

1 AN ACT relating to administrative regulations.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 13A.290 TO 13A.335 IS CREATED
4 TO READ AS FOLLOWS:

5 *(1) After the last regularly scheduled meeting of the Administrative Regulation*
6 *Review Subcommittee in a calendar year, but by the thirty-first day of December*
7 *of that calendar year, the staff of the Administrative Regulation Review*
8 *Subcommittee shall submit a report to the co-chairs of that subcommittee*
9 *regarding administrative regulations that were found deficient by any*
10 *subcommittee of the Commission during that calendar year. The report shall*
11 *contain at least the following information for each applicable administrative*
12 *regulation:*

13 *(a) Administrative regulation number and title;*

14 *(b) Name of the promulgating agency;*

15 *(c) Date of deficiency determination;*

16 *(d) Name of the subcommittee that made the deficiency determination;*

17 *(e) Administrative regulation effective date, if it is in effect;*

18 *(f) The finding of deficiency and any other findings, recommendations, or*
19 *comments sent to the Governor; and*

20 *(g) If received, the Governor's determination that the administrative regulation*
21 *shall become effective notwithstanding the finding of deficiency.*

22 *(2) The first page of the report required by subsection (1) of this section shall contain*
23 *the following text, in fourteen (14) point font or larger:*

24 *"To ratify the deficiency findings listed in this report, a co-chair or other*
25 *legislator may request that Legislative Research Commission staff prepare a bill:*

26 *(a) Declaring that each administrative regulation listed in the report shall be*
27 *void; or*

1 **(b) Amending the relevant subject matter statutes in conformity with the**
 2 **findings of deficiency."**

3 ➔Section 2. KRS 13A.190 is amended to read as follows:

4 (1) An emergency administrative regulation is one that:

5 (a) Must be placed into effect immediately in order to:

- 6 1. Meet an imminent threat to public health, safety, or welfare;
- 7 2. Prevent a loss of federal or state funds;
- 8 3. Meet a deadline for the promulgation of an administrative regulation that
- 9 is established by state statute or federal law; or
- 10 4. Protect human health and the environment; and

11 (b) 1. Is temporary in nature and will expire as provided in this section; or

- 12 2. Is temporary in nature and will be replaced by an ordinary administrative
- 13 regulation as provided in this section.

14 (2) Emergency administrative regulations shall become effective and shall be
 15 considered as adopted upon filing. Emergency administrative regulations shall be
 16 published in the Administrative Register in accordance with the publication
 17 deadline established in KRS 13A.050(3).

18 (3) (a) Except as provided by paragraph (b) of this subsection, emergency
 19 administrative regulations shall expire **two hundred ten (210)**~~one hundred~~
 20 ~~eighty (180)~~ days after the date of filing or when the same matter filed as an
 21 ordinary administrative regulation filed for review is adopted, whichever
 22 occurs first.

23 (b) If an administrative body extends the time for filing a statement of
 24 consideration as provided by KRS 13A.280(2)(b), an emergency
 25 administrative regulation shall remain in effect for **two hundred ten (210)**~~one~~
 26 ~~hundred eighty (180)~~ days after the date of filing plus the number of days
 27 extended under the provisions of KRS 13A.280(2)(b) or when the same matter

1 filed as an ordinary administrative regulation filed for review is adopted,
2 whichever occurs first.

3 (4) Except as established in subsection (5) of this section, an emergency administrative
4 regulation with the same number or title or governing the same subject matter shall
5 not be filed for a period of nine (9) months after it has been initially filed. No other
6 emergency administrative regulation that is identical to the previously filed
7 emergency administrative regulation shall be promulgated.

8 (5) If an emergency administrative regulation with the same number or title or
9 governing the same subject matter as an emergency administrative regulation filed
10 within the previous nine (9) months is filed, it shall contain a detailed explanation
11 of the manner in which it differs from the previously filed emergency administrative
12 regulation. The detailed explanation shall be included in the statement of emergency
13 required by subsection (6) of this section.

