

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 1232
HOUSE BILL 1505

AN ACT TO REWRITE THE TEMPORARY RULE PROVISION OF CHAPTER 150A AS
RECOMMENDED BY THE ATTORNEY GENERAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 150A-13 as amended by Chapter 688 of the 1981 Session Laws (First Session, 1981) is further amended to read as follows:

"§ 150A-13. Temporary rules. — (a) If an agency which is not exempted from the notice and hearing requirements of this Article by G.S. 150A-1 determines in writing that:

- (1) adherence to the notice and hearing requirements of this Article would be contrary to the public interest; and that
- (2) the immediate adoption, amendment, or repeal of a rule is necessitated by:
 - a. the public health, safety, or welfare; or
 - b. the effective date of a recent act of the General Assembly or the United States Congress; or
 - c. a federal regulation; or
 - d. a court order,

the agency may adopt, amend, or repeal the rule without prior notice or hearing or upon any abbreviated notice or hearing the agency finds practicable. The agency must accompany its rule filing with the Attorney General and the Legislative Research Commission's Administrative Rules Review Committee with the agency's written certification of the finding of need for the temporary rule, together with the reasons for that finding and a copy of the notice of hearing on the proposed permanent rule.

(b) If the Department of Transportation, Revenue, or Correction determines in writing that the immediate adoption, amendment, or repeal of a rule is necessitated by:

- (1) the public health, safety, or welfare; or
- (2) the effective date of a recent act of the General Assembly or the United States Congress; or
- (3) a federal regulation; or
- (4) a court order,

the agency may adopt, amend, or repeal the rule. The agency must accompany its rule filing with the Attorney General and the Legislative Research Commission's Administrative Rules Review Committee with the agency's written certification of the finding of need for the temporary rule together with the reasons for that finding. In the case of the Department of Correction, in addition to the reasons set forth in subdivisions (1) through (4) of this subsection, the Department may file a temporary rule when necessary for the management and control of persons under the custody or supervision of the Department in extraordinary circumstances as certified by the Secretary. The Department shall file any temporary rule within two working days of its adoption by the Secretary under G.S. 148-11.

(c) Rules filed under subsections (a) and (b) may be effective for a period of not longer than 120 days. An agency adopting a temporary rule shall begin normal rule-making procedures on the permanent rule under this Article at the same time the temporary rule is adopted."

Sec. 2. G.S. 120-30.34 is rewritten to read:

"(a) Rules adopted in accordance with the procedures in G.S. 150A-13 shall be reviewed by the Committee and are subject to objection as provided in G.S. 120-30.28.

(b) The Committee shall review the reasons given for the adoption of a temporary rule and may object to the rule due to the agency's failure to make the finding required by G.S. 150A-13."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1982.