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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
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	.	

The Committee on Governmental Oversight and Accountability
(Hays) recommended the following:

1 **Senate Amendment to Amendment (681624) (with title**
2 **amendment)**

3
4 Delete lines 786 - 829

5 and insert:

6 Section 10. Section 120.695, Florida Statutes, is amended
7 to read:

8 120.695 Notice of noncompliance.-

9 (1) It is the policy of the state that the purpose of
10 regulation is to protect the public by attaining compliance with
11 the policies established by the Legislature. Fines and other
12 penalties may be provided in order to assure compliance;



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13 however, the collection of fines and the imposition of penalties
14 are intended to be secondary to the primary goal of attaining
15 compliance with an agency's rules. It is the intent of the
16 Legislature that an agency charged with enforcing rules shall
17 issue a notice of noncompliance as its first response to a minor
18 violation of a rule in any instance in which it is reasonable to
19 assume that the violator was unaware of the rule or unclear as
20 to how to comply with it.

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

34 (b) Each agency shall review all of its rules and designate
35 those for which a violation would be a minor violation and for
36 which a notice of noncompliance must be the first enforcement
37 action taken against a person or business subject to regulation.
38 A violation of a rule is a minor violation if it does not result
39 in economic or physical harm to a person or adversely affect the
40 public health, safety, or welfare or create a significant threat
41 of such harm. ~~If an agency under the direction of a cabinet~~



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42 ~~officer mails to each licensee a notice of the designated rules~~
43 ~~at the time of licensure and at least annually thereafter, the~~
44 ~~provisions of paragraph (a) may be exercised at the discretion~~
45 ~~of the agency. Such notice shall include a subject matter index~~
46 ~~of the rules and information on how the rules may be obtained.~~

47 ~~(c) The agency's review and designation must be completed~~
48 ~~by December 1, 1995;~~

49 1. No later than June 30, 2014, and, thereafter, within 3
50 months of any request of the rules ombudsman, each agency shall
51 review under the direction of the Governor shall make a report
52 to the Governor, and each agency under the joint direction of
53 the Governor and Cabinet shall report to the Governor and
54 Cabinet by January 1, 1996, on which of its rules have been
55 designated as rules the violation of which would be a minor
56 violation and certify to the President of the Senate, the
57 Speaker of the House of Representatives, the committee, and the
58 rules ombudsman those rules for which a violation would be
59 considered a minor violation under this paragraph, consistent
60 with the legislative intent stated in subsection (1). Each
61 agency that fails to timely complete the review and file the
62 certification as required by this section is prohibited from
63 imposing any sanction greater than the minimum authorized by law
64 for an initial minor violation until the agency completes and
65 files the required certification.

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

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



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71 guidelines adopted as a rule.

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

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

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

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

- 86 1. The Department of Corrections;
87 2. Educational units;
88 3. The regulation of law enforcement personnel; or
89 4. The regulation of teachers.

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

92
93 ===== T I T L E A M E N D M E N T =====

94 And the title is amended as follows:

95 Delete lines 996 - 998

96 and insert:

97 amending s. 120.695, F.S.; providing for the
98 designation of minor violations; requiring agency
99 review and certification rules, a violation of which



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100 would be considered a minor violation, by a certain
101 date; providing sanctions for failure to provide
102 certification; requiring certification of minor
103 violation status for rules adopted after a certain
104 date; requiring public notice; providing certain
105 exclusions; amending ss.