

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1125 Session of
1981

INTRODUCED BY DORR, L. E. SMITH, ZWIKL, FLECK, DOMBROWSKI,
SERAFINI, McCALL, LIVENGOD, McVERRY, GRIECO, F. E. TAYLOR,
HEISER, MARMION, WAMBACH, DeVERTER, BURD, BELFANTI, WOGAN,
PERZEL, GRUPPO, SIEMINSKI, RASCO, POTT, RITTER, HALUSKA,
BITTLE, BELARDI, JOHNSON, BROWN, KOWALYSHYN, RYBAK, CORDISCO,
CAPPABIANCA, GRABOWSKI, PISTELLA, COCHRAN, RAPPAPORT, PRATT,
B. SMITH, NOYE, HAYES, GEIST, PHILLIPS, CLYMER, COSLETT AND
EARLEY, APRIL 1, 1981

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, APRIL 1, 1981

AN ACT

1 Requiring a detailed analysis and review of State rules and
2 regulations delineating their impact on small businesses,
3 small organizations and individuals; providing for exemptions
4 and imposing additional duties on various State agencies.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the "Regulatory
9 Flexibility Act."

10 Section 2. Findings and purpose.

11 (a) The General Assembly finds that:

12 (1) Individuals, small businesses and small
13 organizations in the Commonwealth have been subjected to
14 regulatory and reporting requirements adopted by agencies,
15 departments and instrumentalities of the State Government
16 which have placed a proportionately greater burden on the

1 small business community than on the other segments of the
2 business community of the Commonwealth.

3 (2) Regulations intended to protect the Commonwealth's
4 health, safety and economic welfare have imposed unreasonable
5 demands and burdensome legal, accounting and consulting costs
6 on many small business people of limited resources.

7 (3) The overregulation and burdensome requirements
8 affecting small businesses are costly, reduce innovation and
9 expansion, reduce competition and threaten the existence of
10 some small businesses.

11 (4) The practice of treating all individuals, businesses
12 and organizations in a uniform manner for the purpose of
13 regulatory and reporting requirements has led to the
14 inefficient use of regulatory agency resources, enormous
15 enforcement problems, and, in some cases, actions
16 inconsistent with the legislative intent of health, safety
17 and economic welfare.

18 (5) State Government information collection has not
19 adequately weighed the costs of collection and the privacy
20 rights of individuals and enterprises against the
21 government's need for information.

22 (b) It is the purpose of this act to establish as a
23 principle of regulatory policy that regulatory and reporting
24 requirements fit the scale of those being regulated, that fewer,
25 simpler requirements be made of individuals, small organizations
26 and small businesses and that to achieve these ends agencies be
27 empowered and encouraged to issue regulations which exempt or
28 apply lower standards to individuals, small organizations and
29 small businesses than to larger entities. This act is not
30 intended to justify imposing greater burdens on larger entities

1 than would be imposed without this act.

2 Section 3. Definitions.

3 The following words and phrases when used in this act shall
4 have, unless the context clearly indicates otherwise, the
5 meanings given to them in this section:

6 "Agency" or "State agency." Each of the principal
7 departments in the Executive Branch of the State Government and
8 all bureaus, boards, divisions, commissions, councils,
9 authorities, offices or officers within any such departments now
10 existing or hereafter established and authorized by statute to
11 make, adopt or promulgate rules.

12 "Individual." Any natural person. The term individual shall
13 not include any natural person who is affected by a regulation
14 in such person's capacity as an officer or employee of an
15 organization or business which is not a small business or small
16 organization.

17 "Small business." Any individually owned and operated
18 enterprise which has less than 50 employees and has gross
19 receipts of less than \$2,000,000 annually or any other business
20 which an agency, based on this criteria, would deem to be a
21 small business.

22 "Small organization." Any unincorporated business, sheltered
23 workshop or not-for-profit enterprise which is not dominant in
24 its field and has gross receipts of less than \$4,000,000
25 annually or any other organization which an agency, based on
26 this criteria, would deem to be a small organization.

27 Section 4. Analysis of rule or regulation.

28 (a) (1) Each State agency, prior to publishing a proposed
29 rule or regulation in the Pennsylvania Bulletin, shall
30 conduct an analysis based on the amount of governmental

1 information collection the proposed rule would necessitate,
2 the approximate legal, enforcement, consulting and accounting
3 costs to the State which would be so necessitated and the
4 approximate overall cost to persons other than public
5 entities in compliance with the rule, averaged for each
6 individual, small business concern and small organization
7 affected by it, as compared with the importance of the public
8 policy achieved.

