

HOUSE BILL NO. 424

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE HOLM

Introduced: 2/2/04
Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to review of regulations under the Administrative Procedure Act by**
2 **the Legislative Affairs Agency; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 24.20 is amended by adding a new section to read:

5 **Sec. 24.20.105. Review of regulations.** (a) The Department of Law shall
6 submit each proposed adoption, amendment, or repeal of a regulation that it works on
7 under AS 44.62.125(b)(4) to the Legislative Affairs Agency before notice of the
8 proposed action is given under AS 44.62.190 or a public hearing is held on the
9 proposal. The Legislative Affairs Agency shall review each proposal to determine
10 whether the

11 (1) agency making the proposal has express or implied authority to
12 adopt, amend, or repeal the regulation;

13 (2) proposal implements, interprets, makes specific, or otherwise
14 carries out a statute;

1 (3) proposal is consistent with the statute;

2 (4) proposal is reasonably necessary to carry out the purpose of the
3 statute; and

4 (5) proposal is clear, grammatically and structurally sound, and
5 understandable by those affected.

6 (b) In conducting its review of a proposal, the Legislative Affairs Agency may
7 consult with the Department of Law and make recommendations for changes in the
8 proposal. If changes are made in the proposal, the Legislative Affairs Agency shall
9 continue its review of the proposal as changed. At the completion of its review, the
10 Legislative Affairs Agency shall notify the Department of Law in writing of its
11 conclusions. If the Legislative Affairs Agency determines that the proposal fails to
12 meet the requirements of AS 44.62.030, it shall also send a copy of its conclusions to
13 the Administrative Regulation Review Committee.

14 (c) A proposal submitted to the Legislative Affairs Agency for review under
15 this section may not be adopted until after the Department of Law receives notice from
16 the Legislative Affairs Agency that the review has been completed.

17 (d) The Legislative Affairs Agency may not release any information regarding
18 its receipt or review of a proposal under this section except to the Department of Law
19 or to the Administrative Regulation Review Committee.

20 * **Sec. 2.** AS 44.62.125(b) is amended by adding a new paragraph to read:

21 (8) submit each proposed adoption, amendment, or repeal of a
22 regulation that the department works on under (4) of this subsection to the Legislative
23 Affairs Agency for review under AS 24.20.105.

24 * **Sec. 3.** AS 44.62.250 is amended to read:

25 **Sec. 44.62.250. Emergency regulations.** A regulation or order of repeal may
26 be adopted as an emergency regulation or order of repeal if a state agency makes a
27 written finding, including a statement of the facts that constitute the emergency, that
28 the adoption of the regulation or order of repeal is necessary for the immediate
29 preservation of the public peace, health, safety, or general welfare. The requirements
30 of AS 24.20.105, AS 44.62.040(c), 44.62.060, 44.62.125(b)(8), and 44.62.190 -
31 44.62.215 do not apply to the initial adoption of emergency regulations; however,

1 upon adoption of an emergency regulation the adopting agency shall immediately
2 submit a copy of it to the lieutenant governor for filing and for publication in the
3 Alaska Administrative Register, and within five days after filing by the lieutenant
4 governor the agency shall give notice of the adoption in accordance with
5 AS 44.62.190(a). Failure to give the required notice by the end of the 10th day
6 automatically repeals the regulation.

7 * **Sec. 4.** AS 44.62.260 is amended to read:

8 **Sec. 44.62.260. Limitation on effective period of emergency regulations.**

9 (a) A regulation adopted as an emergency regulation does not remain in effect more
10 than 120 days unless the adopting agency complies with AS 24.20.105,
11 AS 44.62.040(c), 44.62.060, 44.62.125(b)(8), and 44.62.190 - 44.62.215 either before
12 submitting the regulation to the lieutenant governor or during the 120-day period.

13 (b) Before the expiration of the 120-day period, the agency shall transmit to
14 the lieutenant governor for filing a certification that AS 24.20.105, AS 44.62.040(c),
15 44.62.060, 44.62.125(b)(8), and 44.62.190 - 44.62.215 were complied with before
16 submitting the regulation to the lieutenant governor, or that the agency complied with
17 those sections within the 120-day period. Failure to so certify repeals the emergency
18 regulation; it may not be renewed or refiled as an emergency regulation.

19 * **Sec. 5.** This Act takes effect July 1, 2004.