

1 **SHB 2261 - H AMD 512 FAILED 4/25/03**
2 By Representative Boldt

3 On page 10, after line 18, insert the following:

4 "NEW SECTION. **Sec. 18.** (1) The legislature's delegation of
5 authority to the department under this act is strictly limited to:

6 (a) The minimum delegation necessary to administer the act's
7 clear and unambiguous directives; and

8 (b) The administration of circumstances and behaviors
9 foreseeable at the time of enactment.

10 (2) Department actions or rules authorized by this act are
11 subject to the following additional standards of judicial review,
12 which supercede RCW 34.05.570(1) and (2) to the extent of any
13 conflict:

14 (a) The department bears the burden of demonstrating that the
15 department's action:

16 (i) Was authorized by law; and

17 (ii) Was valid, when the interest of a party asserting
18 invalidity arises from the department's actions imposing a penalty
19 on the asserting party;

20 (b) The validity of a department rule may be determined upon
21 petition for declaratory judgment addressed to any superior court
22 in this state; and

23 (c) In determining whether, under RCW 34.05.570(2)(c), a
24 department rule exceeds the department's statutory authority, the
25 court must also consider whether the rule exceeds the limited
26 delegation under subsection (1) of this section."

27 Renumber remaining sections and correct the title.

EFFECT: Provides that the legislature's delegation of authority to the department under this act is strictly limited to the minimum delegation necessary to administer the act's clear and unambiguous directives and the administration of circumstances and behaviors foreseeable at the time of enactment; that in the event of any conflict the department bears the burden of demonstrating that the department's action was authorized by law and was valid; that the validity of a rule may be determined upon petition for declaratory judgment addressed to any superior court in this state; and that in determining whether a department rule exceeds the department's statutory authority, the court must also consider whether the rule exceeds the limited delegation provided under this section.