14 (6) Each emergency administrative regulation shall contain a statement of:

- 15 (a) The nature of the emergency;
- 16 (b) The reasons why an ordinary administrative regulation is not sufficient;
- 17 (c) Whether or not the emergency administrative regulation will be replaced by an
18 ordinary administrative regulation;
- 19 (d) If the emergency administrative regulation will be replaced by an ordinary
20 administrative regulation, the following statement: "The ordinary
21 administrative regulation (is or is not) identical to this emergency
22 administrative regulation.";
- 23 (e) If the emergency administrative regulation will not be replaced by an ordinary
24 administrative regulation, the reasons therefor; and
- 25 (f) If applicable, the explanation required by subsection (5) of this section.

26 (7) (a) An administrative body shall attach the:

- 27 1. Statement of emergency required by subsection (6) of this section to the

1 front of the original and each copy of a proposed emergency
2 administrative regulation; and

3 2. Regulatory impact analysis, tiering statement, federal mandate
4 comparison, fiscal note, summary of material incorporated by
5 reference if applicable, and other forms or documents required by
6 the provisions of this chapter to the back of the emergency
7 administrative regulation.

8 (b) An administrative body shall file with the regulations compiler:

9 1. The original and five (5) copies of the emergency administrative
10 regulation; and

11 2. At the same time as, or prior to, filing the paper version, an electronic
12 version of the emergency administrative regulation and the attachments
13 required by paragraph (a) of this subsection saved as a single document
14 for each emergency administrative regulation in an electronic format
15 approved by the regulations compiler.

16 (c) The original and four (4) copies of each emergency administrative regulation
17 shall be stapled in the top left corner. The fifth copy of each emergency
18 administrative regulation shall not be stapled. The original and the five (5)
19 copies of each emergency administrative regulation shall be grouped together.

20 (8) (a) If an emergency administrative regulation will not be replaced by an ordinary
21 administrative regulation, the administrative body shall schedule a public
22 hearing and public comment period pursuant to KRS 13A.270(1). The public
23 hearing and public comment period information required by KRS 13A.270(2)
24 shall be attached to the back of the emergency administrative regulation.

25 (b) If an emergency administrative regulation will be replaced by an ordinary
26 administrative regulation:

27 1. The ordinary administrative regulation shall be filed at the same time as

1 the emergency administrative regulation that will be replaced; and

2 2. A public hearing and public comment period shall not be required for
3 the emergency administrative regulation.

4 (9) The statement of emergency shall have a two (2) inch top margin. The number of
5 the emergency administrative regulation shall be typed directly below the heading
6 "Statement of Emergency." The number of the emergency administrative regulation
7 shall be the same number as the ordinary administrative regulation followed by an
8 "E."

9 (10) Each executive department emergency administrative regulation shall be signed by
10 the head of the administrative body and countersigned by the Governor prior to
11 filing with the Commission. These signatures shall be on the statement of
12 emergency attached to the front of the emergency administrative regulation.

13 (11) (a) If an ordinary administrative regulation that was filed to replace an emergency
14 administrative regulation is withdrawn, the emergency administrative
15 regulation shall expire on the date the ordinary administrative regulation is
16 withdrawn.

17 (b) If an ordinary administrative regulation that was filed to replace an emergency
18 administrative regulation is withdrawn, the administrative body shall inform
19 the regulations compiler of the reasons for withdrawal in writing.

20 (12) (a) If an emergency administrative regulation that was intended to be replaced by
21 an ordinary administrative regulation is withdrawn, the emergency
22 administrative regulation shall expire on the date it is withdrawn.

23 (b) If an emergency administrative regulation has been withdrawn, the ordinary
24 administrative regulation that was filed with it shall not expire unless the
25 administrative body informs the regulations compiler that the ordinary
26 administrative regulation is also withdrawn.

27 (c) If an emergency administrative regulation is withdrawn, the administrative

1 body shall inform the regulations compiler of the reasons for withdrawal in
2 writing.

3 (13) A subcommittee may review an emergency administrative regulation and may
4 recommend to the Governor that the administrative regulation be withdrawn.

