

HOUSE BILL No. 5714

May 31, 2012, Introduced by Reps. Somerville, Damrow, Heise, Kowall and McBroom and referred to the Committee on Judiciary.

A bill to amend 1969 PA 306, entitled
"Administrative procedures act of 1969,"
by amending section 48 (MCL 24.248), as amended by 1999 PA 262.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 48. (1) If an agency finds that preservation of the
2 public health, safety, or welfare requires promulgation of an
3 emergency rule without following the notice and participation
4 procedures required by sections 41 and 42 and states in the rule
5 the agency's reasons for that finding, and the governor concurs in
6 the finding of emergency, the agency may dispense with all or part
7 of the procedures and file in the office of the secretary of state
8 the copies prescribed by section 46 ~~indorsed~~ **ENDORSED** as an
9 emergency rule, to 3 of which copies shall be attached the
10 certificates prescribed by section 45 and the governor's
11 certificate concurring in the finding of emergency. The emergency

1 rule is effective on filing and remains in effect until a date
2 fixed in the rule or 6 months after the date of its filing,
3 whichever is earlier. The rule may be extended once for not more
4 than 6 months by the filing of a governor's certificate of the need
5 for the extension with the office of the secretary of state before
6 expiration of the emergency rule.

7 (2) IF THE DIRECTOR OF THE DEPARTMENT OF COMMUNITY HEALTH
8 DETERMINES THAT AN IMMINENT DANGER TO THE HEALTH OR LIVES OF
9 INDIVIDUALS IN THIS STATE CAN BE PREVENTED OR CONTROLLED BY
10 SCHEDULING A SUBSTANCE AS A CONTROLLED SUBSTANCE UNDER SECTION
11 2251(4) OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.2251, AND
12 THE ADMINISTRATOR DETERMINES THAT THE SUBSTANCE SHOULD BE SCHEDULED
13 OR RESCHEDULED AS A CONTROLLED SUBSTANCE, THE DEPARTMENT OF
14 LICENSING AND REGULATORY AFFAIRS MAY DISPENSE WITH ALL OR PART OF
15 THE PROCEDURES REQUIRED BY SECTIONS 41 AND 42 AND FILE IN THE
16 OFFICE OF THE SECRETARY OF STATE THE COPIES PRESCRIBED BY SECTION
17 46 ENDORSED AS AN EMERGENCY RULE, TO 3 OF WHICH COPIES SHALL BE
18 ATTACHED THE CERTIFICATE OF APPROVAL AND THE DIRECTOR OF THE
19 DEPARTMENT OF COMMUNITY HEALTH'S NOTIFICATION UNDER SECTION 2251(4)
20 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.2251. THE OFFICE OF
21 REGULATORY REINVENTION SHALL SUBMIT THE EMERGENCY RULE DRAFT
22 LANGUAGE TO THE LEGISLATIVE SERVICE BUREAU FOR ITS FORMAL
23 CERTIFICATION WITHIN 7 BUSINESS DAYS OF RECEIPT FROM THE DEPARTMENT
24 OF LICENSING AND REGULATORY AFFAIRS. THE LEGISLATIVE SERVICE BUREAU
25 SHALL ISSUE A CERTIFICATE OF APPROVAL INDICATING WHETHER THE
26 PROPOSED RULE IS PROPER AS TO ALL MATTERS OF FORM, CLASSIFICATION,
27 AND ARRANGEMENT WITHIN 7 BUSINESS DAYS AFTER RECEIVING THE

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1 SUBMISSION AND RETURN THE RULE TO THE OFFICE OF REGULATORY
 2 REINVENTION. IF THE LEGISLATIVE SERVICE BUREAU FAILS TO ISSUE A
 3 CERTIFICATE OF APPROVAL WITHIN 7 BUSINESS DAYS AFTER RECEIPT OF THE
 4 SUBMISSION FOR FORMAL CERTIFICATION, THE OFFICE OF REGULATORY
 5 REINVENTION MAY ISSUE A CERTIFICATE OF APPROVAL. IF THE LEGISLATIVE
 6 SERVICE BUREAU RETURNS THE SUBMISSION TO THE OFFICE OF REGULATORY
 7 REINVENTION BEFORE THE EXPIRATION OF THE 7-BUSINESS-DAY TIME
 8 PERIOD, THE 7-BUSINESS-DAY TIME PERIOD IS TOLLED UNTIL THE RULE IS
 9 RETURNED BY THE OFFICE OF REGULATORY REINVENTION. THE LEGISLATIVE
 10 SERVICE BUREAU SHALL HAVE THE REMAINDER OF THE 7-BUSINESS-DAY TIME
 11 PERIOD TO CONSIDER THE FORMAL CERTIFICATION OF THE RULE. UPON
 12 RECEIPT FROM THE LEGISLATIVE SERVICE BUREAU, THE OFFICE OF
 13 REGULATORY REINVENTION SHALL, WITHIN 7 BUSINESS DAYS, APPROVE THE
 14 PROPOSED RULE IF IT CONSIDERS THE PROPOSED RULE TO BE LEGAL AND
 15 APPROPRIATE. [AN EMERGENCY RULE ADOPTED UNDER THIS SUBSECTION REMAINS IN
 16 EFFECT UNTIL THE EARLIER DATE OF THE FOLLOWING]:

17 (A) AN IDENTICAL OR SIMILAR RULE IS PROMULGATED.

18 (B) AN IDENTICAL OR SIMILAR BILL IS ENACTED INTO LAW.

19 (C) THE ADMINISTRATOR DETERMINES THAT THE EMERGENCY RULE IS NO
 20 LONGER NECESSARY.

[(D) SIX MONTHS AFTER THE DATE OF ITS FILING, WHICH MAY BE EXTENDED
 FOR NOT MORE THAN 6 MONTHS BY THE ADMINISTRATOR UPON FILING A CERTIFICATE
 OF EXTENSION WITH THE OFFICE OF SECRETARY OF STATE BEFORE THE EXPIRATION
 OF 6 MONTHS AFTER THE DATE OF ITS FILING.]

21 (3) An emergency rule shall not be numbered and shall not be
 22 compiled in the Michigan administrative code, but shall be noted in
 23 the annual supplement to the code. The emergency rule shall be
 24 published in the Michigan register pursuant to section 8.

25 (4) ~~(2)~~—If the agency desires to promulgate an identical or
 26 similar rule with an effectiveness beyond the final effective date
 27 of an emergency rule, the agency shall comply with the procedures

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1 prescribed by this act for the processing of a rule which is not an
2 emergency rule. The rule shall be published in the Michigan
3 register and in the code.

4 (5) AS USED IN THIS SECTION, "ADMINISTRATOR" MEANS THAT TERM
5 AS DEFINED IN SECTION 7103 OF THE PUBLIC HEALTH CODE, 1978 PA 368,
6 MCL 333.7103.

7 [Enacting section 1. This amendatory act does not take effect
8 unless all of the following bills of the 96th Legislature are enacted
9 into law:

- (a) Senate Bill No. 789.
- (b) House Bill No. 5338.]