

HB136 INTRODUCED



1 HB136
2 11YDV33-1
3 By Representative Pringle
4 RFD: State Government
5 First Read: 13-Jan-26
6 PFD: 08-Jan-26



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4 SYNOPSIS:

5 Under the Alabama Administrative Procedures Act,
6 an agency may adopt an emergency rule if the agency
7 finds that an immediate danger to the public health,
8 safety, or welfare requires the adoption of the
9 emergency rule.

10 This bill would require the Governor to certify
11 the immediate danger to the public health, safety, or
12 welfare justifies the need for the emergency rule
13 before the rule may become effective.

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16 A BILL
17 TO BE ENTITLED
18 AN ACT

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20 Relating to administrative rules; to amend Section
21 Section 41-22-5, Code of Alabama 1975, to require the Governor
22 to certify the need for an emergency rule before the rule may
23 become effective.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 41-22-5, Code of Alabama 1975, is
26 amended to read as follows:

27 "§41-22-5

28 (a) Prior to the adoption, amendment, or repeal of any



29 rule, the agency shall:

30 (1) Give at least 35 days' notice of its intended
31 action. Date of publication in the Alabama Administrative
32 Monthly shall constitute the date of notice. In addition to
33 the other requirements of this chapter, the notice shall state
34 whether the proposed adoption, amendment, or repeal of the
35 rule relates to or affects in any manner any litigation which
36 the agency is a party to concerning the subject matter of the
37 proposed rule. The notice shall include a statement of either
38 the terms or substance of the intended action or a description
39 of the subjects and issues involved, shall specify a notice
40 period ending not less than 35 days or more than 90 days from
41 the date of the notice, during which period interested persons
42 may present their views, and shall specify the place where,
43 and the manner in which, interested persons may present their
44 views. The notice shall be given to the chair of the
45 committee, as provided in Section 41-22-23, and mailed to all
46 persons who pay the cost of the mailing and who have made
47 timely request of the agency for advance notice of its
48 rulemaking proceedings and shall be published, prior to any
49 action, in the Alabama Administrative Monthly. A complete copy
50 of the proposed rule shall be filed with the secretary of the
51 agency and the Legislative Services Agency, Legal Division.

52 (2) Afford all interested persons reasonable
53 opportunity to submit data, views, or arguments, orally or in
54 writing. The agency shall consider fully all written and oral
55 submissions respecting the proposed rule. Upon adoption of a
56 rule, the agency, if conflicting views are submitted on the

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57 proposed rule, shall issue a concise statement of the
58 principal reasons for and against its adoption, incorporating
59 therein its reasons for overruling any considerations urged
60 against its adoption.

61 (b) (1) Notwithstanding any other provision of this
62 chapter to the contrary, if an agency finds that an immediate
63 danger to the public health, safety, or welfare requires
64 adoption of a rule upon fewer than 35 days' notice or that
65 action is required by or to comply with a federal statute or
66 regulation which requires adoption of a rule upon fewer than
67 35 days' notice and states in writing its reasons for that
68 finding to the committee, the agency may proceed without prior
69 notice or hearing or upon any abbreviated notice and hearing
70 that it finds practicable, to adopt an emergency rule. The
71 rule shall become effective immediately, unless otherwise
72 stated in the rule, upon both of the following occurring: (i)
73 the filing of the rule and a copy of the written statement of
74 the reasons therefor with the Legislative Services Agency,
75 Legal Division, and the secretary of the agency; and (ii)
76 certification by the Governor that the immediate danger to the
77 public health, safety, or welfare justifies the need for the
78 emergency rule. The rule may be effective for a period of not
79 longer than 120 days after the day the agency files the
80 emergency rule with the Legislative Services Agency, Legal
81 Division, and shall not be renewable.

82 (2) An agency shall not adopt the same or a
83 substantially similar emergency rule within one calendar year
84 from its first adoption unless: (i) the agency clearly



85 establishes it could not reasonably be foreseen during the
86 initial 120-day period that ~~such emergency~~ the immediate
87 danger to the health, safety, and welfare would continue or
88 would likely reoccur during the next nine months; and (ii) the
89 Governor certifies that the immediate danger to the public
90 health, safety, or welfare continues to justify the need for
91 the emergency rule. The adoption of the same or a
92 substantially similar rule by normal rulemaking procedures is
93 not precluded. In any subsequent action contesting the
94 effective date of a rule adopted pursuant to this subsection,
95 the burden of proof shall be on the agency to justify its
96 finding.

97 (3) Prior to indexing and publication, the agency shall
98 make reasonable efforts to apprise the persons who may be
99 affected by its rules of the adoption of the emergency rule.
100 An emergency rule shall be strictly construed and shall not be
101 valid except to the extent necessary to prevent, mitigate, or
102 resolve immediate danger to the public health, safety, or
103 welfare.

104 (c) It is the intent of this section to establish basic
105 minimum procedural requirements for the adoption, amendment,
106 or repeal of administrative rules. Except for emergency rules
107 ~~which~~ that are provided for in subsection (b), this section is
108 applicable to the exercise of any rulemaking authority
109 conferred by any statute, but nothing in this section repeals
110 or diminishes additional requirements imposed by law or
111 diminishes or repeals any summary power granted by law to the
112 state or any agency thereof.



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113 (d) No rule adopted after October 1, 1982, is valid
114 unless adopted in substantial compliance with this section. A
115 proceeding to contest any rule on the ground of noncompliance
116 with the procedural requirements of this section must be
117 commenced within two years from the effective date of the
118 rule; provided, however, that a proceeding to contest a rule
119 based on failure to provide notice as required in this section
120 may be commenced at any time."

121 Section 2. This act shall become effective on June 1,
122 2026.