

HOUSE BILL NO. 6206

June 09, 2022, Introduced by Reps. Griffin, Steven Johnson, Tisdell, Bollin, Beeler, Meerman, Calley, Rendon, Bellino, Hoitenga, Lightner, Clements, Outman, Eisen, Allor and Alexander and referred to the Committee on Oversight.

A bill to amend 1969 PA 306, entitled
"Administrative procedures act of 1969,"
by amending section 48 (MCL 24.248), as amended by 2018 PA 267.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 48. (1) If an agency finds that preservation of the
2 public health, safety, or welfare requires promulgation of an
3 emergency rule without following the notice and participation
4 procedures required by sections 41 and 42 and states in the rule
5 the agency's reasons for that finding, and the governor concurs in

1 the finding of emergency, the agency may dispense with all or part
2 of the procedures and file in the office of the secretary of state
3 the copies prescribed by section 46 endorsed as an emergency rule,
4 to 3 of which copies must be attached the certificates prescribed
5 by section 45 and the governor's certificate concurring in the
6 finding of emergency. The emergency rule is effective on filing and
7 remains in effect until a date fixed in the rule or 6 months after
8 the date of its filing, whichever is earlier. The rule may be
9 extended once for not more than 6 months by the filing of a
10 governor's certificate of the need for the extension with the
11 office of the secretary of state before expiration of the emergency
12 rule. Any period or extension during which an emergency rule is
13 effective under this subsection is tolled from the date that the
14 environmental rules review committee makes a determination as to a
15 similar rule under section 66(5)(c) until the date a public hearing
16 is held on the rule under section 66(7).

17 (2) If the director of the department of health and human
18 services determines that an imminent danger to the health or lives
19 of individuals in this state can be prevented or controlled by
20 scheduling a substance as a controlled substance under section
21 2251(4) of the public health code, 1978 PA 368, MCL 333.2251, and
22 the administrator determines that the substance should be scheduled
23 or rescheduled as a controlled substance, the department of
24 licensing and regulatory affairs, **subject to subsection (5)**, may
25 dispense with all or part of the procedures required by sections 41
26 and 42 and file in the office of the secretary of state the copies
27 prescribed by section 46 endorsed as an emergency rule, to 3 of
28 which copies must be attached the certificate of approval and the
29 director of the department of health and human services's

notification under section 2251(4) of the public health code, 1978 PA 368, MCL 333.2251. The office shall submit the emergency rule draft language to the legislative service bureau for its formal certification within 7 business days after receipt from the department of licensing and regulatory affairs. The legislative service bureau shall issue a certificate of approval indicating whether the proposed rule is proper as to all matters of form, classification, and arrangement within 7 business days after receiving the submission and return the rule to the office. If the legislative service bureau fails to issue a certificate of approval within 7 business days after receipt of the submission for formal certification, the office may issue a certificate of approval. If the legislative service bureau returns the submission to the office before the expiration of the 7-business-day time period, the 7-business-day time period is tolled until the rule is returned by the office. The legislative service bureau has the remainder of the 7-business-day time period to consider the formal certification of the rule. On receipt from the legislative service bureau, the office shall, within 7 business days, approve the proposed rule if it considers the proposed rule to be legal and appropriate. An emergency rule adopted under this subsection remains in effect until the earlier date of the following:

(a) An identical or similar rule is promulgated.

(b) An identical or similar bill is enacted into law.

(c) The administrator determines that the emergency rule is no longer necessary.

(d) Six months after the date of its filing, which may be extended for not more than 6 months by the administrator on filing a certificate of extension with the office of the secretary of

1 state before the expiration of 6 months after the date of its
2 filing.

3 (3) An emergency rule must not be numbered and must not be
4 compiled in the Michigan Administrative Code, but must be noted in
5 the annual supplement to the code. The emergency rule must be
6 published in the Michigan register under section 8.

7 (4) If the agency desires to promulgate an identical or
8 similar rule with an effectiveness beyond the final effective date
9 of an emergency rule, the agency shall comply with the procedures
10 prescribed by this act for the processing of a rule that is not an
11 emergency rule. The rule must be published in the Michigan register
12 and in the code.

13 (5) **Within 24 hours after the department of licensing and**
14 **regulatory affairs dispenses with all or part of the procedures**
15 **required by sections 41 and 42 and files in the office of the**
16 **secretary of state the copies prescribed by section 46 endorsed as**
17 **an emergency rule, as required under subsection (2), the department**
18 **of licensing and regulatory affairs shall notify the senate and**
19 **house of representatives in writing.**

20 (6) ~~(5)~~—As used in this section, "administrator" means that
21 term as defined in section 7103 of the public health code, 1978 PA
22 368, MCL 333.7103.