

By Mr. Buglione of Methuen, petition of Nicholas J. Buglione and Edward W. Connelly relative to the adoption, amendment or repeal of regulations by certain public agencies. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-One.

AN ACT RELATIVE TO THE ADOPTION, AMENDMENT OR REPEAL OF REGULATIONS BY CERTAIN PUBLIC AGENCIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Paragraph (2) of section 1 of chapter 30A of the
2 General Laws is hereby amended by inserting after the word
3 "Agency", in line 1, as appearing in section 50 of chapter 835 of the
4 acts of 1974, the words: — except as provided in section six D shall
5 include.

1 SECTION 2. Section 2 of said chapter 30A, as most recently
2 amended by section 2 of chapter 459 of the acts of 1976, is hereby
3 further amended by striking out the fifth paragraph and inserting
4 in place thereof the following paragraph: —

5 If the agency finds that immediate adoption, amendment or
6 repeal of a regulation is necessary for the preservation of the public
7 health, safety or general welfare, and that observance of the re-
8 quirements of notice and a public hearing would be contrary to the
9 public interest, the agency may dispense with such requirements
10 and adopt, amend or repeal the regulation as an emergency regula-
11 tion. The agency's finding and a brief statement of the reason for its
12 finding shall be incorporated in the emergency regulation as filed
13 with the state secretary under section five. An emergency regula-
14 tion shall not remain in effect for longer than ninety days unless
15 during that time the agency gives notice and holds a public hearing
16 as required in this section, files notice of compliance with the state

17 secretary and files the proposed regulation, amendment or repeal
18 with the clerk of the house of representatives as provided in section
19 6D; provided, that if an emergency regulation is filed during proro-
20 gation of the general court, it shall remain in force for ninety days
21 after the reconvening of the general court unless sooner disap-
22 proved by the general court.

1 SECTION 3. Section 3 of said chapter 30A, as most recently
2 amended by section 3 of said chapter 459, is hereby further amend-
3 ed by striking out the fourth paragraph and inserting in place
4 thereof the following paragraph: —

5 If the agency finds that immediate adoption, amendment or
6 repeal of a regulation is necessary for the preservation of the public
7 health, safety or general welfare, and that observance of the re-
8 quirements of notice and affording interested persons an oppor-
9 tunity to present data, views or arguments would be contrary to the
10 public interest, the agency may dispense with such requirements
11 and adopt, amend or repeal the regulation as an emergency regula-
12 tion. The agency's finding and a brief statement of the reasons for
13 its findings shall be incorporated in the emergency regulation as
14 filed with the state secretary under section five. An emergency
15 regulation shall not remain in effect for longer than ninety days
16 unless during that time the agency gives notice and affords interest-
17 ed persons an opportunity to present data, views, or arguments, as
18 required in this section, files notice of compliance with the state
19 secretary and filed the proposed regulation, amendment or repeal
20 with the clerk of the house of representatives as provided in section
21 6D; provided that if an emergency regulation is filed during proro-
22 gation of the general court, it shall remain in force for ninety days
23 after the reconvening of the general court unless sooner disap-
24 proved by the general court.

1 SECTION 4. Section 5 of said chapter 30A, as most recently
2 amended by section 4 of said chapter 459, is hereby further amend-
3 ed by inserting after the first paragraph the following para-
4 graph: —

5 The state secretary shall not accept for filing any regulations or
6 any amendment or repeal of any regulation unless such regulation,

7 amendment or repeal has in addition to compliance with all appli-
8 cable provisions of this chapter, been approved by the general
9 court and the governor as provided in section six D and has
10 prepared a summary in layman's terms which is filed therewith.

