

SENATE BILL NO. 535

June 10, 2021, Introduced by Senators BUMSTEAD and HORN and referred to the Committee on Economic and Small Business Development.

A bill to amend 1969 PA 306, entitled
"Administrative procedures act of 1969,"
by amending section 48 (MCL 24.248), as amended by 2018 PA 267.

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

1 the finding of emergency, the agency may dispense with all or part
2 of the procedures and file in the office of the secretary of state
3 the copies prescribed by section 46 endorsed as an emergency rule,
4 to 3 of which copies must be attached the certificates prescribed
5 by section 45 and the governor's certificate concurring in the
6 finding of emergency. **All of the following apply to an emergency**
7 **rule under this subsection:**

8 (a) The emergency rule is effective on filing and remains in
9 effect until a date fixed in the rule or ~~6~~3 months after the date
10 of its filing, whichever is earlier. The rule may be extended ~~once~~
11 **as follows:**

12 (i) **Once** for not more than ~~6~~3 months by the filing of a
13 governor's certificate of the need for the extension with the
14 office of the secretary of state before expiration of the emergency
15 rule.

16 (ii) **For an additional time period if the extension is**
17 **requested by the governor and approved by resolution of both houses**
18 **of the legislature before the expiration of the time period under**
19 **subparagraph (i).**

20 (b) Any period or extension during which an emergency rule is
21 effective under this subsection is tolled from the date that the
22 environmental rules review committee makes a determination as to a
23 similar rule under section 66(5)(c) until the date a public hearing
24 is held on the rule under section 66(7).

25 (2) If the director of the department of health and human
26 services determines that an imminent danger to the health or lives
27 of individuals in this state can be prevented or controlled by
28 scheduling a substance as a controlled substance under section
29 2251(4) of the public health code, 1978 PA 368, MCL 333.2251, and

1 the administrator determines that the substance should be scheduled
2 or rescheduled as a controlled substance, the department of
3 licensing and regulatory affairs may dispense with all or part of
4 the procedures required by sections 41 and 42 and file in the
5 office of the secretary of state the copies prescribed by section
6 46 endorsed as an emergency rule, to 3 of which copies must be
7 attached the certificate of approval and the director of the
8 department of health and human services's notification under
9 section 2251(4) of the public health code, 1978 PA 368, MCL
10 333.2251. The office shall submit the emergency rule draft language
11 to the legislative service bureau for its formal certification
12 within 7 business days after receipt from the department of
13 licensing and regulatory affairs. The legislative service bureau
14 shall issue a certificate of approval indicating whether the
15 proposed rule is proper as to all matters of form, classification,
16 and arrangement within 7 business days after receiving the
17 submission and return the rule to the office. If the legislative
18 service bureau fails to issue a certificate of approval within 7
19 business days after receipt of the submission for formal
20 certification, the office may issue a certificate of approval. If
21 the legislative service bureau returns the submission to the office
22 before the expiration of the 7-business-day time period, the 7-
23 business-day time period is tolled until the rule is returned by
24 the office. The legislative service bureau has the remainder of the
25 7-business-day time period to consider the formal certification of
26 the rule. On receipt from the legislative service bureau, the
27 office shall, within 7 business days, approve the proposed rule if
28 it considers the proposed rule to be legal and appropriate. An
29 emergency rule adopted under this subsection remains in effect

1 until the earlier date of the following:

2 (a) An identical or similar rule is promulgated.

3 (b) An identical or similar bill is enacted into law.

4 (c) The administrator determines that the emergency rule is no
5 longer necessary.

6 (d) ~~Six-Three~~ months after the date of its filing, which may
7 be extended ~~for~~**as follows:**

8 **(i) For** not more than ~~6-3~~ months by the administrator on filing
9 a certificate of extension with the office of the secretary of
10 state before the expiration of ~~6-3~~ months after the date of its
11 filing.

12 **(ii) For an additional time period if the extension is**
13 **requested by the administrator and approved by resolution of both**
14 **houses of the legislature before the expiration of the time period**
15 **under subparagraph (i).**

16 (3) An emergency rule must not be numbered and must not be
17 compiled in the Michigan Administrative Code, but must be noted in
18 the annual supplement to the code. The emergency rule must be
19 published in the Michigan register under section 8.

20 (4) If the agency desires to promulgate an identical or
21 similar rule with an effectiveness beyond the final effective date
22 of an emergency rule, the agency shall comply with the procedures
23 prescribed by this act for the processing of a rule that is not an
24 emergency rule. The rule must be published in the Michigan register
25 and in the code.

26 (5) As used in this section, "administrator" means that term
27 as defined in section 7103 of the public health code, 1978 PA 368,
28 MCL 333.7103.