5 ➔Section 3. KRS 13A.290 is amended to read as follows:

6 (1) (a) Except as provided by KRS 158.6471 and 158.6472, the Administrative
7 Regulation Review Subcommittee shall meet monthly to review
8 administrative regulations prior to close of business on the fifteenth day of the
9 calendar month.

10 (b) The agenda shall:

11 1. Include each administrative regulation that was published in the prior
12 month's Administrative Register not including the administrative
13 regulations published in the "As Amended" section;

14 2. Include each administrative regulation for which a statement of
15 consideration was received on or before 12 noon, eastern time, on the
16 fifteenth day of the prior calendar month;

17 3. Include each administrative regulation that was deferred from the prior
18 month's meeting of the subcommittee; and

19 4. Not include an administrative regulation that is deferred, withdrawn,
20 expired, or automatically taken off the agenda under the provisions of
21 this chapter.

22 (c) Review of an administrative regulation shall include the entire administrative
23 regulation and all attachments filed with the administrative regulation. The
24 review of amendments to existing administrative regulations shall not be
25 limited to only the changes proposed by the promulgating administrative
26 body.

27 (2) The meetings shall be open to the public.

- 1 (3) Public notice of the time, date, and place of the Administrative Regulation Review
2 Subcommittee meeting shall be given in the Administrative Register.
- 3 (4) A representative of the administrative body promulgating the administrative
4 regulation under consideration shall be present to explain the administrative
5 regulation and to answer questions thereon. If a representative of the administrative
6 body with authority to amend the administrative regulation is not present at the
7 subcommittee meeting, the administrative regulation shall be deferred to the next
8 regularly scheduled meeting of the subcommittee.
- 9 (5) Following the meeting and before the next regularly scheduled meeting of the
10 Commission, the Administrative Regulation Review Subcommittee shall forward to
11 the Commission its findings, recommendations, or other comments it deems
12 appropriate in writing. The Administrative Regulation Review Subcommittee shall
13 also forward to the Commission its findings, recommendations, or other comments
14 it deems appropriate on an existing administrative regulation it has reviewed. The
15 Administrative Regulation Review Subcommittee's findings shall be published in
16 the Administrative Register.
- 17 (6) (a) After review by the Administrative Regulation Review Subcommittee, the
18 Commission shall, on the first Wednesday of the following month, or if the
19 first Wednesday is a legal holiday, the next workday of the month, assign the
20 administrative regulation to:
- 21 1. An interim joint committee of appropriate jurisdiction over the subject
22 matter of the administrative regulation; or
 - 23 2. During a session of the General Assembly, the House of Representatives
24 and Senate standing committees of appropriate jurisdiction over the
25 subject matter of the administrative regulation.
- 26 (b) Upon notification of the assignment by the Commission, the legislative
27 subcommittee to which the administrative regulation is assigned shall notify

1 the regulations compiler:

2 1. Of the date, time, and place of the meeting at which it will consider the
3 administrative regulation; or

4 2. That it will not meet to consider the administrative regulation.

5 (7) Within sixty (60)~~thirty (30)~~ days of the assignment, the subcommittee may hold a
6 public meeting during which the administrative regulation shall be reviewed. If the
7 sixtieth~~thirtieth~~ day of the assignment falls on a Saturday, Sunday, or holiday, the
8 deadline for review shall be the workday following the Saturday, Sunday, or
9 holiday. The subcommittee may also review an existing administrative regulation
10 and make a determination as provided by KRS 13A.030(2) and (3). Notice of the
11 time, date, and place of the meeting shall be placed in the legislative calendar.

12 (8) Except as provided in subsection (9) of this section, a subcommittee shall be
13 empowered to make the same nonbinding determinations and to exercise the same
14 authority as the Administrative Regulation Review Subcommittee.

15 (9) (a) A majority of the entire membership of the subcommittee to which an
16 administrative regulation is referred pursuant to subsection (6)(a) of this
17 section shall constitute a quorum for purposes of reviewing administrative
18 regulations.

