

AMENDMENTS TO HOUSE BILL NO. 1349

Sponsor: REPRESENTATIVE JOSEPHS

Printer's No. 1558

1 Amend Bill, page 1, lines 1 through 7, by striking out all of
2 said lines and inserting

3 To improve State rulemaking by creating procedures to analyze
4 the availability of more flexible regulatory approaches for
5 small businesses.

6 Amend Bill, page 1, lines 10 through 18; pages 2 through 7,
7 lines 1 through 30; page 8, lines 1 through 20, by striking out
8 all of said lines on said pages and inserting

9 Section 1. Short title.

10 This act shall be known and may be cited as the Regulatory
11 Flexibility Act.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall
14 have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Agency." A Commonwealth board, commission, department or
17 officer authorized by statute to promulgate regulations or make
18 adjudications.

19 "Proposed regulation." A proposal by an agency for a new
20 regulation or for a change in, addition to or repeal of an
21 existing regulation.

22 "Regulation." An agency statement of general applicability,
23 without regard to its designation, which implements, interprets,
24 or prescribes law or policy or which describes the organization,
25 procedure or practice requirements of an agency. The term
26 includes the amendment or repeal of a regulation. The term does
27 not include:

28 (1) a statement concerning only the internal management
29 of any agency and not affecting private rights or procedures
30 available to the public;

31 (2) a declaratory ruling; or

32 (3) an intra-agency or interagency memorandum.

33 "Small business." A business entity, including its
34 affiliates, that meets all of the following paragraphs:

35 (1) Is independently owned and operated.

1 (2) Meets one of the following subparagraphs:

2 (i) Employs fewer than 500 full-time employees.

3 (ii) Has gross annual sales of less than \$6,000,000.

4 Section 3. Economic impact statements.

5 Prior to the adoption of a proposed regulation which may have
6 an adverse impact on small businesses, the agency shall prepare
7 an economic impact statement which includes the following:

8 (1) An identification and estimate of the number of the
9 small businesses subject to the proposed regulation.

10 (2) The projected reporting, recordkeeping and other
11 administrative costs required for compliance with the
12 proposed regulation, including the type of professional
13 skills necessary for preparation of the report or record.

14 (3) A statement of the probable effect on impacted small
15 businesses.

16 (4) A description of any less intrusive or less costly
17 alternative methods of achieving the purpose of the proposed
18 regulation.

19 Section 4. Regulatory flexibility analysis.

20 (a) Requirement.--Prior to the adoption of a proposed
21 regulation, the agency shall prepare a regulatory flexibility
22 analysis in which the agency shall, as consistent with health,
23 safety, environmental and economic welfare, consider utilizing
24 regulatory methods which will accomplish the objectives of
25 applicable statutes while minimizing adverse impact on small
26 businesses. The agency's consideration shall include the
27 following methods of reducing the impact of the proposed
28 regulation on small businesses:

29 (1) Establishment of less stringent compliance or
30 reporting requirements for small businesses.

31 (2) Establishment of less stringent schedules or
32 deadlines for compliance or reporting requirements for small
33 businesses.

34 (3) Consolidation or simplification of compliance or
35 reporting requirements for small businesses.

36 (4) Establishment of performance standards for small
37 businesses to replace design or operational standards
38 required in the proposed regulation.

39 (5) Exemption of small businesses from requirements
40 contained in the proposed regulation.

41 (b) Notice.--Prior to the adoption of a proposed regulation
42 which may have an adverse impact on small businesses, the agency
43 shall notify the Independent Regulatory Review Commission of its
44 intent to adopt the proposed regulation. The commission shall
45 advise and assist agencies in complying with this section.

46 Section 5. Judicial review.

47 (a) Administrative agency law.--A small business that is
48 aggrieved by a violation of this act is entitled to judicial
49 review under 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial
50 review of Commonwealth agency action).

51 (b) Limitation of time.--Notwithstanding 42 Pa.C.S. §

1 5522(b)(1) (relating to six months limitation), an action for
2 review under subsection (a) must be commenced within one year of
3 publication of final rulemaking in the Pennsylvania Bulletin.
4 Section 6. Periodic review of regulations.

5 (a) Existing regulations.--For regulations in effect on the
6 effective date of this section, the following apply:

7 (1) Except as set forth in paragraph (2), by January 1,
8 2016, each agency shall review the regulations to determine
9 whether the regulations should be continued without change or
10 should be mended or rescinded, consistent with the stated
11 objectives of the enabling statutes, to minimize economic
12 impact of the regulations on small businesses in a manner
13 consistent with the stated objective of applicable statutes.

14 (2) If the head of an agency determines that completion
15 of the review is not feasible by January 1, 2016, the
16 following apply:

17 (i) The agency shall transmit notice of a
18 certification of the determination to the Legislative
19 Reference Bureau for publication as a notice in the
20 Pennsylvania Bulletin.

21 (ii) Publication of the notice extends the time
22 period under paragraph (1) by one year.

23 (iii) Only five notices are permitted under this
24 paragraph.

25 (b) Subsequent regulations.--Regulations promulgated on or
26 after the effective date of this section, shall be reviewed
27 every five years to ensure that they minimize economic impact on
28 small businesses in a manner consistent with the stated
29 objectives of enabling statutes.

30 (c) Standard.--In reviewing regulations under this section,
31 an agency shall consider the following factors:

32 (1) Continued need for the regulation.

33 (2) Nature of public complaints or comments concerning
34 the regulation.

35 (3) Complexity of the regulation.

36 (4) Extent to which the rule overlaps, duplicates or
37 conflicts with other Federal, State and local regulations.

38 (5) Length of time since the regulation has been
39 evaluated and degree to which technology, economic conditions
40 or other factors have changed in the area affected by the
41 regulation.

42 Section 20. Effective date.

43 This act shall take effect January 1, 2012, or immediately,
44 whichever is later.