

CHAPTER 101**(HB 6)**

AN ACT relating to administrative regulations and declaring an emergency.

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

➔Section 1. 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, and 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;
 - (b) Declaratory rulings;
 - (c) Intradepartmental memoranda not in conflict with KRS 13A.130;
 - (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) "Effective" means an administrative regulation that has completed the legislative committee review established by KRS 13A.290, 13A.330, and 13A.331;
- (7) "Federal mandate" means any federal constitutional, legislative, or executive law or order that requires or permits any administrative body to engage in regulatory activities that impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;
- (8) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;
- (9) "Filed" or "promulgated" 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;
- (10) "Last effective date" means the latter of:
 - (a) The most recent date an ordinary administrative regulation became effective, without including the date a technical amendment was made pursuant to KRS 13A.040(10), 13A.2255(2), or 13A.312; or
 - (b) The date a certification letter was filed with the regulations compiler for that administrative regulation pursuant to KRS 13A.3104(4), if the letter stated that the administrative regulation shall remain in effect without amendment;

- (11) "Legislative committee" means an interim joint committee, a House or Senate standing committee, a statutory committee, or a subcommittee of the Legislative Research Commission;
- (12) "Local government" means and includes a city, county, urban-county, charter county, consolidated local government, special district, or a quasi-governmental body authorized by the Kentucky Revised Statutes or a local ordinance;
- (13) "Major economic impact" means *the combined implementation and compliance costs of an administrative regulation are at least five hundred thousand dollars (\$500,000) over any two-year period*~~an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies~~;
- (14) "Proposed administrative regulation" means an administrative regulation that:
 - (a) Has been filed by an administrative body; and
 - (b) Has not become effective or been withdrawn;
- (15) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;
- (16) "Small business" means a business entity, including its affiliates, that:
 - (a) Is independently owned and operated; and
 - (b)
 - 1. Employs fewer than one hundred fifty (150) full-time employees or their equivalent; or
 - 2. Has gross annual sales of less than six million dollars (\$6,000,000);
- (17) "Statement of consideration" means the document required by KRS 13A.280 in which the administrative body summarizes the comments received, its responses to those comments, and the action taken, if any, as a result of those comments and responses;
- (18) "Subcommittee" means the Administrative Regulation Review Subcommittee of the Legislative Research Commission;
- (19) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities; and
- (20) "Written comments" means comments submitted to the administrative body's contact person identified pursuant to KRS 13A.220(6)(d) via hand delivery, United States mail, *email*~~or mail~~, or facsimile and may include but is not limited to comments submitted internally from within the promulgating administrative body or from another administrative body.

➔Section 2. KRS 13A.030 is amended to read as follows:

- (1) The Administrative Regulation Review Subcommittee shall:
 - (a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including, but not limited to, review of new, emergency, and existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;
 - (b) Except as provided by KRS 158.6471 and 158.6472, review and comment upon effective administrative regulations pursuant to subsections (2), (3), and (4) of this section or administrative regulations filed with the Commission;
 - (c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and
 - (d) Conduct such other studies relating to administrative regulations as may be assigned by the Commission.
- (2) The subcommittee may make a determination:
 - (a) That an effective administrative regulation or an administrative regulation filed with the Commission is deficient because it:
 - 1. Is wrongfully promulgated;
 - 2. Appears to be in conflict with an existing statute;

3. Appears to have no statutory authority for its promulgation;
4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;
5. Fails to use tiering when tiering is applicable;
6. Is in excess of the administrative body's authority;
7. Appears to impose an unreasonable burden on government or small business, or both;
8. Is filed as an emergency administrative regulation without adequate justification of the emergency nature of the situation as described in KRS 13A.190(1);
9. Has not been noticed in conformance with the requirements of KRS 13A.270(3);
10. Does not provide an adequate cost analysis pursuant to KRS 13A.250; ~~for~~

11. Violates Section 8 of this Act; or

~~12~~~~14~~. Appears to be deficient in any other manner;

- (b) That an administrative regulation is needed to implement an existing statute; or
 - (c) That an administrative regulation should be amended or repealed.
- (3) The subcommittee may review an effective administrative regulation if requested by a member of the subcommittee.
 - (4) The subcommittee may require any administrative body to submit data and information as required by the subcommittee in the performance of its duties under this chapter, and no administrative body shall fail to provide the information or data required.