19 (b) In order to amend an administrative regulation pursuant to KRS 13A.320 or to
20 find an administrative regulation deficient pursuant to KRS 13A.030(2) and
21 (3), the motion to amend or find deficient shall be approved by a majority of
22 the entire membership of the subcommittee. Additionally, during a session of
23 the General Assembly, standing committees of the Senate and House of
24 Representatives shall agree in order to amend an administrative regulation or
25 to find an administrative regulation deficient pursuant to KRS 13A.030(2) and
26 (3) by:

27 1. Meeting separately; or

1 2. Meeting jointly. If the standing committees meet jointly, it shall require
2 a majority vote of Senate members voting and a majority of House
3 members voting, as well as the majority vote of the entire membership
4 of the standing committees meeting jointly, in order to take action on the
5 administrative regulation.

6 (10) (a) Upon adjournment of the meeting at which a legislative subcommittee has
7 considered an administrative regulation pursuant to subsection (7) of this
8 section, the subcommittee shall inform the regulations compiler of its
9 findings, recommendations, or other action taken on the administrative
10 regulation.

11 (b) Following the meeting and before the next regularly scheduled meeting of the
12 Commission, the subcommittee shall forward to the Commission its findings,
13 recommendations, or other comments it deems appropriate in writing. The
14 subcommittee's findings shall be published in the Administrative Register.

15 ➔Section 4. KRS 13A.330 is amended to read as follows:

16 The provisions of this section shall apply to administrative regulations that are assigned
17 pursuant to KRS 13A.290(6)(a)1.

18 (1) An administrative regulation that has not been found deficient by a legislative
19 subcommittee shall be considered as adopted and shall become effective:

20 (a) Upon adjournment on the day a subcommittee meets to consider the
21 administrative regulation pursuant to KRS 13A.290(7) if:

22 1. The administrative regulation is on the agenda of the subcommittee
23 meeting;

24 2. A quorum of the subcommittee is present; and

25 3. The subcommittee:

26 a. Considers the administrative regulation; or

27 b. Fails to consider the administrative regulation and fails to agree to

- 1 defer its consideration of the administrative regulation; or
- 2 (b) If a subcommittee fails to meet within sixty (60)~~thirty (30)~~ days of
- 3 assignment of an administrative regulation as provided in KRS 13A.290(7), or
- 4 does not place the administrative regulation on the agenda of a meeting held
- 5 within sixty (60)~~thirty (30)~~ days of the referral of the administrative
- 6 regulation to it by the Commission, at the expiration of the sixty (60)~~thirty~~
- 7 ~~(30)~~ day period.
- 8 (2) If an administrative regulation has been found deficient by a legislative
- 9 subcommittee, the legislative subcommittee shall transmit to the Governor:
- 10 (a) A copy of its finding of deficiency and other findings, recommendations, or
- 11 comments it deems appropriate; and
- 12 (b) A request that the Governor determine whether the administrative regulation
- 13 shall:
- 14 1. Be withdrawn;
- 15 2. Be withdrawn and amended to conform to the finding of deficiency; or
- 16 3. Become effective pursuant to the provisions of this section
- 17 notwithstanding the finding of deficiency.
- 18 (3) If an administrative regulation has been found deficient by a legislative
- 19 subcommittee, the legislative subcommittee shall transmit copies of its transmittal
- 20 to the Governor to the regulations compiler.
- 21 (4) The Governor shall transmit his determination to the Commission and the
- 22 regulations compiler.
- 23 (5) An administrative regulation that has been found deficient by a legislative
- 24 subcommittee shall be considered as adopted and become effective after:
- 25 (a) 1. The subcommittee of appropriate jurisdiction to which an administrative
- 26 regulation was assigned pursuant to KRS 13A.290(6) has:
- 27 a. Considered the administrative regulation;

- 1 b. Failed to consider the administrative regulation and failed to agree
2 to defer its consideration of the administrative regulation; or
3 c. Failed to meet within sixty (60)~~thirty (30)~~ days of such
4 assignment; and
- 5 2. The regulations compiler has received the Governor's determination that
6 the administrative regulation shall become effective pursuant to the
7 provisions of this section notwithstanding the finding of deficiency; or
- 8 (b) The legislative subcommittee that found the administrative regulation
9 deficient subsequently determines that the administrative regulation is not
10 deficient, provided that this determination was made prior to receipt by the
11 regulations compiler of the Governor's determination.

