

By: Representative Moore

To: Judiciary A

HOUSE BILL NO. 1157

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

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

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

8 25-43-5. (1) In addition to other rule-making authority and
9 requirements imposed by law, each agency shall:

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

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

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

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

26 (2) No agency rule, order or decision is valid or effective
27 against any person or party, nor may it be invoked by the agency
28 for any purpose, until it has been made available for public

29 inspection as herein required. This provision is not applicable
30 in favor of any person or party who has actual knowledge thereof.

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

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

35 25-43-7. (1) Prior to the adoption, amendment or repeal of
36 any rule, the agency shall give at least thirty (30) days' notice
37 of its intended action. The notice shall include a statement of
38 either the terms or substance of the intended action or a
39 description of the subjects and issues involved, and the manner in
40 which interested persons may present their views thereon. The
41 notice shall be filed with the Office of the Secretary of State
42 and mailed by the agency to all persons who have made timely
43 request of the agency for advance notice of its rule-making
44 proceedings. The Secretary of State shall furnish copies at the
45 request of any person and shall be reimbursed by the requesting
46 person for the expense of providing such service.

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

57 (3) No rule hereafter adopted is valid unless adopted in
58 substantial compliance with this section. A proceeding to contest
59 any rule on the ground of noncompliance with the procedural
60 requirements of this section must be commenced within one (1) year
61 from the effective date of the rule.

62 (4) No agency rule or regulation that affects the general
63 public shall be effective unless approved by the Legislature.

64 **SECTION 3.** This act shall take effect and be in force from
65 and after July 1, 2004.