

**CHAPTER 288****(SB 206)**

AN ACT relating to administrative regulations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 13A.015 is amended to read as follows:

- (1) Except as provided by subsection (7)~~[(6)]~~ of this section, prior to the promulgation of an administrative regulation, an administrative body shall, for each administrative regulation it intends to promulgate:
  - (a) File with the regulations compiler the original and five (5) copies, and, if available, an electronic version of a notice of its intent to promulgate an administrative regulation for publication in the administrative register; and
  - (b) Hold a public hearing and receive oral or written comments on the proposed administrative regulation as provided by this section.
- (2) Prior to filing a notice of intent to promulgate a new administrative regulation, an administrative body shall obtain from the regulations compiler a number for the new administrative regulation.
- (3) The notice of intent shall include:
  - (a) A statement that the administrative body intends to promulgate an administrative regulation;
  - (b) The number and the specific subject matter of the proposed administrative regulation;
  - (c) A statement that the administrative body will hold a public hearing if a public hearing is requested at least ten (10) calendar days prior to the date of the public hearing, in writing, by five (5) persons, or by an administrative body, or by an association having at least five (5) members, provided that a minimum of five (5) persons, or one (1) person representing an administrative body or association, agree to be present at the public hearing:
    1. No sooner than the twenty-first day nor later than the last workday of the month in which the notice of intent to promulgate is published in the Administrative Register;
    2. At which it will accept oral and written comments from any interested person;
  - (d) The name, address, telephone number, and facsimile number to whom the written request for a public hearing and written comments shall be sent;
  - (e) The date, time, and place of the public hearing;
  - (f) The following information relating to the proposed administrative regulation:
    1. The statutory authority for the administrative regulation;
    2. A summary of the administrative regulation, including how an existing administrative regulation will be amended by the proposed administrative regulation, if applicable;

3. A statement setting forth the necessity for promulgating the administrative regulation, and a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b);
  4. A statement of the benefits expected from the administrative regulation; and
  5. How the administrative regulation will be implemented.
- (4) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified of the intent of the administrative body to promulgate an administrative regulation.
- (b) A copy of the notice of intent shall be mailed:
1. To every person who has filed this form;
  2. On the date the notice is published in the Administrative Register.
- (5) ***If a notice of intent is filed to promulgate an administrative regulation in response to a statute enacted or amended by the General Assembly during the two (2) year time period immediately preceding the date the notice of intent is filed, the administrative body shall mail a copy of the notice of intent to the appropriate legislator as determined by this subsection.***
- (a) ***If the primary sponsor of the legislation, who shall be the first person listed in the Legislative Record following the bill number, is a current member of the General Assembly at the time the notice of intent is filed, the administrative body shall mail a copy of the notice of intent to the primary sponsor.***
- (b) ***If the primary sponsor of the legislation is not a current member of the General Assembly at the time the notice of intent is filed, the administrative body shall mail a copy of the notice of intent to the chair of the appropriate standing or interim joint committee of the General Assembly.***
- (6) (a) An administrative body shall file the original and five (5) copies of the notice of its intent to promulgate an administrative regulation with the regulations compiler.
- (b) The date a notice of intent to promulgate an administrative regulation is published in the Administrative Register shall be governed by the provisions of KRS 13A.050(3) and 13A.150.
- (c) A notice of intent shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches, and single-spaced. The first page shall have a two (2) inch top margin, and one (1) inch side and bottom margins. Subsequent pages shall have one
1. inch top, bottom, and side margins. The notice of intent shall be typed in a twelve (12) point font approved by the regulations compiler.
- (7)~~(6)~~(a) A notice of intent shall not be filed for an emergency administrative regulation that will not be replaced by an ordinary administrative regulation.
- (b) If an emergency administrative regulation will be replaced by an ordinary

administrative regulation, the notice of intent for the ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced.

- (8)~~(7)~~ If a notice of intent to promulgate an administrative regulation has been filed, a subsequent notice of intent on the same administrative regulation shall not be filed unless the first notice of intent has been withdrawn.

Section 2. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;
- (2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:
  - (a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or
  - (b) Declaratory rulings; or
  - (c) Intradepartmental memoranda not in conflict with KRS 13A.130; or
  - (d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or
  - (e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;
- (3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;
- (4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations; (5) "Commission" means the Legislative Research Commission;
- (6) "Economic impact" means a financial impact on:
  - (a) Commercial enterprises;
  - (b) Retail businesses;
  - (c) Service businesses;
  - (d) Industry;

- (e) Consumers of a product or service; or
  - (f) Taxpayers;
- (7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;
  - (8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;
  - (9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;
  - (10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;
  - (11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;
  - (12) "Proposed administrative regulation~~[,] [except as provided by KRS 13A.015(6),]~~" means an administrative regulation that an administrative body proposes to promulgate;
  - (13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;
  - (14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;
  - (15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and
  - (16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

**Approved April 3, 2000**