➔Section 3. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

- (1) Receive administrative regulations, and other documents required to be filed by the provisions of this chapter, tendered for filing;
- (2) Stamp administrative regulations tendered for filing with the time and date of receipt;
- (3) Provide administrative and support services to the subcommittee;
- (4) Maintain a file of administrative regulations and other documents required to be filed by this chapter, for public inspection, with suitable indexes;
- (5) Maintain a file of ineffective administrative regulations;
- (6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;
- (7) Prepare the Kentucky Administrative Regulations Service;
- (8) Upon request, certify copies of administrative regulations and other documents that have been filed with the regulations compiler;
- (9) Correct errors that do not change the substance of an administrative regulation, including but not limited to typographical errors, errors in format, and grammatical errors;
- (10) (a) Change the following items in an administrative regulation in response to a specific written request for a technical amendment submitted by the administrative body if the regulations compiler determines that the requested changes do not affect the substance of the administrative regulation:
 1. The administrative body's identifying information, including address, phone number, fax number, ~~website~~~~Web site~~ address, and ~~email~~~~e-mail~~ address;
 2. Typographical errors, errors in format, and grammatical errors;
 3. Citations to statutes or other administrative regulations if a format change within that statute or administrative regulation has changed the numbering or lettering of parts; or

4. Other changes in accordance with KRS 13A.312; and
- (b) Notify the administrative body within thirty (30) business days of receipt of a technical amendment letter the status of the request, including:
 1. Any requested changes that are accepted as technical amendments; and
 2. Any requested changes that are not accepted as technical amendments;
- (11) Refuse to accept for filing administrative regulations, and other documents required to be filed by this chapter, that do not conform to the drafting, formatting, or filing requirements established by the provisions of **Section 8 of this Act and** KRS 13A.190(5) to (11), 13A.220, 13A.222(1), (2), and (3), 13A.230, and 13A.280, and notify the administrative body in writing of the reasons for refusing to accept an administrative regulation for filing;
- (12) Maintain a list of all administrative regulation numbers and the corresponding last effective date, based on the information included in the history line of each administrative regulation; and
- (13) Perform other duties required by the Commission or by a legislative committee.

➔Section 4. KRS 13A.100 is amended to read as follows:

Subject to limitations in applicable statutes, **including Section 8 of this Act**, any administrative body that is empowered to promulgate administrative regulations shall, by administrative regulation, prescribe, consistent with applicable statutes:

- (1) Each statement of general applicability, policy, procedure, memorandum, or other form of action that implements; interprets; prescribes law or policy; describes the organization, procedure, or practice requirements of any administrative body; or affects private rights or procedures available to the public;
- (2) The process for application for license, benefits available or other matters for which an application would be appropriate unless such process is prescribed by a statute;
- (3) Fees, except for those exempted in paragraphs (a) to (j) of this subsection, to be charged by the administrative body if such fees are authorized by law and are not set by statute:
 - (a) State park room rates;
 - (b) Prices for food in restaurants at state facilities;
 - (c) Prices for goods at gift shops at state facilities;
 - (d) Prices for groceries and other items sold at state facilities;
 - (e) Prices charged for state publications;
 - (f) Prices charged for rides and amusement activities at state facilities;
 - (g) Admission fees to athletic and entertainment events at state facilities;
 - (h) Charges for swimming, skiing, horseback riding, and similar recreational activities at state facilities;
 - (i) Charges for boat and equipment rentals for recreational purposes at state facilities; and
 - (j) Admission fees charged for seminars and educational courses by state administrative bodies;
- (4) The procedures to be utilized by the administrative body in the conduct of hearings by or for the administrative body unless such procedures are prescribed by a statute; and
- (5) The disciplinary procedures within the jurisdiction of the administrative body unless such procedures are prescribed by statute.

➔Section 5. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

- (1) (a) An administrative body shall file with the regulations compiler:
 1. The original and five (5) copies of an administrative regulation; and
 2. At the same time as, or prior to, filing the paper version, an electronic version of the administrative regulation and required attachments saved as a single document for each administrative regulation in an electronic format approved by the regulations compiler.

- (b) If there are differences between the paper copy and the electronic version of an administrative regulation filed with the regulations compiler, the electronic version shall be the controlling version.
- (2) The original and four (4) copies of each administrative regulation shall be stapled in the top left corner. The fifth copy of each administrative regulation shall not be stapled. The original and the five (5) copies of each administrative regulation shall be grouped together.
- (3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.
- (4) The format of an administrative regulation shall be as follows:
 - (a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced through the last line of the body of the administrative regulation. The first page shall have a two (2) inch top margin. The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered, with each page starting with line number one (1). Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;
 - (b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;
 - (c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(New Administrative Regulation)," "(Amendment)," "(Amended After Comments)," "(Repealer)," "(New Emergency Administrative Regulation)," "(Emergency Amendment)," "(Emergency Amended After Comments)," or "(Emergency Repealer)," whichever is applicable;
 - (d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;
 - (e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.222(4)(n) and (o); and
 - (f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, 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).
- (5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an Arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an Arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an Arabic number followed by a period (e.g., 1., 2., etc.). Clauses shall be designated by lower case letters of the alphabet followed by a period (e.g., a., b., c., etc.). Subclauses shall be designated by lower case Roman numerals in parentheses (e.g., (i), (ii), (iii), etc.). A section shall not be divided into subsections, paragraphs, subparagraphs, clauses, or subclauses if there is only one (1) item in that level of division.

