

# Legislative Analysis

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## STATE RULES CAN'T BE MORE STRINGENT THAN FEDERAL RULES W/O CLEAR AND CONVINCING NEED

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**House Bill 5731**

**Sponsor: Rep. Joe Haveman**

**Committee: Regulatory Reform**

**Complete to 9-12-14**

### A SUMMARY OF HOUSE BILL 5731 AS INTRODUCED 8-27-14

House Bill 5731 would amend the Administrative Procedures Act of 1969 by prohibiting a state agency from adopting or promulgating a rule more stringent than the applicable federal standard unless the agency director determines that there is a clear and convincing need to exceed the standard. The bill would take effect February 1, 2015.

This would apply to cases where the federal government has mandated the state to promulgate rules and to cases where there is no federal mandate. However, the bill would not apply to emergency rules promulgated under Section 48 of the APA. (Generally speaking, these are rules an agency finds necessary for the preservation of the public health, safety, or welfare, and require the concurrence of the governor in the finding of an emergency.)

If a proposed rule is more stringent than the applicable federal standard, the regulatory impact statement that must accompany proposed rules would have to include a statement of the specific facts that "establish the clear and convincing need to adopt the more stringent rule" and an explanation of the "unique characteristics of this state that necessitate the more stringent standard."

MCL 24.232 and 245

### FISCAL IMPACT:

To the extent that the bill prevented promulgation of rules that were more stringent than what would be federally mandated, the state could avoid costs of the additional enforcement actions that presumably would arise from implementation of more stringent rules. Depending on circumstances, local units of government could avoid costs of compliance with more stringent rules. There are no data available to estimate the extent or impact of potential cost avoidance under future rules. The bill would have no direct fiscal impact on state or local revenues.

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