9 (2) Prior to the issuance of the rule or regulation the
10 agency shall incorporate as a part of the general statement
11 of the basis and purpose of the rule required to be published
12 in the Pennsylvania Bulletin a written analysis of whether it
13 is lawful, feasible and desirable for the agency to exempt
14 individuals, small organizations or small businesses from the
15 effect of the rule or regulation or whether the agency may
16 and should promulgate a rule or regulation which sets lower
17 standards for compliance by individuals, small organizations
18 and small businesses.

19 (b) The required analysis shall include the following
20 factors:

21 (1) The nature of any reports and the estimated cost of
22 their preparation by individuals, small organizations and
23 small businesses which would be required to comply with the
24 new rule.

25 (2) The nature and estimated costs of other measures or
26 investments that would be required by individuals, small
27 organizations and small businesses in complying with the new
28 rule.

29 (3) The nature and estimated cost of any legal,
30 consulting and accounting services which individuals, small

1 organizations and small businesses would incur in complying
2 with the new rule.

3 (4) The ability of individuals, small organizations and
4 small businesses to absorb the costs estimated under
5 paragraphs (1), (2) and (3) without suffering economic harm
6 and without adversely affecting competition in the
7 marketplace.

8 (5) The additional cost, if any, to the agency of
9 administering or enforcing a rule which exempts or sets lower
10 standards for compliance by individuals, small organizations
11 or small businesses.

12 (6) The impact on the public interest of exempting or
13 setting lesser standards of compliance for individuals, small
14 organizations or small businesses.

15 Section 5. Transmission and comments.

16 The agency prescribing such rule shall:

17 (1) Transmit such rule to and obtain the comments, if
18 any, of the appropriate standing committees of the General
19 Assembly with oversight responsibilities for that agency with
20 respect to the impact on individuals, small organizations and
21 small businesses resulting from implementation of such rule.

22 (2) Include such comments of the appropriate standing
23 committees of the General Assembly with oversight
24 responsibilities for that agency in the record made in
25 connection with consideration of such rule.

26 (3) Incorporate a summary of such comments of the
27 appropriate standing committees of the General Assembly with
28 oversight responsibilities for that agency with the general
29 statement of the basis and purpose of the rule.

30 Section 6. Procedure when exemption applies.

1 Whenever the results of such analysis by an agency indicate
2 that it is lawful, desirable and feasible to exempt individuals,
3 small organizations or small businesses or to set lower
4 standards of compliance by individuals, small organizations or
5 small businesses, the agency shall issue a rule or regulation
6 containing an appropriate exemption for such individuals, small
7 organizations or small businesses or setting lower standards for
8 compliance by individuals, small organizations or small
9 businesses.

10 Section 7. Procedure when agency defines either small business
11 or small organization.

12 Whenever an agency establishes by rule or regulation the
13 meaning of small business or small organization in accordance
14 with section 3, such rule or regulation may apply to either a
15 single rule or regulation, a set of rules and regulations or
16 every rule and regulation issued by the agency. The rule or
17 regulation establishing the meaning of small business or small
18 organization shall be published in the Pennsylvania Bulletin at
19 least 30 days prior to the effective date of the rule or
20 regulation. The size or segment standards established by such
21 rule or regulation shall be objective, and, to the maximum
22 extent feasible, uniform with size or segment standards
23 previously established by rule or regulation.

24 Section 8. Standing to appeal.

25 In any action to review the compliance of an agency with this
26 act no order shall be entered by a court to enjoin enforcement
27 of such rule with respect to anyone or any concern that is not
28 an individual, small organization or small business. No one
29 other than an individual, small organization or small business,
30 as defined in section 3, shall have standing to review the

1 compliance of an agency.

2 Section 9. Review of past rules and regulations.

3 Each agency shall, during the five-year period beginning with
4 the date of enactment of this act review agency rules which were
5 published for comment, issued, or in effect prior to such date
6 and make the determination required by this act.

7 Section 10. Cooperation.

8 Every agency of State Government is authorized and required
9 to furnish upon request, advice and assistance to any other
10 agency making determinations pursuant to this act.

11 Section 11. Rules and regulations must comply.

12 Except as otherwise provided by statute, no agency may issue
13 a rule or regulation, however denominated or described, which
14 does not comply with the provisions of this act.

15 Section 12. No further personnel required.

16 No agency shall employ additional personnel in order to
17 comply with this act.

18 Section 13. Effective date.

19 This act shall take effect in 90 days.