1 SECTION 5. Said chapter 30A is hereby further amended in
2 inserting after section 6C the following section: —

3 *Section 6D.* Any regulation, as defined in section one, or any
4 amendment or repeal of any such regulation adopted by an agency,
5 as hereinafter defined, shall, after compliance with all applicable
6 provisions of this chapter, be submitted to the general court for
7 approval. The agency shall file the proposed regulation, amend-
8 ment or repeal with the clerk of the house of representatives,
9 together with a statement that the pertinent provisions of this
10 chapter have been complied with. Any regulatiuon filed with the
11 general court under the provisions of this section shall be accompa-
12 nied by a summary of the regulation in layman's terms. The clerk
13 shall refer such regulation to the appropriate joint standing com-
14 mittee within five days of the filing thereof. The committee shall
15 consider the proposed regulation, amendment or repeal and shall
16 report to the general court within forty-five days whether the same
17 should be adopted in the manner submitted. The clerk of the senate
18 and the clerk of the house shall recommend to the general court the
19 form and procedure which shall be followed in considering the
20 approval of a proposed regulation, amendment or repeal, provided
21 that approval or disapproval shall be by joint resolution; and
22 provided, further, that any such regulation, amendment or repeal
23 shall not be subject to amendment by the general court.

24 The clerk of the senate shall cause any regulation, amendment or
25 repeal, approved by both branches of the general court within
26 seventy-five days from the time of the filing of the same with the
27 clerk of the house of representatives, to be forwarded to the gover-
28 nor for his approval; provided, that any such regulation, amend-
29 ment or repeal which is not approved by the general court and the
30 governor within ninety days of such filing shall be deemed to have
31 been disapproved.

32 If the governor approves any regulation, amendment or repeal
33 submitted to him, as hereinbefore provided, he shall forward the
34 same to the state secretary who shall publish the same in accord-
35 ance with section five.

36 Emergency regulations may be adopted during the prorogation
37 of the general court in the manner provided by section five; pro-
38 vided, that such regulation shall be filed with the clerk of the house
39 of representatives for submission the next session of the general
40 court for approval as hereinbefore provided; and provided, furth-
41 er, that such regulation shall not remain in force for more than
42 ninety days after the general court has convened for such session.

43 As used in this section, Agency shall include any department,
44 board, commission, division or authority of the state government
45 or subdivision of any of the foregoing or official of the state
46 government, authorized by law to make regulations or to conduct
47 adjudicatory proceedings, but shall not include the legislative and
48 judicial departments; the governor and council, military or naval
49 boards, commissions or officials; the rate setting commission; the
50 Massachusetts Turnpike Authority; the Massachusetts Port Au-
51 thority; and the Massachusetts Parking Authority. The provisions
52 of section five, in effect prior to January fifteenth, nineteen
53 hundred and eighty, shall continue to apply to any agency, as
54 defined in section one which is not subject to the provisions of this
55 section.

1 SECTION 6. Chapter 128A is hereby amended by striking out
2 section 9B, inserted by section 7A of chapter 494 of the acts of 1978,
3 and inserting in place thereof the following section: —

4 *Section 9B.* All rules and regulations promulgated by the com-
5 mission pursuant to the provisions of this chapter shall take effect
6 as provided in section six D of chapter thirty A.

1 SECTION 7. Section 8 of chapter 131 of the General Laws, as
2 appearing in section 1 of chapter 802 of the acts of 1967, is hereby
3 amended by striking out, in line 7, the words "by the governor" and
4 inserting in place thereof the words: — in the manner provided for
5 in section six D of chapter thirty A.

1 SECTION 8. Section 8C of chapter 645 of the acts of 1948,
2 inserted by section 4 of chapter 302 of the acts of 1976, is hereby
3 amended by striking out the last sentence and inserting in place
4 thereof the following sentence: — Said board shall adopt final
5 regulations making such revisions in the interim regulations as it
6 deems appropriate in view of such report with the clerk of the
7 house of representatives as provided in section six D of chapter
8 thirty of the General Laws and such regulations shall take effect, if
9 approved, as provided in said section.

1 SECTION 9. No regulation, amendment or repeal of a regula-
2 tion, except emergency regulations, shall be filed with the state
3 secretary between the date of the passage of this act and January
4 fifteenth, nineteen hundred and eighty.

1 SECTION 10. The provisions of this act are severable, and if
2 any of its provisions shall be held unconstitutional by any court of
3 competent jurisdiction, the decision of such court shall not affect
4 or impair any of the remaining provisions.

1 SECTION 11. Sections one to eight, inclusive, of this act shall
2 take effect on January fifteenth, nineteen hundred and eighty-two.

1 SECTION 12. Section nine of this act shall take effect upon its
2 passage.

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