12 ➔Section 5. KRS 13A.331 is amended to read as follows:

13 The provisions of this section shall apply to administrative regulations that are assigned
14 pursuant to KRS 13A.290(6)(a)2.

- 15 (1) An administrative regulation that has not been found deficient by both standing
16 committees shall be considered as adopted and shall become effective:
- 17 (a) Upon adjournment on the day the second standing committee meets to
18 consider the administrative regulation pursuant to KRS 13A.290 if:
- 19 1. The administrative regulation is on the agenda of the standing committee
20 meeting;
- 21 2. A quorum of the standing committee is present;
- 22 3. The standing committee:
- 23 a. Considers the administrative regulation; or
24 b. Fails to consider the administrative regulation and fails to agree to
25 defer its consideration of the administrative regulation; and
- 26 4. Pursuant to KRS 13A.290(9), the decision of the standing committee to
27 amend the administrative regulation is the same as the decision of the

- 1 corresponding standing committee of the other chamber to amend the
2 administrative regulation;
- 3 (b) Upon adjournment on the day the standing committee meeting jointly meets to
4 consider the administrative regulation pursuant to KRS 13A.290 if:
- 5 1. The administrative regulation is on the agenda of the joint standing
6 committee meeting;
- 7 2. A quorum of the joint standing committee is present;
- 8 3. The joint standing committee meeting:
- 9 a. Considers the administrative regulation; or
- 10 b. Fails to consider the administrative regulation and fails to agree to
11 defer its consideration of the administrative regulation; or
- 12 (c) If a standing committee fails to meet within sixty (60)~~thirty (30)~~ days of
13 assignment of an administrative regulation as provided in KRS 13A.290, or
14 does not place the administrative regulation on the agenda of a meeting held
15 within sixty (60)~~thirty (30)~~ days of the referral of the administrative
16 regulation to it by the Commission, at the expiration of the sixty (60)~~thirty~~
17 ~~(30)~~ day period.
- 18 (2) If an administrative regulation has been found deficient by both standing
19 committees, or by the standing committees meeting jointly, the standing
20 committees, or the standing committees meeting jointly shall transmit to the
21 Governor:
- 22 (a) A copy of its finding of deficiency and other findings, recommendations, or
23 comments it deems appropriate; and
- 24 (b) A request that the Governor determine whether the administrative regulation
25 shall:
- 26 1. Be withdrawn;
- 27 2. Be withdrawn and amended to conform to the finding of deficiency; or

1 3. Become effective pursuant to the provisions of this section
2 notwithstanding the finding of deficiency.

3 (3) If an administrative regulation has been found deficient by the standing committees
4 or by the standing committees meeting jointly, the standing committees or standing
5 committees meeting jointly shall transmit copies of its transmittal to the Governor
6 to the regulations compiler.

7 (4) The Governor shall transmit his determination to the Commission and the
8 regulations compiler.

9 (5) An administrative regulation that has been found deficient by the Administrative
10 Regulation Review Subcommittee, the standing committees, ~~or by~~ the standing
11 committees meeting jointly shall be considered as adopted and become effective
12 after:

13 (a) 1. The standing committees of appropriate jurisdiction to which an
14 administrative regulation was assigned pursuant to KRS 13A.290 has:

15 a. Considered the administrative regulation;

16 b. Failed to consider the administrative regulation and failed to agree
17 to defer its consideration of the administrative regulation; or

18 c. Failed to meet within sixty (60)~~thirty (30)~~ days of such
19 assignment; and

20 2. The regulations compiler has received the Governor's determination that
21 the administrative regulation shall become effective pursuant to the
22 provisions of this section notwithstanding the finding of deficiency; or

23 (b) The subcommittee, standing committees, or standing committees meeting
24 jointly that found the administrative regulation deficient subsequently
25 determines that the administrative regulation is not deficient, provided that
26 this determination was made prior to receipt by the regulations compiler of the
27 Governor's determination.