
HOUSE BILL 1929

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1997 Regular Session

By Representatives Mastin, Grant, DeBolt, Sheldon, Johnson, Chandler, McMorris, Thompson, Buck, Lisk, Schoesler and Dyer

Read first time 02/14/97. Referred to Committee on Government Reform & Land Use.

1 AN ACT Relating to legislative approval of agency rules; and
2 amending RCW 34.05.350 and 34.05.380.

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

4 **Sec. 1.** RCW 34.05.350 and 1994 c 249 s 3 are each amended to read
5 as follows:

6 (1) If an agency for good cause finds:

7 (a) That immediate adoption, amendment, or repeal of a rule is
8 necessary for the preservation of the public health, safety, or general
9 welfare, and that observing the time requirements of notice and
10 opportunity to comment upon adoption of a permanent rule would be
11 contrary to the public interest; or

12 (b) That state or federal law or federal rule or a federal deadline
13 for state receipt of federal funds requires immediate adoption of a
14 rule,

15 the agency may dispense with those requirements and adopt, amend, or
16 repeal the rule on an emergency basis. The agency's finding and a
17 concise statement of the reasons for its finding shall be incorporated
18 in the order for adoption of the emergency rule or amendment filed with

1 the office of the code reviser under RCW 34.05.380 and with the rules
2 review committee.

3 (2) An emergency rule adopted under this section takes effect upon
4 filing with the code reviser, unless a later date is specified in the
5 order of adoption, and may not remain in effect for longer than one
6 hundred twenty days after filing. Identical or substantially similar
7 emergency rules may not be adopted in sequence unless conditions have
8 changed or the agency has filed notice of its intent to adopt the rule
9 as a permanent rule, and is actively undertaking the appropriate
10 procedures to adopt the rule as a permanent rule. This section does
11 not relieve any agency from compliance with any law requiring that its
12 permanent rules be approved by designated persons or bodies before they
13 become effective.

14 (3) An emergency rule of the departments of ecology, labor and
15 industries, health, revenue, and natural resources, the employment
16 security department, the forest practices board, the office of the
17 insurance commissioner, and the department of fish and wildlife
18 implementing chapter 75.20 RCW is not effective beyond the adjournment
19 of the next regular legislative session following its adoption or the
20 legislative session during which it was adopted, whichever comes first,
21 unless a law is enacted approving the rule.

22 (4) Within seven days after the rule is adopted, any person may
23 petition the governor requesting the immediate repeal of a rule adopted
24 on an emergency basis by any department listed in RCW 43.17.010.
25 Within seven days after submission of the petition, the governor shall
26 either deny the petition in writing, stating his or her reasons for the
27 denial, or order the immediate repeal of the rule. In ruling on the
28 petition, the governor shall consider only whether the conditions in
29 subsection (1) of this section were met such that adoption of the rule
30 on an emergency basis was necessary. If the governor orders the repeal
31 of the emergency rule, any sanction imposed based on that rule is void.
32 This subsection shall not be construed to prohibit adoption of any rule
33 as a permanent rule.

34 (~~(4)~~) (5) In adopting an emergency rule, the agency shall comply
35 with section 4 of this act or provide a written explanation for its
36 failure to do so.

37 **Sec. 2.** RCW 34.05.380 and 1989 c 175 s 11 are each amended to read
38 as follows:

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

9 (2) Emergency rules adopted under RCW 34.05.350 become effective
10 upon filing unless a later date is specified in the order of adoption.
11 All other rules become effective upon the expiration of thirty days
12 after the date of filing, unless a later date is required by statute or
13 specified in the order of adoption.

14 (3) A rule of the departments of ecology, labor and industries,
15 health, revenue, and natural resources, the employment security
16 department, the forest practices board, the office of the insurance
17 commissioner, and the department of fish and wildlife implementing
18 chapter 75.20 RCW is not effective beyond the adjournment of the next
19 regular legislative session following its adoption or the legislative
20 session during which it was adopted, whichever comes first, unless a
21 law is enacted approving the rule.

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

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

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

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

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

34 ~~((+4))~~ (5) With respect to a rule made effective pursuant to
35 subsection ~~((+3))~~ (4) of this section, each agency shall make
36 reasonable efforts to make the effective date known to persons who may
37 be affected by it.

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