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HOUSE BILL 2688

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State of Washington

54th Legislature

1996 Regular Session

By Representative Mastin

Read first time 01/16/96. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to rule making; 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~~((τ))~~ or safety,  
8 ~~((or general welfare~~τ~~))~~ and that observing the time requirements of  
9 notice and opportunity to comment upon adoption of a permanent rule  
10 would be contrary to the public interest except that:

11 (i) The department of fish and wildlife and the fish and wildlife  
12 commission may adopt emergency rules based on the preservation of the  
13 general welfare for purposes of resource and resource allocation; and

14 (ii) The department of agriculture may adopt emergency rules based  
15 on preservation of the general welfare as required; or

16 (b) That state or federal law or federal rule or a federal deadline  
17 for state receipt of federal funds requires immediate adoption of a  
18 rule,

1 the agency may dispense with those requirements and adopt, amend, or  
2 repeal the rule on an emergency basis. The agency's finding and a  
3 concise statement of the reasons for its finding shall be  
4 incorporated in the order for adoption of the emergency rule or  
5 amendment filed with the office of the code reviser under RCW  
6 34.05.380 and with the rules review committee.

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

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

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

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