

HOUSE BILL No. 5932

March 30, 2006, Introduced by Reps. Garfield, Taub, Robertson, Gosselin, Farhat, Booher, LaJoy, Elsenheimer, Pastor, Palsrok, Stakoe, Hildenbrand, Moore, Wenke, Stahl, Nofs, Stewart, Newell, Brandenburg, Caswell, Hummel, Kahn, David Law, Mortimer, Ball, Schuitmaker, Drolet, Palmer, Huizenga, Hoogendyk, Ward, Jones, Green, Caul, Baxter, Marleau, Pavlov, Vander Veen, Kooiman, Acciavatti, Amos and Moolenaar and referred to the Committee on Commerce.

A bill to amend 1969 PA 306, entitled
 "Administrative procedures act of 1969,"
 by amending section 32 (MCL 24.232).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32. (1) Definitions of words and phrases and rules of
 2 construction prescribed in any statute ~~—, and which~~ **THAT** are made
 3 applicable to all statutes of this state ~~—, also~~ **SHALL** apply to
 4 rules unless clearly indicated to the contrary.

5 (2) A rule or exception to a rule shall not discriminate in
 6 favor of or against any person. ~~—, and a~~ **A** person affected by a
 7 rule is entitled to the same benefits as any other person under the
 8 same or similar circumstances.

9 (3) The violation of a rule is a crime when so provided by

1 statute. ~~A~~ **UNLESS PROVIDED FOR BY STATUTE, A** rule shall not ~~make~~
2 ~~an act or omission to act~~ **DESIGNATE AS** a crime ~~or~~ **AN ACT OR**
3 **OMISSION AND SHALL NOT** prescribe a criminal penalty for violation
4 of a rule.

5 (4) An agency may adopt, by reference in its rules and without
6 publishing the adopted matter in full, all or any part of a code,
7 standard or regulation ~~which~~ **THAT** has been adopted by an agency
8 of the United States or by a nationally recognized organization or
9 association. The reference shall fully identify the adopted matter
10 by date and otherwise. The reference shall not cover any later
11 amendments and editions of the adopted matter, but if the agency
12 wishes to incorporate them in its rule it shall amend the rule or
13 promulgate a new rule therefor. The agency shall have available
14 copies of the adopted matter for inspection and distribution to the
15 public at cost and the rules shall state where copies of the
16 adopted matter are available from the agency and the agency of the
17 United States or the national organization or association and the
18 cost thereof as of the time the rule is adopted.

19 (5) **WHERE A STATUTE PROVIDES THAT AN AGENCY MAY PROCEED BY**
20 **RULE-MAKING OR BY ORDER AND AN AGENCY PROCEEDS BY ORDER IN LIEU OF**
21 **RULE-MAKING, THE ORDER SHALL NOT BE GIVEN GENERAL APPLICABILITY TO**
22 **PERSONS WHO WERE NOT PARTIES TO THE PROCEEDING OR CONTESTED CASE**
23 **PRIOR TO THE ISSUANCE OF THE ORDER. UNDER SUCH CIRCUMSTANCES, THE**
24 **ORDER SHALL NOT APPLY IN SUBSEQUENT PROCEEDINGS OR CONTESTED CASES**
25 **WHERE THE FACTUAL BASIS ON WHICH THE ORDER WAS PREDICATED IS**
26 **CONTESTED IN THAT SUBSEQUENT PROCEEDING OR CONTESTED CASE.**

27 (6) **A RULE SHALL NOT EXCEED THE RULE-MAKING DELEGATION**

1 CONTAINED IN THE STATUTE AUTHORIZING THE RULE-MAKING, TAKING INTO
2 CONSIDERATION THE REGULATORY INTENT OF THE STATUTE, THE BEHAVIOR OR
3 ACTIVITY WITHIN THE REGULATORY SCOPE OF THE STATUTE, AND EXTENT TO
4 WHICH THE ACTIVITY IS UNIQUELY WITHIN THE REGULATORY EXPERTISE OF
5 THE AGENCY.