- (6) After the complete text of an administrative regulation, on the following page, the administrative body shall include the following information:
- (a) ***If a statute requires an administrative body or official to submit an administrative regulation to an official or administrative body for review or approval prior to filing the administrative regulation with the Commission***~~[the provisions of KRS 13A.120(3) are applicable]~~, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;
 - (b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;
 - (c) Information relating to public hearings and the public comment period required by KRS 13A.270; and
 - (d) The name, position, mailing address, telephone number, ~~email~~~~e-mail~~ address, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:
 1. Receive information relating to issues raised by the public or by a legislative committee prior to a public meeting of the legislative committee;
 2. Negotiate changes in language with a legislative committee in order to resolve such issues; and
 3. Answer questions relating to the administrative regulation.
- (7) The format for signatures required by subsection (6)(a) and (b) of this section shall be as follows:
- (a) The signature shall be placed on a signature line; and
 - (b) The name and title of the person signing shall be typed immediately beneath the signature line.
- (8) An administrative body shall prominently display on its ~~website~~~~Web site~~:
- (a) A notice that an administrative regulation has been filed with the Commission;
 - (b) A summary of the administrative regulation including:
 1. The number of the administrative regulation;
 2. The title of the administrative regulation; and
 3. Any changes made if it is an existing administrative regulation;
 - (c) Information on how to access the administrative regulation on the Commission's ~~website~~~~Web site~~; and
 - (d) The dates of the public comment period and the place, time, and date of the scheduled public hearing as well as the manner in which interested parties shall submit:
 1. Notification of attending the public hearing; and
 2. Written comments.
- (9) (a) A letter of request, notification, or withdrawal required to be filed with the regulations compiler pursuant to this chapter may be filed electronically if the letter:
1. Is on the administrative body's official letterhead; and
 2. Contains the signature of a representative of that administrative body.
- (b) Paragraph (a) of this subsection shall not apply to the letters required by KRS 13A.320(2)(b) for amendments at a legislative committee meeting.

➔Section 6. KRS 13A.250 is amended to read as follows:

- (1) An administrative body that promulgates an administrative regulation shall consider the cost that the administrative regulation may cause state or local government and regulated entities to incur.
- (2) (a) A two (2) part cost analysis shall be completed for each administrative regulation.
- (b) The first part of the cost analysis shall include the projected cost or cost savings to the Commonwealth of Kentucky and each of its affected agencies, and the projected cost or cost savings to affected local governments, including cities, counties, fire departments, and school districts.

- (c) The second part of the cost analysis shall include the projected cost or cost savings to the regulated entities affected by the administrative regulation.
 - (d) Agencies or entities affected by the administrative regulation may submit comments in accordance with KRS 13A.270(1) to the promulgating administrative body or to a legislative committee reviewing the administrative regulation.
- (3) Each administrative body that promulgates an administrative regulation shall prepare and submit with the administrative regulation a fiscal note. The fiscal note shall state:
- (a) The number of the administrative regulation;
 - (b) The name, ~~email~~~~-mail~~ address, and telephone number of the contact person of the administrative body identified pursuant to KRS 13A.220(6)(d), and, if applicable, the name, ~~email~~~~-mail~~ address, and telephone number of an alternate person to be contacted with specific questions about the fiscal note;
 - (c) Each unit, part, or division of state or local government the administrative regulation will affect;
 - (d) ***Whether the administrative regulation was expressly authorized by an act of the General Assembly, and if so, identification of the act;***
 - (e) In detail, the aspect or service of state or local government to which the administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation;
 - ~~(f)~~~~(e)~~ The estimated effect of the administrative regulation on the expenditures and revenues of a state or local government agency or regulated entity for the first full year the administrative regulation will be in effect ***and any subsequent year the administrative regulation will be in effect.*** The administrative body shall provide a narrative to explain the fiscal impact of the administrative regulation and the methodology and resources it used to determine the fiscal impact; and
 - ~~(g)~~~~(f)~~ The conclusion of the promulgating administrative body as to whether the administrative regulation will have a major economic impact ~~on~~~~, as defined in KRS 13A.010, to~~ state and local government and regulated entities, and an explanation of the methodology and resources used by the administrative body to reach this conclusion.
- (4) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.
- ➔Section 7. KRS 13A.315 is amended to read as follows:
- (1) An administrative regulation shall expire and shall not be reviewed by a legislative committee if:
- (a) It has not been reviewed or approved by the official or administrative body with authority to review or approve, ***or it does not have a certification required by subsection (3) of Section 8 of this Act;***
 - (b) The statement of consideration and, if applicable, the amended after comments version are not filed on or before a deadline specified by this chapter;
 - (c) The administrative body:
 - (1) Has failed to comply with the provisions of this chapter governing the filing of administrative regulations, the public hearing and public comment period, or the statement of consideration; ***or***
 - (2) ***Has failed to comply with Section 8 of this Act;*** or
 - (d) The administrative regulation is deferred pursuant to KRS 13A.300(2) more than twelve (12) times.
- (2) (a) An administrative regulation that has been found deficient by a legislative committee shall be withdrawn immediately if, pursuant to KRS 13A.330, the Governor has determined that it shall be withdrawn.
- (b) The Governor shall notify the regulations compiler in writing and by telephone that he or she has determined that the administrative regulation found deficient shall be withdrawn.
 - (c) The written withdrawal of an administrative regulation governed by the provisions of this subsection shall be made in a letter to the regulations compiler in the following format: "Pursuant to KRS 13A.330,

