

SENATE, No. 1986

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MAY 27, 2010

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Sussex, Hunterdon and Morris)

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Prohibits adoption of new rules exceeding federal standards unless specifically authorized by State law or necessary to protect public health, safety, or welfare.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the adoption of new rules that exceed federal
2 standards and supplementing P.L.1968, c.410 (C.52:14B-1 et
3 seq.).

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5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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8 1. a. A State agency shall not file with the Office of
9 Administrative Law a notice of proposal or notice of adoption for
10 any new rule that would exceed standards or requirements set forth
11 by the federal government unless specifically authorized by State
12 law.

13 b. The Office of Administrative Law shall not accept for filing
14 a notice of proposal or notice of adoption which adopts a new rule
15 that contains any standards or requirements which exceed standards
16 or requirements set forth by the federal government unless the
17 notice contains:

18 (1) a copy of the specific State law allowing the adoption of
19 rules or standards that exceed federal standards or requirements;

20 (2) written justification for the exceedance of the federal
21 standards or requirements; and

22 (3) a copy of the supporting documentation or analysis used by
23 the State agency to justify the stricter standards or requirements.

24 c. A State agency filing a notice of proposal or notice of
25 adoption pursuant to this section shall also satisfy the requirements
26 set forth in section 2 of P.L.1995, c.65 (C.52:14B-23).

27 d. The provisions of this section shall not apply to:

28 (1) any rule in effect, or to the readoption of any rule in effect,
29 on the date of enactment of P.L. , c. (C.) (pending before the
30 Legislature as this bill); or

31 (2) any rule authorized pursuant to subsection (c) of section 4 of
32 P.L.1968, c.410 (C.52:14B-4) .

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34 2. a. Within 45 days after the date of enactment of
35 P.L. , c. (C.) (pending before the Legislature as this bill), each
36 State agency shall provide notice in writing to the Legislature,
37 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the chairs
38 of the appropriate State legislative committees dealing with the
39 subject matter of the State agency, and the chairs of the Assembly
40 Regulatory Oversight and Gaming Committee and the Senate
41 Legislative Oversight Committee, or their successors, of each
42 existing rule that contains any standards or requirements which
43 exceed standards or requirements set forth by the federal
44 government and for which the State agency does not have explicit
45 authorization in State law.

46 b. The notice required pursuant to this section shall contain:

47 (1) the New Jersey Administrative Code citation for the rule;

- 1 (2) the statutory authority under which the agency adopted the
2 rule;
- 3 (3) an explanation of how the rule exceeds the standards or
4 requirements set forth by the federal government;
- 5 (4) justification for the exceedance of the federal standards or
6 requirements, which may include an explanation of a New Jersey
7 specific public policy goal that is met by the agency's rule; and
- 8 (5) an explanation of the potential consequences if the agency is
9 required to adopt the standards or requirements set forth by the
10 federal government.

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12 3. This act shall take effect immediately.

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STATEMENT

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17 This bill would prohibit a State agency from filing with the
18 Office of Administrative Law a notice of proposal or notice of
19 adoption for any new rule that would exceed federal standards or
20 requirements unless specifically authorized by State law.

21 The bill further provides that the Office of Administrative Law
22 shall not accept for filing a notice of proposal or notice of adoption
23 which adopts a new rule that contains any standards or requirements
24 exceeding standards or requirements set forth by the federal
25 government unless the notice contains: a copy of the specific State
26 law allowing the adoption of rules or standards that exceed federal
27 standards or requirements; written justification for the exceedance;
28 and a copy of the supporting documentation or analysis used by the
29 State agency to justify the stricter standards or requirements.

30 The bill also requires a State agency that files a notice of
31 proposal or notice of adoption containing any standards or
32 requirements exceeding those set forth by the federal government to
33 satisfy the requirements set forth in section 2 of P.L.1995, c.65
34 (C.52:14B-23), which requires a federal standards statement.

35 The bill would not apply to: (1) any rule in effect on the date the
36 bill is enacted into law; (2) the readoption of any rule in effect on
37 the date the bill is enacted into law; or (3) any rule authorized
38 pursuant to subsection (c) of section 4 of P.L.1968, c.410
39 (C.52:14B-4). This section of the "Administrative Procedure Act"
40 referred to immediately above sets forth a procedure for a State
41 agency to adopt rules when it finds that an imminent peril to the
42 public health, safety, or welfare exists and the Governor concurs in
43 writing that an imminent peril exists; if enacted, this bill would not
44 alter this existing emergency rule-making procedure.

45 The bill also requires, within 45 days after the bill is enacted into
46 law, each State agency to provide notice to the Legislature of any
47 existing rules that contains standards or requirements which exceed
48 those set forth by the federal government and for which the State

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1 agency does not have explicit authorization in State law. This
2 notice would contain: the rule's New Jersey Administrative Code
3 citation; the statutory authority under which the agency adopted the
4 rule; an explanation of how the rule exceeds the federal standards or
5 requirements set forth by the federal government; a justification for
6 the exceedance, which may include an explanation of a New Jersey
7 specific public policy goal that is met by the agency's rule; and an
8 explanation of the potential consequences if the agency is required
9 to adopt the standards or requirements set forth by the federal
10 government.