

Introduced: 1/13/86  
Referred: State Affairs  
and Judiciary

BY PIGNALBERI, CATO, MARROU  
AND SHULTZ

1 IN THE HOUSE

2 HOUSE BILL NO. 458

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to adoption of regulations."

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

8 \* Section 1. AS 44.62.200(a) is amended to read:

9 (a) The notice of proposed adoption, amendment, or repeal of a  
10 regulation must [SHALL] include

11 (1) a statement of the time, place, and nature of proceed-  
12 ings for adoption, amendment, or repeal of the regulation;

13 (2) reference to the authority under which the regulation  
14 is proposed and a reference to the particular code section or other  
15 provisions of law which are being implemented, interpreted, or made  
16 specific;

17 (3) an informative summary of the proposed subject of  
18 agency action;

19 (4) other matters prescribed by a statute applicable to the  
20 specific agency or to the specific regulation or class of regulations;

21 (5) a summary of the fiscal information required to be  
22 prepared under AS 44.62.195;

23 (6) a summary of the justification of need unless the  
24 justification is excused under AS 44.62.205(b).

25 \* Sec. 2. AS 44.62 is amended by adding a new section to read:

26 Sec. 44.62.205 JUSTIFICATION OF NEED. (a) Except as provided  
27 in (b) of this section, when an agency adopts, amends, or repeals a  
28 regulation, the agency shall prepare a justification of need. The  
29 justification must set out examples or case histories supporting the

1 need for the regulation. If examples or case histories are not avail-  
2 able, the agency shall support the need for the regulation with other  
3 facts. The agency shall publish a summary of the justification of  
4 need as part of the notice of proposed action. The agency shall  
5 provide a copy of the justification to any person requesting one.

6 (b) An agency is not required to prepare a justification of need  
7 for a regulation that interprets, implements, or makes clear a law if  
8 the agency has not previously adopted a regulation under that law.

9 \* Sec. 3. AS 44.62.300 is amended to read:

10 Sec. 44.62.300. COURT REVIEW. An interested person may get a  
11 judicial declaration on the validity of a regulation by bringing an  
12 action for declaratory relief in the superior court. In addition to  
13 any other ground the court may declare the regulation invalid

14 (1) for a substantial failure to comply with AS 44.62.010  
15 44.62.320; [, OR]

16 (2) in the case of an emergency regulation or order of  
17 repeal, upon the ground that the facts recited in the statement do not  
18 constitute an emergency under AS 44.62.250; or

19 (3) in the case of a regulation subject to AS 44.62.205(a),  
20 for failure to comply with AS 44.62.205, or if the justification of  
21 need fails to present sufficient facts to establish by a preponderance  
22 of the evidence the need for the regulation.

23 \* Sec. 4. This Act does not apply to proposed regulations, amendments,  
24 or orders of repeal for which a notice of proposed action has been pub-  
25 lished on or before the effective date of this Act.

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