

BY: Senator Hollinger

AMENDMENTS TO SENATE BILL NO. 774, AS AMENDED

(First Reading File Bill)

AMENDMENT NO. 1

On page 1 of the bill, in line 14, after "State" insert "; establishing certain hearing procedures".

AMENDMENT NO. 2

On page 3 of the Education, Health, and Environmental Affairs Committee Amendments (SB0774/844936/1), in line 2 of Amendment No. 4, after "PROCESS" insert "AS PROVIDED IN § 14-105.1 OF THIS SUBTITLE".

AMENDMENT NO. 3

On page 7 of the bill, after line 6, insert

"14-105.1.

(A) EXCEPT AS OTHERWISE PROVIDED IN THE ADMINISTRATIVE PROCEDURE ACT, BEFORE THE SECRETARY TAKES ANY ACTION UNDER § 14-105(19) OF THIS SUBTITLE, THE SECRETARY SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE A HEARING OFFICER.

(B) (1) THE HEARING OFFICER SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, FACTUAL FINDINGS SHALL BE SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE.

(Over)

(3) FACTUAL FINDINGS SHALL BE SUPPORTED BY CLEAR AND CONVINCING EVIDENCE IF THE SANCTION IMPOSED:

(I) IS NOT STAYED; AND

(II) IS A:

1. SUSPENSION OF MORE THAN 6 MONTHS; OR

2. REVOCATION OF THE INDIVIDUAL'S LICENSE.

(C) THE INDIVIDUAL MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

(D) IF AFTER DUE NOTICE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, NEVERTHELESS THE HEARING OFFICER MAY HEAR AND REFER THE MATTER TO THE SECRETARY FOR DISPOSITION.

(E) AFTER PERFORMING ANY NECESSARY HEARING UNDER THIS SECTION, THE HEARING OFFICER SHALL REFER PROPOSED FACTUAL FINDINGS TO THE SECRETARY FOR DISPOSITION.

(F) THE SECRETARY MAY ADOPT REGULATIONS TO GOVERN THE TAKING OF DEPOSITIONS AND DISCOVERY IN THE HEARING OF CHARGES.

(G) THE HEARING OF CHARGES MAY NOT BE STAYED OR CHALLENGED BY ANY PROCEDURAL DEFECTS ALLEGED TO HAVE OCCURRED PRIOR TO THE FILING OF CHARGES.”.