

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 537

By: Adelson

AS INTRODUCED

An Act relating to statutes and reports; amending 75 O.S. 2001, Section 250.6, which relates to preemptive rules; granting certain rule authority to the Oklahoma Health Care Authority Board; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 75 O.S. 2001, Section 250.6, is amended to read as follows:

Section 250.6 A. 1. The Commission for Human Services or the Oklahoma Health Care Authority Board may promulgate a preemptive rule pursuant to the provisions of this section:

- a. when the Commission for Human Services or the Oklahoma Health Care Authority Board is required by federal law, federal rules, a state law enacted pursuant to federal law or federal rule, or order of a court of competent jurisdiction to adopt a rule, or an amendment, revision or revocation of an existing rule, and
- b. which if such rule is not immediately adopted would result in the imposition of a financial penalty, or a reduction, withholding or loss of federal funds.

2. A preemptive rule must be approved by the Governor pursuant to this section.

3. The conditions specified in this subsection for the promulgation of a preemptive rule shall be the only conditions

authorized for promulgation of such rule by the Commission for Human Services or the Oklahoma Health Care Authority Board.

B. 1. Upon the adoption of such preemptive rule by the Commission or the Oklahoma Health Care Authority Board, the Director of the Department of Human Services or the Chief Executive Officer of the Oklahoma Health Care Authority shall request the Governor to approve the rules on the basis that such rules are required to comply with a federal law, federal rule, a state law enacted pursuant to federal law or rule, or order of a court of competent jurisdiction and which if such rules are not immediately adopted would result in a financial penalty, or a reduction, withholding or loss of federal funds.

2. Upon the filing of the request for approval of a preemptive rule, the Governor shall review such rule and decide as to whether such rule should be approved. Prior to approval of a preemptive rule, the Governor shall submit the preemptive rule to the Office of the Secretary of State for review of proper formatting unless the preemptive rule has been reviewed by the Office prior to agency submission to the Governor. Failure of the Governor to approve such rule within twenty-eight (28) calendar days shall constitute denial of the rule as a preemptive rule.

3. Upon approval of a preemptive rule, the Governor shall immediately notify the Commission or the Oklahoma Health Care Authority Board. Upon receipt of notice of the approval of the preemptive rule, the Commission or the Oklahoma Health Care Authority Board shall file the number of copies specified by the Secretary of the approval issued by the Governor and the number of copies specified by the Secretary of the preemptive rule with the Office pursuant to Section 251 of this title.

4. The preemptive rule shall be published in accordance with the provisions of Section 255 of this title in "The Oklahoma Register" following approval by the Governor. The Governor's

approval and the approved rules shall be retained as official records by the Office of Administrative Rules.

5. For informational purposes only, a copy of the Governor's approval and the preemptive rule shall be submitted by the Commission or the Oklahoma Health Care Authority Board to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within ten (10) days of the approval of the preemptive rule by the Governor.

6. Upon approval by the Governor, the rule shall be considered promulgated and shall be in force immediately, or if a later date is required by statute or specified in the rule, the later date is the effective date.

C. A preemptive rule shall be considered to be a permanent rule and shall remain in full force and effect unless and until specifically disapproved during the first thirty (30) calendar days of the next regular legislative session following promulgation of such preemptive rule or unless an earlier expiration date is specified by the Commission or the Oklahoma Health Care Authority Board. The Legislature may disapprove such rule pursuant to Section 308 of this title. Any resolution introduced for the purpose of disapproving such rule shall not be subject to regular legislative cut off dates.

D. Except as otherwise provided by this section, preemptive rules shall be promulgated and published in compliance with Article I of the Administrative Procedures Act. Preemptive rules promulgated pursuant to the provisions of this section shall be exempt from the provisions of Sections 253, 303, 303.1, 303.2, 304, 308 and 308.1 of this title.

SECTION 2. This act shall become effective November 1, 2005.