HOUSE BILL NO. 390

AN ACT TO AMEND SECTIONS 25-43-5 AND 25-43-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT REGULATIONS WHICH AFFECT THE GENERAL PUBLIC SHALL NOT BE EFFECTIVE UNLESS APPROVED BY THE LEGISLATURE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-43-5, Mississippi Code of 1972, is amended as follows:

25-43-5. (1) In addition to other rule-making authority and requirements imposed by law, each agency shall:

(a) Adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(b) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including all requirements respecting the filing of applications for any license and the licensing procedure employed by the agency and the method whereby persons desiring notice of pending applications may obtain such notice and request an opportunity to be heard.

(c) Allow public inspection of all rules and other written statements of policy or interpretations formulated, adopted or used by the agency in the discharge of its functions.

(d) Allow public inspection of all final orders, decisions and opinions.

(2) No agency rule, order or decision is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public
inspection as herein required. This provision is not applicable in favor of any person or party who has actual knowledge thereof.

(3) No agency rule or regulation which affects the general public shall be effective unless approved by the Legislature.

SECTION 2. Section 25-43-7, Mississippi Code of 1972, is amended as follows:

25-43-7. (1) Prior to the adoption, amendment or repeal of any rule, the agency shall give at least thirty (30) days' notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the manner in which interested persons may present their views thereon. The notice shall be filed with the Office of the Secretary of State and mailed by the agency to all persons who have made a timely request of the agency for advance notice of its rule-making proceedings. The Secretary of State shall furnish copies at the request of any person and shall be reimbursed by the requesting person for the expense of providing such service.

(2) If an agency finds that an imminent peril to the public health, safety or welfare requires adoption of a rule upon fewer than thirty (30) days' notice and states in writing its reasons for that finding, it may proceed without prior notice of hearing or upon any abbreviated notice and hearing that it finds practicable to adopt an emergency rule. The rule may be effective for a period of not longer than one hundred twenty (120) days, renewable once for a period not exceeding ninety (90) days, but the adoption of an identical rule under subsection (1) of this section is not precluded.

(3) No rule hereafter adopted is valid unless adopted in substantial compliance with this section. A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this section must be commenced within one (1) year from the effective date of the rule.
(4) No rule or regulation which affects the general public shall be effective unless approved by the Legislature.

SECTION 3. This act shall take effect and be in force from and after July 1, 2001.