

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1017 Session of 2001

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INTRODUCED BY EGOLF, MARSICO, PIPPY, PHILLIPS, GEORGE, TULLI,  
DAILEY, ORIE, FLICK, ZUG, WILT, YEWIC, HERSHEY, FORCIER,  
CLARK, BASTIAN, E. Z. TAYLOR, LEH, ROHRER, SHANER, SATHER,  
BARRAR, METCALFE, HUTCHINSON, STERN AND CLYMER,  
MARCH 15, 2001

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 15, 2001

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AN ACT

1 Establishing guidelines for State departments and agencies for  
2 compliance with Federal mandates.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the State  
7 Regulatory Responsibility Act.

8 Section 2. Purpose.

9 The purpose of this act is to provide guidelines for State  
10 departments and agencies to follow in determining when to comply  
11 with Federal guidance, submit to Federal preemption and comply  
12 with Federal regulatory mandates.

13 Section 3. Compliance with Federal guidance.

14 No State department, agency or other authority of the State  
15 shall comply with any guidance or requirement by a Federal  
16 agency that is not entirely and in all respects consistent with

1 State law, policy and priorities unless such Federal substantive  
2 rule is adopted in compliance with section 553 of the Federal  
3 Administrative Procedure Act (5 U.S.C. § 553).

4 Section 4. Submission to Federal preemption.

5 Unless the Federal guidance or requirement is clearly  
6 expressed and contained in a Federal statute or a Federal  
7 substantive rule adopted in compliance with section 553 of the  
8 Federal Administrative Procedure Act (5 U.S.C. § 553), no such  
9 State department, agency or other authority of the State shall  
10 fail to implement any State statute, regulation, constitutional  
11 provision or any order or other action authorized by State law,  
12 because of preemption by any Federal law unless the Federal law  
13 contains preemptive language or preemption is so readily  
14 apparent from the text and legislative history of the Federal  
15 law or it receives an opinion from the Attorney General that  
16 such Federal preemption clearly is required, under the totality  
17 of all relevant circumstances, by the Constitution of the United  
18 States.

19 Section 5. Compliance with Federal regulatory mandates.

20 (a) General rule.--No State department, agency or other  
21 authority of the State shall comply with any Federal mandate  
22 that would require State enactment, enforcement, administration  
23 or implementation of any statute, rule or other law or that  
24 would require any form of regulation by the State or the  
25 performance of any other governmental function protected against  
26 Federal compulsion by the Tenth Amendment or any other provision  
27 in the Constitution of the United States, unless:

28 (1) the State has agreed to take such action as a clear  
29 and express condition of receipt of Federal funds; or

30 (2) the State has agreed to take such action as a clear

1 and express condition of delegation of a Federal program.

2 (b) Ambiguity.--Any ambiguity in a condition of receipt of  
3 Federal funds or in a condition of delegation of a Federal  
4 program shall be construed so as to avoid Federal control of any  
5 State governmental function.

6 (c) Agreements to receive funds.-- No State department,  
7 agency or other authority of the State shall agree, as a  
8 condition of receiving Federal funds, to comply with any Federal  
9 regulatory mandate or other requirement that it perform a  
10 governmental function within the scope of subsection (a),  
11 unless:

12 (1) The Federal funds are adequate to cover the costs of  
13 implementing the program.

14 (2) It has express State statutory authority to  
15 implement the program.

16 (3) No action that it is agreeing to perform conflicts  
17 with any State law.

18 (d) Agreements for delegation.--No State department, agency  
19 or other authority of the State shall agree, as a condition of  
20 delegation of a Federal program, to comply with any Federal  
21 regulatory mandate or other requirement that it perform a  
22 governmental function within the scope of subsection (a),  
23 unless:

24 (1) It has express State statutory authority to  
25 implement the program.

26 (2) No action that it is agreeing to perform conflicts  
27 with any State law.

28 Section 6. Effective date.

29 This act shall take effect immediately.