.

Signed by Senators Haugen, Chairman; Drew, Vice Chairman; Loveland, Oke, Owen and Winsley.

**Staff:** Rod McAulay (786-7754)

**Hearing Dates:** March 31, 1993; April 2, 1993; February 18, 1994

**BACKGROUND:**

Under the Administrative Procedure Act (APA), a court may not stay agency actions based on "public health, safety, and welfare grounds" unless a stringent test is met. This test includes proof that the applicant is likely to prevail, that without relief the applicant will suffer irreparable injury, that the grant of relief will not substantially harm other parties, and that the threat to public health, safety, or welfare is not sufficiently serious to justify the agency action.

If an agency finds that public health, safety, or welfare imperatively requires emergency action, it may order summary suspension of a license pending a proceeding for revocation or other action. Additionally, the APA authorizes agencies to use emergency adjudicative proceedings in situations involving immediate danger to the public health, safety, or welfare.

**SUMMARY:**

Emergency license suspension and emergency adjudicative proceedings are specifically added to the list of agency actions based on public health, safety, and welfare that may not be stayed by the court unless a stringent test is met. Stays or other temporary remedies from agency actions relating to emergency summary license suspension and emergency adjudicative proceedings may not be granted by the court, including any court of appeal, unless the court finds that: (1) the applicant is likely to prevail; (2) without relief the applicant will suffer irreparable injury; (3) the grant of

relief will not substantially harm other parties; and (4) the threat to public health, safety, or welfare is not sufficiently serious to justify the agency action.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

Will assure that professionals who have violated the public trust will not be permitted to continue practice under a stay while they press their appeals.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Representative Campbell