

Act No. 270
Public Acts of 2011
Approved by the Governor
December 19, 2011
Filed with the Secretary of State
December 19, 2011
EFFECTIVE DATE: December 19, 2011

STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011

Introduced by Reps. Goike, Tyler, Johnson, McMillin, Muxlow, LaFontaine, Kowall, Outman, Zorn, Callton and Shaughnessy

ENROLLED HOUSE BILL No. 4240

AN ACT to amend 1969 PA 306, entitled "An act to provide for the effect, processing, promulgation, publication, and inspection of state agency rules, determinations, and other matters; to provide for the printing, publishing, and distribution of certain publications; to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters; to create and establish certain committees and offices; to provide for declaratory judgments as to rules; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date," by amending section 32 (MCL 24.232).

The People of the State of Michigan enact:

Sec. 32. (1) Definitions of words and phrases and rules of construction prescribed in any statute that are made applicable to all statutes of this state also apply to rules unless clearly indicated to the contrary.

(2) A rule or exception to a rule shall not discriminate in favor of or against any person. A person affected by a rule is entitled to the same benefits as any other person under the same or similar circumstances.

(3) The violation of a rule is a crime when so provided by statute. A rule shall not make an act or omission to act a crime or prescribe a criminal penalty for violation of a rule.

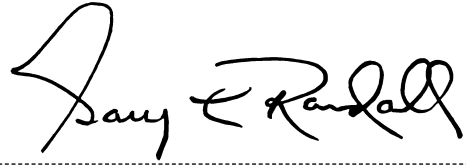
(4) An agency may adopt, by reference in its rules and without publishing the adopted matter in full, all or any part of a code, standard or regulation that has been adopted by an agency of the United States or by a nationally recognized organization or association. The reference shall fully identify the adopted matter by date and otherwise. The reference shall not cover any later amendments and editions of the adopted matter, but if the agency wishes to incorporate them in its rule it shall amend the rule or promulgate a new rule therefor. The agency shall have available copies of the adopted matter for inspection and distribution to the public at cost and the rules shall state where copies of the adopted matter are available from the agency and the agency of the United States or the national organization or association and the cost of a copy as of the time the rule is adopted.

(5) A guideline, operational memorandum, bulletin, interpretive statement, or form with instructions is not enforceable by an agency, is considered merely advisory, and shall not be given the force and effect of law. An agency shall not rely upon a guideline, operational memorandum, bulletin, interpretive statement, or form with instructions to support the agency's decision to act or refuse to act if that decision is subject to judicial review. A court shall not rely upon a guideline, operational memorandum, bulletin, interpretive statement, or form with instructions to uphold an agency decision to act or refuse to act.

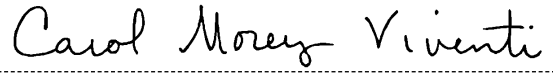
(6) Where a statute provides that an agency may proceed by rule-making or by order and an agency proceeds by order in lieu of rule-making, the order shall not be given general applicability to persons who were not parties to the proceeding or contested case before the issuance of the order, unless the order was issued after public notice and a public hearing.

(7) A rule shall not exceed the rule-making delegation contained in the statute authorizing the rule-making.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor