

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1102 Session of
2018

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APRIL 9, 2018

REFERRED TO RULES AND EXECUTIVE NOMINATIONS, APRIL 9, 2018

AN ACT

1 Amending the act of June 25, 1982 (P.L.633, No.181), entitled
2 "An act providing for independent oversight and review of
3 regulations, creating an Independent Regulatory Review
4 Commission, providing for its powers and duties and making
5 repeals," providing for regulatory reduction and for
6 regulatory baseline and public availability.

7 The General Assembly finds and its intent is as follows:

8 (1) A vibrant and growing business sector is critical to
9 creating jobs in a dynamic economy.

10 (2) Unnecessary and overly burdensome regulatory
11 requirements create barriers to entry in many industries and
12 discourage potential entrepreneurs from introducing
13 beneficial products and processes.

14 (3) Alternative regulatory approaches that do not
15 conflict with the stated objectives of applicable statutes
16 may be available to minimize the significant economic impact
17 of rules on the private economy.

18 (4) Regulatory requirements can impose unnecessary and
19 disproportionately burdensome demands, including legal,

1 accounting and consulting costs upon small businesses with
2 limited resources.

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

5 Section 1. The act of June 25, 1982 (P.L.633, No.181), known
6 as the Regulatory Review Act, is amended by adding sections to
7 read:

8 Section 5.3. Regulatory reduction.

9 (a) For each regulation proposed by a State agency, the
10 agency proposing the regulation shall submit a regulatory
11 replacement request as part of the regulatory analysis form.

12 (b) A regulatory replacement request shall include the
13 following:

14 (1) The regulatory requirements that are proposed to be
15 repealed under subsection (d) or (e).

16 (2) The number of regulatory requirements proposed to be
17 repealed through the proposed regulation and regulatory
18 replacement request.

19 (3) The number of new regulatory requirements proposed
20 to be promulgated through the proposed regulation and
21 regulatory replacement request.

22 (4) The net number of new regulatory requirements
23 proposed to be promulgated.

24 (c) Before a regulation may be promulgated, the accompanying
25 regulatory replacement request must be approved by the
26 commission or by majority vote in both the Senate and the House
27 of Representatives and the following shall apply:

28 (1) Before the commission may approve a regulatory
29 replacement request, the commission must ensure the net
30 number of regulatory requirements established by the

1 regulatory replacement request is consistent with the
2 requirements of subsection (d) or (e).

3 (2) If the commission does not approve an initial
4 regulatory replacement request, the agency may submit an
5 amended request that proposes repealing different regulatory
6 requirements. The regulatory review requirements of sections
7 201 and 202 of the act of July 31, 1968 (P.L.769, No.240),
8 referred to as the Commonwealth Documents Law, shall not
9 apply to amended regulatory replacement requests.

10 (3) Regulatory requirements proposed to be repealed
11 shall not be required to undergo the regulatory review
12 processes established in sections 201 and 202 of the
13 Commonwealth Documents Law unless the commission requires any
14 or all such compliance for individual regulatory
15 requirements.

16 (4) At any time after the public comment period,
17 pursuant to the act of July 31, 1968 (P.L.769, No.240),
18 referred to as the Commonwealth Documents Law, for a proposed
19 regulation and before the commission's approval of the
20 accompanying regulatory replacement request, the General
21 Assembly may approve the regulatory replacement request by a
22 majority vote in both the Senate and the House of
23 Representatives. Before it may approve a request, the General
24 Assembly must ensure that the net number of regulatory
25 requirements proposed in the regulatory replacement request
26 is consistent with the requirements of subsection (d) or (e).
27 The General Assembly may amend a regulatory replacement
28 request to repeal different regulations than those proposed
29 by the agency.

30 (5) If the commission has required amendments to a

1 previous version of a regulatory replacement request, the
2 version approved by the General Assembly does not need to
3 contain those amendments.

4 (6) Regulatory requirements that have been approved for
5 repeal by the legislature as part of a regulatory replacement
6 request do not need to undergo the regulatory review process
7 outlined in the act of April 9, 1929 (P.L.177, No.175), known
8 as "The Administrative Code of 1929," the Commonwealth
9 Documents Law, or this act that may otherwise be required
10 before the final-form regulation stage.

11 (d) The following shall apply:

12 (1) Each proposed regulatory requirement shall be
13 accompanied by the proposed repeal of at least two existing
14 regulatory requirements.

15 (2) The regulatory repeals required under paragraph (1)
16 shall be completed no more than 180 days after the
17 promulgation of the regulatory requirement.

18 (3) This subsection shall expire six years after the
19 effective date of this section.

