

By the Committees on Governmental Rules & Regulations,
 Rules & Calendar and Representative Sublette

1 A bill to be entitled
 2 An act relating to the Florida Statutes;
 3 repealing various statutory provisions that
 4 have become obsolete, have had their effect,
 5 have served their purpose, or have been
 6 impliedly repealed or superseded; amending s.
 7 120.536, F.S.; deleting obsolete provisions
 8 relating to agency review of rules exceeding
 9 rulemaking authority under law; amending s.
 10 120.695, F.S.; deleting obsolete provisions
 11 relating to the review of agency rules for
 12 designation of those for which violation would
 13 be considered minor and subject to a notice of
 14 noncompliance as first enforcement action;
 15 providing an effective date.

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 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Paragraph (a) of subsection (2) of section
 20 120.536, Florida Statutes, is amended to read:

21 120.536 Rulemaking authority; listing of rules
 22 exceeding authority; repeal; challenge.--

23 ~~(2)(a) By October 1, 1997, each agency shall provide~~
 24 ~~to the Administrative Procedures Committee a listing of each~~
 25 ~~rule, or portion thereof, adopted by that agency before~~
 26 ~~October 1, 1996, which exceeds the rulemaking authority~~
 27 ~~permitted by this section. For those rules of which only a~~
 28 ~~portion exceeds the rulemaking authority permitted by this~~
 29 ~~section, the agency shall also identify the language of the~~
 30 ~~rule which exceeds this authority. The Administrative~~
 31 ~~Procedures Committee shall combine the lists and provide the~~

1 ~~cumulative listing to the President of the Senate and the~~
2 ~~Speaker of the House of Representatives. The Legislature~~
3 ~~shall, at the 1998 Regular Session, consider whether specific~~
4 ~~legislation authorizing the identified rules, or portions~~
5 ~~thereof, should be enacted. By January 1, 1999, each agency~~
6 ~~shall initiate proceedings pursuant to s. 120.54 to repeal~~
7 ~~each rule, or portion thereof, identified as exceeding the~~
8 ~~rulemaking authority permitted by this section for which~~
9 ~~authorizing legislation does not exist. By February 1, 1999,~~
10 ~~the Administrative Procedures Committee shall submit to the~~
11 ~~President of the Senate and the Speaker of the House of~~
12 ~~Representatives a report identifying those rules that an~~
13 ~~agency had previously identified as exceeding the rulemaking~~
14 ~~authority permitted by this section for which proceedings to~~
15 ~~repeal the rule have not been initiated.~~As of July 1, 1999,
16 the Administrative Procedures Committee or any substantially
17 affected person may petition an agency to repeal any rule, or
18 portion thereof, because it exceeds the rulemaking authority
19 permitted by this section. Not later than 30 days after the
20 date of filing the petition if the agency is headed by an
21 individual, or not later than 45 days if the agency is headed
22 by a collegial body, the agency shall initiate rulemaking
23 proceedings to repeal the rule, or portion thereof, or deny
24 the petition, giving a written statement of its reasons for
25 the denial.

26 Section 2. Subsection (2) of section 120.695, Florida
27 Statutes, is amended to read:

28 120.695 Notice of noncompliance.--

29 (2)(a) Each agency shall issue a notice of
30 noncompliance as a first response to a minor violation of a
31 rule. A "notice of noncompliance" is a notification by the

1 agency charged with enforcing the rule issued to the person or
2 business subject to the rule. A notice of noncompliance may
3 not be accompanied with a fine or other disciplinary penalty.
4 It must identify the specific rule that is being violated,
5 provide information on how to comply with the rule, and
6 specify a reasonable time for the violator to comply with the
7 rule. A rule is agency action that regulates a business,
8 occupation, or profession, or regulates a person operating a
9 business, occupation, or profession, and that, if not complied
10 with, may result in a disciplinary penalty.

11 ~~(b) Each agency shall review all of its rules and~~
12 ~~designate those for which a violation would be a minor~~
13 ~~violation and for which a notice of noncompliance must be the~~
14 ~~first enforcement action taken against a person or business~~
15 ~~subject to regulation. A violation of a rule is a minor~~
16 ~~violation if it does not result in economic or physical harm~~
17 ~~to a person or adversely affect the public health, safety, or~~
18 ~~welfare or create a significant threat of such harm. If an~~
19 ~~agency under the direction of a cabinet officer mails to each~~
20 ~~licensee a notice of the designated rules at the time of~~
21 ~~licensure and at least annually thereafter, the provisions of~~
22 ~~paragraph (a) may be exercised at the discretion of the~~
23 ~~agency. Such notice shall include a subject-matter index of~~
24 ~~the rules and information on how the rules may be obtained.~~

25 ~~(c) The agency's review and designation must be~~
26 ~~completed by December 1, 1995; each agency under the direction~~
27 ~~of the Governor shall make a report to the Governor, and each~~
28 ~~agency under the joint direction of the Governor and Cabinet~~
29 ~~shall report to the Governor and Cabinet by January 1, 1996,~~
30 ~~on which of its rules have been designated as rules the~~
31 ~~violation of which would be a minor violation.~~

1 ~~(d) The Governor or the Governor and Cabinet, as~~
2 ~~appropriate pursuant to paragraph (c), may evaluate the review~~
3 ~~and designation effects of each agency and may apply a~~
4 ~~different designation than that applied by the agency.~~

5 ~~(e) This section does not apply to the regulation of~~
6 ~~law enforcement personnel or teachers.~~

7 (c)(f) Designation pursuant to this section is not
8 subject to challenge under this chapter.

9 Section 3. This act shall take effect upon becoming a
10 law.

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