

Original sponsors: Metcalfe, Abood,
Barnes, et al

Offered: 1/25/82
Referred: Judiciary

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 339 (State Affairs) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the judicial review of adminis-
7 trative regulations."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 44.62.030 is amended to read:

10 Sec. 44.62.030. CONSISTENCY BETWEEN REGULATION AND STATUTE. If,
11 by express or implied terms of a statute, a state agency has authority
12 to adopt regulations to implement, interpret, make specific or otherwise
13 carry out the provisions of the statute, no regulation adopted is valid
14 or effective unless consistent with the statute and there is a clearly
15 demonstrated need for the regulation [REASONABLY NECESSARY] to carry out
16 the purpose of the statute.

17 * Sec. 2. Sec. 44.62.030. is amended by adding a new subsection to read:

18 (b) This section does not apply to regulations promulgated by the
19 Board of Fisheries or the Board of Game under AS 16.05.251, 16.05.255,
20 16.05.257 and 16.05.260. Regulations promulgated under 16.05.251,
21 16.05.255, 16.05.257 and 16.05.260 shall be consistent with the statute
22 and reasonably necessary to carry out the purpose of the statute.

23 * Sec. 3. AS 44.62.300 is amended by adding a new subsection to read:

24 (b) In an action under (a) of this section brought on the ground
25 that there is no clearly demonstrated need for the regulation as
26 required by AS 44.62.030, the state has the burden of proving that

27 (1) the burdens imposed on the public by the regulation are
28 outweighed by the benefits accruing to the public from the regulation;
29 and

1 (2) there is no less restrictive means available to achieve
2 the purpose of the regulation.

3 (3) The costs to the private sector of the regulations will
4 not adversely affect the economic viability of private businesses.
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