20 (e) The following shall apply:

21 (1) Each proposed regulatory requirement shall be
22 accompanied by the proposed repeal of at least one existing
23 regulatory requirement.

24 (2) The regulatory repeal required under paragraph (1)
25 shall be completed no more than 180 days after the
26 promulgation of the regulatory requirement.

27 (3) This subsection shall take effect immediately upon
28 the expiration of subsection (d).

29 (f) An agency may apply, in a manner prescribed by the
30 commission, for a proposed regulation, or regulatory requirement

1 contained in a proposed regulation, to be exempt from this
2 section and the following shall apply:

3 (1) The agency must submit with the initial regulatory
4 replacement request a written explanation why the proposed
5 regulatory requirement should be exempt from this section.

6 (2) Within 15 days of receipt of the regulatory
7 replacement request and the written explanation in accordance
8 with this subsection, the commission shall provide a
9 recommendation to the committees recommending or not
10 recommending the General Assembly exempt the proposed
11 regulation or proposed regulatory requirements from the
12 requirements of this section.

13 (3) A two-thirds vote in both the Senate and the House
14 of Representatives shall be required to grant a request for a
15 proposed regulation to be exempt from the requirements of
16 this section.

17 (g) This section shall not apply to proposed regulations
18 that an agency has submitted to the Legislative Reference Bureau
19 for publication of notice of proposed rulemaking before the
20 effective date of this section.

21 (h) As used in this section, the following words and phrases
22 shall have the meanings given to them in this subsection unless
23 the context clearly indicates otherwise:

24 "Proposed regulation." As defined in section 3, with the
25 exception of proposed regulations that would exclusively reduce
26 the number of regulatory requirements promulgated by an agency.

27 "Proposed regulatory requirement." A regulatory requirement
28 comprising in whole or in part a proposed regulation.

29 "Regulatory requirement." An action or step that must be
30 taken or piece of information that must be provided in

1 accordance with any regulation in order to access services,
2 carry out business or pursue legislated privileges. The term
3 shall not include:

4 (1) an action or step that must be taken or piece of
5 information that must be provided in accordance with any
6 regulation for which the procedures specified in sections 201
7 and 202 of the Commonwealth Documents Law have been modified
8 in accordance with section 204 of the Commonwealth Documents
9 Law;

10 (2) a statement concerning the internal management of an
11 agency and not affecting private rights or procedures
12 available to the public;

13 (3) a declaratory ruling; or

14 (4) an intra-agency or inter-agency memoranda.

15 Section 13. Regulatory baseline and public availability.

16 (a) Within six months from the effective date of this
17 section, each State agency shall complete an internal review of
18 all regulatory requirements, as defined under section 5.3,
19 within the purview of the agency and shall submit their findings
20 to the Governor, both the Senate and the House of
21 Representatives and the commission. The report shall include the
22 following:

23 (1) The title of the agency and the names, office
24 addresses and telephone numbers of the agency officials
25 responsible for responding to questions regarding the report.

26 (2) A list of all regulatory requirements promulgated
27 under the agency.

28 (3) A specific citation to the Federal or State
29 statutory or regulatory authority, or the decision of a
30 Federal or State court, under which the agency promulgates

1 each regulatory requirement.

2 (4) The effective date and, if applicable, the
3 expiration date of each regulatory requirement.

4 (b) Within nine months from the effective date of this
5 section, the commission shall compile and publish on the
6 commission's publicly accessible Internet website a consolidated
7 list of all regulatory requirements received under subsection
8 (a). The commission shall also submit the consolidated list of
9 regulatory requirements to the Governor and both the Senate and
10 the House of Representatives.

11 (c) Six months after the commission publishes the
12 consolidated list under subsection (b), and every six months
13 thereafter, each agency shall submit to the commission any
14 updates to the list of regulatory requirements promulgated by
15 the agency.

16 (d) The commission shall ensure that the public stays
17 informed about all regulations, regulatory replacement requests
18 and the number of existing regulatory requirements by:

19 (1) building and maintaining a searchable online
20 database on its publicly accessible Internet website of all
21 proposed and all approved regulatory replacement requests;
22 and

23 (2) building and maintaining a searchable online
24 database on its publicly accessible Internet website that
25 shall include, but not be limited to, the following:

26 (i) A searchable list of all current regulations and
27 regulatory requirements.

28 (ii) A brief description of each regulatory
29 requirement and a link to the regulatory requirement on
30 the publicly accessible Internet website of the

1 Pennsylvania Code.

2 (iii) The agency responsible for each regulation.

3 (iv) The authorizing statute for each regulation.

4 (v) The effective date, and, if applicable, the
5 expiration date, of each regulation.

6 Section 2. This act shall take effect in 60 days.