I have determined that (administrative regulation number and title) shall be (withdrawn, or withdrawn and amended to conform to the finding of deficiency, as applicable). The administrative regulation, (administrative regulation number and title), is hereby withdrawn."

- (d) An administrative regulation governed by the provisions of this subsection shall be considered withdrawn upon receipt by the regulations compiler of the written withdrawal.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (2) of this section, after March 31, 2025, an administrative body shall not file or promulgate, or have power or authority to promulgate, any new administrative regulation, ordinary administrative regulation, emergency administrative regulation, administrative regulation in contemplation of a statute, or administrative regulation amending an existing regulation, or administrative regulation repealing an existing regulation.*
- (2) *Notwithstanding subsection (1) of this section, an administrative body shall have authority to promulgate a new administrative regulation, ordinary administrative regulation, emergency administrative regulation, administrative regulation in contemplation of a statute, or administrative regulation amending an existing administrative regulation if the administrative body is given statutory authority to promulgate administrative regulations in a particular subject matter and certifies in the administrative regulation that the administrative regulation:*
 - (a) *Will not have a major economic impact;*
 - (b) *Is an emergency administrative regulation that must be put into effect immediately to meet an imminent threat to public health, safety, or welfare;*
 - (c) *Is necessary to prevent the loss of federal or state funds;*
 - (d) *Is necessary to meet a deadline that is established by federal law, federal regulation, or state law;*
 - (e) *Is necessary to comply with a final order from a court of competent jurisdiction; or*
 - (f) *Relates to the licensure and regulation of health facilities and services pursuant to KRS Chapter 216B.*
- (3) *An administrative regulation filed or promulgated by any of the following administrative bodies, or by an office, division, or other unit within any of the following administrative bodies, shall include the Governor's certification that it meets one (1) or more of the six (6) criteria set forth in subsection (2) of this section in addition to the administrative body's certification that it meets one (1) or more of the six (6) criteria set forth in subsection (2) of this section:*
 - (a) *The Governor, Lieutenant Governor, and Office of the Governor;*
 - (b) *Justice and Public Safety Cabinet;*
 - (c) *Energy and Environment Cabinet;*
 - (d) *Public Protection Cabinet;*
 - (e) *Transportation Cabinet;*
 - (f) *Cabinet for Economic Development;*
 - (g) *Cabinet for Health and Family Services;*
 - (h) *Finance and Administration Cabinet;*
 - (i) *Tourism, Arts and Heritage Cabinet;*
 - (j) *Personnel Cabinet;*
 - (k) *Education and Labor Cabinet;*
 - (l) *Department of Education;*
 - (m) *Council on Postsecondary Education;*
 - (n) *Department of Military Affairs;*
 - (o) *Department for Local Government;*

- (p) *Kentucky Commission on Human Rights;*
 - (q) *Kentucky Commission on Women;*
 - (r) *Department of Veterans' Affairs;*
 - (s) *Kentucky Commission on Military Affairs;*
 - (t) *Office of Minority Empowerment;*
 - (u) *Governor's Council on Wellness and Physical Activity;*
 - (v) *Kentucky Communications Network Authority;*
 - (w) *Executive Branch Ethics Commission;*
 - (x) *Teachers' Retirement System; and*
 - (y) *Kentucky Public Pensions Authority.*
- (4) *Any administrative regulation that any person causes to be filed or promulgated, or attempts to file or promulgate, in violation of this section shall be null, void, and unenforceable.*

➔Section 9. Whereas it is critical to ensure that citizens of the Commonwealth have confidence in the administrative bodies of state government and recognizing that legislative oversight is prudent, an emergency is declared to exist, and this Act takes effect March 31, 2025.

Veto Overridden March 27, 2025.