
HOUSE BILL 1616

State of Washington

54th Legislature

1995 Regular Session

By Representatives Mastin and Chappell

Read first time 02/01/95. Referred to Committee on Government Operations.

1 AN ACT Relating to emergency rules; and amending RCW 34.05.350.

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

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

5 (1) ~~((If an agency for good cause finds:~~

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

11 ~~(b) That state or))~~ A rule, an amendment to a rule, or the repeal
12 of a rule may be adopted on an emergency basis as provided by this
13 section for emergency rules. An emergency rule may be adopted:

14 (a) To implement or facilitate an order of the governor issued
15 pursuant to a state of emergency proclaimed by the governor under RCW
16 43.06.010 and 43.06.200 through 43.06.270;

17 (b) To respond to an emergency or disaster under chapter 38.52 RCW;

18 (c) To respond to an immediate threat to the public health posed by
19 a pathogen, unregulated drug, or contaminated article of commerce; or

1 (d) To comply with a court order or a federal law or federal rule
2 ((or a federal deadline for state receipt of federal funds)) that
3 requires the immediate adoption of a rule((
4 the agency may dispense with those requirements and adopt, amend, or
5 repeal the rule on an emergency basis)) or that requires the immediate
6 adoption of a rule for the state's receipt of federal funds. The
7 agency's finding that one or more of (a) through (d) of this subsection
8 apply to the emergency rule and a concise statement of the reasons for
9 its finding shall be incorporated in the order for adoption of the
10 emergency rule or amendment filed with the office of the code reviser
11 under RCW 34.05.380 and with the rules review committee.

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

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

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

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