

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.