

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
 ADOPTED AS AMENDED (Y/N)
 ADOPTED W/O OBJECTION (Y/N)
 FAILED TO ADOPT (Y/N)
 WITHDRAWN (Y/N)
 OTHER

1 Committee/Subcommittee hearing bill: Government Operations
 2 Appropriations Subcommittee
 3 Representative Adkins offered the following:

Amendment (with title amendment)

Remove lines 835-879 and insert:

Section 1. Section 120.695, Florida Statutes, is amended
 to read:

120.695 Notice of noncompliance.—

(1) It is the policy of the state that the purpose of
 regulation is to protect the public by attaining compliance with
 the policies established by the Legislature. Fines and other
 penalties may be provided in order to assure compliance;
 however, the collection of fines and the imposition of penalties
 are intended to be secondary to the primary goal of attaining
 compliance with an agency's rules. It is the intent of the
 Legislature that an agency charged with enforcing rules shall
 issue a notice of noncompliance as its first response to a minor
 violation of a rule in any instance in which it is reasonable to

Amendment No. 3

20 assume that the violator was unaware of the rule or unclear as
21 to how to comply with it.

22 (2) (a) Each agency shall issue a notice of noncompliance
23 as a first response to a minor violation of a rule. A "notice of
24 noncompliance" is a notification by the agency charged with
25 enforcing the rule issued to the person or business subject to
26 the rule. A notice of noncompliance may not be accompanied with
27 a fine or other disciplinary penalty. It must identify the
28 specific rule that is being violated, provide information on how
29 to comply with the rule, and specify a reasonable time for the
30 violator to comply with the rule. A rule is agency action that
31 regulates a business, occupation, or profession, or regulates a
32 person operating a business, occupation, or profession, and
33 that, if not complied with, may result in a disciplinary
34 penalty.

35 (b) Each agency shall review all of its rules and
36 designate those for which a violation would be a minor violation
37 and for which a notice of noncompliance must be the first
38 enforcement action taken against a person or business subject to
39 regulation. A violation of a rule is a minor violation if it
40 does not result in economic or physical harm to a person or
41 adversely affect the public health, safety, or welfare or create
42 a significant threat of such harm. ~~If an agency under the~~
43 ~~direction of a cabinet officer mails to each licensee a notice~~
44 ~~of the designated rules at the time of licensure and at least~~
45 ~~annually thereafter, the provisions of paragraph (a) may be~~
46 ~~exercised at the discretion of the agency. Such notice shall~~

Amendment No. 3

47 ~~include a subject-matter index of the rules and information on~~
48 ~~how the rules may be obtained.~~

49 (c) DESIGNATION OF MINOR VIOLATION RULES. ~~The agency's~~
50 ~~review and designation must be completed by December 1, 1995;~~

51 1. No later than June 30, 2014, and after such date within
52 three months of any request of the rules ombudsman, each agency
53 shall review under the direction of the Governor shall make a
54 report to the Governor, and each agency under the joint
55 direction of the Governor and Cabinet shall report to the
56 Governor and Cabinet by January 1, 1996, on which of its rules
57 and certify to the President of the Senate, the Speaker of the
58 House of Representatives, the committee, and the rules ombudsman
59 those rules that have been designated as rules the violation of
60 which would be a minor violation under paragraph (b), consistent
61 with the legislative intent stated in subsection (1). For each
62 agency failing to timely complete the review and file the
63 certification as required by this section the rules ombudsman
64 shall promptly report such failure to the Governor, the
65 President of the Senate, the Speaker of the House of
66 Representatives and the committee.

67 2. Beginning on July 1, 2014, each agency shall:

68 a. Publish all rules of that agency designated as rules the
69 violation of which would be a minor violation, either as a
70 complete list on the agency's internet webpage or by
71 incorporation of the designations in the agency's disciplinary
72 guidelines adopted as a rule.

Amendment No. 3

73 b. Ensure that all investigative and enforcement personnel
74 are knowledgeable of the agency's designations under this
75 section.

76 c. For each rule filed for adoption the agency head shall
77 certify whether any part of the rule is designated as one the
78 violation of which would be a minor violation and shall update
79 the listing required by subparagraph 2.a.

80 (d) The Governor or the Governor and Cabinet, as
81 appropriate ~~pursuant to paragraph (c)~~, may evaluate the review
82 and designation effects of each agency subject to the direction
83 and supervision of such authority and may direct ~~apply a~~
84 different designation than that applied by such ~~the~~ agency.

85 (e) Notwithstanding s. 120.52(1)(a), this section does not
86 apply to:

87 1. The Department of Corrections;

88 2. Educational units;

89 3. The regulation of law enforcement personnel; or

90 4. The regulation of teachers.

91 (f) Designation pursuant to this section is not subject to
92 challenge under this chapter.

Amendment No. 3

101
102
103
104
105
106
107
108
109
110

T I T L E A M E N D M E N T

Remove line 49 and insert:
designation of minor violations; requiring agency review and
certification of minor violation rules by time certain;
providing sanction for failure to provide certification;
requiring minor violation certification for all rules adopted
after July 1, 2014; requiring public notice; providing certain
exclusions; amending ss.