

**CS FOR SENATE BILL NO. 287(STA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

**BY THE SENATE STATE AFFAIRS COMMITTEE**

**Offered: 2/20/04**

**Referred: Finance**

**Sponsor(s): SENATOR THERRIAULT**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to review of certain regulations under the Administrative Procedure**  
2 **Act by 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 Legislative Affairs Agency  
6 shall review each proposed adoption, amendment, or repeal of a regulation that is  
7 subject to AS 44.62.010 - 44.62.300 (Administrative Procedure Act), other than a  
8 proposal of a board, commission, council, or public corporation.

9 (b) An agency shall, at the time it provides a copy to the Department of Law,  
10 submit each proposed adoption, amendment, or repeal of a regulation that it works on  
11 and that is subject to review under (a) of this section to the Legislative Affairs  
12 Agency. The copy shall be provided before notice of the proposed action is given  
13 under AS 44.62.190 or a public hearing is held on the proposal. The Legislative  
14 Affairs Agency shall review each proposal to determine whether the

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

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

5 (3) proposal is consistent with the statute;

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

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

10 (c) In conducting its review of a proposal, the Legislative Affairs Agency may  
11 consult with the Department of Law and make recommendations for changes in the  
12 proposal. If changes are made in the proposal, the Legislative Affairs Agency shall  
13 continue its review of the proposal as changed. If, at the completion of its review, the  
14 Legislative Affairs Agency determines that the proposal does not meet the standards  
15 under (b) of this section, the agency shall notify the Department of Law in writing of  
16 its conclusions. If the Legislative Affairs Agency determines that the proposal fails to  
17 meet the requirements of AS 44.62.030, it shall also send a copy of its conclusions to  
18 the Administrative Regulation Review Committee.

19 (d) The Legislative Affairs Agency may not release any information regarding  
20 its receipt or review of a proposal under this section except to the Department of Law,  
21 the Administrative Regulation Review Committee, the president of the senate, and the  
22 speaker of the house of representatives.

23 (e) The adoption, amendment, or repeal of a regulation may not be delayed  
24 because of the review by the Legislative Affairs Agency under this section.  
25 Suggestions for changes to a proposal made by the agency are not binding.

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

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

30 \* **Sec. 3.** AS 44.62.250 is amended to read:

31 **Sec. 44.62.250. Emergency regulations.** A regulation or order of repeal may

1 be adopted as an emergency regulation or order of repeal if a state agency makes a  
 2 written finding, including a statement of the facts that constitute the emergency, that  
 3 the adoption of the regulation or order of repeal is necessary for the immediate  
 4 preservation of the public peace, health, safety, or general welfare. The requirements  
 5 of AS 24.20.105, AS 44.62.040(c), 44.62.060, 44.62.125(b)(8), and 44.62.190 -  
 6 44.62.215 do not apply to the initial adoption of emergency regulations; however,  
 7 upon adoption of an emergency regulation the adopting agency shall immediately  
 8 submit a copy of it to the lieutenant governor for filing and for publication in the  
 9 Alaska Administrative Register, and within five days after filing by the lieutenant  
 10 governor the agency shall give notice of the adoption in accordance with  
 11 AS 44.62.190(a). Failure to give the required notice by the end of the 10th day  
 12 automatically repeals the regulation.

13 \* **Sec. 4.** AS 44.62.260 is amended to read:

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

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

19 (b) Before the expiration of the 120-day period, the agency shall transmit to  
 20 the lieutenant governor for filing a certification that AS 24.20.105, AS 44.62.040(c),  
 21 44.62.060, 44.62.125(b)(8), and 44.62.190 - 44.62.215 were complied with before  
 22 submitting the regulation to the lieutenant governor, or that the agency complied with  
 23 those sections within the 120-day period. Failure to so certify repeals the emergency  
 24 regulation; it may not be renewed or refiled as an emergency regulation.

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