

By: Representative Moore

To: Judiciary A

HOUSE BILL NO. 852

1 AN ACT TO AMEND SECTIONS 25-43-3.112 AND 25-43-3.113,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AGENCY RULES AND
3 REGULATIONS THAT AFFECT THE GENERAL PUBLIC SHALL NOT BECOME
4 EFFECTIVE UNTIL APPROVED BY THE LEGISLATURE; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 25-43-3.112, Mississippi Code of 1972, is
8 amended as follows:

9 25-43-3.112. An agency shall file in the Office of the
10 Secretary of State each rule it adopts and all rules existing on
11 July 1, 2005, that have not previously been filed. The filing
12 must be done as soon after adoption of the rule as is practicable.
13 At the time of filing, each rule adopted after July 1, 2005, must
14 have included in or attached to it the material set out in Section
15 25-43-3.109. The Secretary of State shall affix to each rule and
16 statement a certification of the date of filing and keep a
17 permanent register open to public inspection of all filed rules
18 and attached material. In filing a rule, each agency shall use a
19 standard format prescribed by the Secretary of State. The
20 Secretary of State shall file a copy of each rule filed with him,
21 along with his statement and certification, with the Secretary of
22 the Senate and the Clerk of the House of Representatives.

23 **SECTION 2.** Section 25-43-3.113, Mississippi Code of 1972, is
24 amended as follows:

25 25-43-3.113. (1) Except to the extent subsection (2), (3) or
26 (4) of this section provides otherwise, each rule adopted after
27 July 1, 2005, becomes effective thirty (30) days after its proper
28 filing in the Office of the Secretary of State.

29 (2) (a) A rule becomes effective on a date later than that
30 established by subsection (1) of this section if a later date is
31 required by another statute or specified in the rule.

32 (b) A rule may become effective immediately upon its
33 filing or on any subsequent date earlier than that established by
34 subsection (1) of this section if the agency establishes such an
35 effective date and finds that:

36 (i) It is required by Constitution, statute or
37 court order;

38 (ii) The rule only confers a benefit or removes a
39 restriction on the public or some segment thereof;

40 (iii) The rule only delays the effective date of
41 another rule that is not yet effective; or

42 (iv) The earlier effective date is necessary
43 because of imminent peril to the public health, safety or welfare.

44 (c) The finding and a brief statement of the reasons
45 therefor required by paragraph (b) of this subsection must be made
46 a part of the rule. In any action contesting the effective date
47 of a rule made effective under paragraph (b) of this subsection,
48 the burden is on the agency to justify its finding.

49 (d) A temporary rule may become effective immediately
50 upon its filing or on any subsequent date earlier than that
51 established by subsection (1) of this section.

52 (e) Each agency shall make a reasonable effort to make
53 known to persons who may be affected by it a rule made effective
54 before any date established by subsection (1) of this section.

55 (3) Except as provided in subsection (2) of this section, no
56 agency rule or regulation that affects the general public shall
57 become effective until it is approved by the Legislature.

58 (4) This section does not relieve an agency from compliance
59 with any provision of law requiring that some or all of its rules
60 be approved by other designated officials or bodies before they
61 become effective.

62 **SECTION 3.** This act shall take effect and be in force from
63 and after July 1, 2005.