AN ACT

Amending the act of June 25, 1982 (P.L.633, No.181), entitled, "An act providing for independent oversight and review of regulations, creating an Independent Regulatory Review Commission, providing for its powers and duties and making repeals," further providing for legislative intent, for definitions and for proposed regulations and procedures for review.

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

Section 1. Section 2 of the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, reenacted and amended June 30, 1989 (P.L.73, No.19) and amended June 25, 1997 (P.L.252, No.24), is amended to read:

Section 2. Legislative intent.

(a) The General Assembly has enacted a large number of statutes and has conferred on boards, commissions, departments and agencies within the executive branch of government the authority to adopt rules and regulations to implement those
statutes. The General Assembly has found that this delegation of
its authority has resulted in regulations being promulgated
without undergoing effective review concerning cost benefits,
duplication, inflationary impact and conformity to legislative
intent. The General Assembly finds that it must establish a
procedure for oversight and review of regulations adopted
pursuant to this delegation of legislative power in order to
curtail excessive regulation and to require the executive branch
to justify its exercise of the authority to regulate before
imposing hidden costs upon the economy of Pennsylvania. It is
the intent of this act to establish a method for ongoing and
effective legislative review and oversight in order to foster
executive branch accountability; to provide for primary review
by a commission with sufficient authority, expertise,
independence and time to perform that function; to provide
ultimate review of regulations by the General Assembly; and to
assist the Governor, the Attorney General and the General
Assembly in their supervisory and oversight functions. To the
greatest extent possible, this act is intended to encourage the
resolution of objections to a regulation and the reaching of a
consensus among the commission, the standing committees,
interested parties and the agency.

(b) This act is not intended to create a right or benefit,
substantive or procedural, enforceable at law by a person
against another person or against the Commonwealth, its agencies
or its officers.]

(c) This act is intended to improve State rulemaking by
creating procedures to analyze the availability of more flexible
regulatory approaches for small businesses in accordance with
the following findings:
A vibrant and growing small business sector is critical to creating jobs in a dynamic economy.

Small businesses bear a disproportionate share of regulatory costs and burdens.

Fundamental changes that are needed in the regulatory and enforcement culture of agencies to make them more responsive to small business can be made without compromising the statutory missions of the agencies.

When adopting regulations to protect the health, safety and economic welfare of the Commonwealth, agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on small business.

Uniform regulatory and reporting requirements can impose unnecessary and disproportionately burdensome demands, including legal, accounting and consulting costs upon small businesses with limited resources.

The failure to recognize differences in the scale and resources of regulated businesses can adversely affect competition in the marketplace, discourage innovation and restrict improvements in productivity.

Unnecessary regulations create entry barriers in many industries and discourage potential entrepreneurs from introducing beneficial products and processes.

The practice of treating all regulated businesses similarly may lead to inefficient use of regulatory agency resources, enforcement problems and, in some cases, to actions inconsistent with the legislative intent of health, safety, environmental and economic welfare legislation.

Alternative regulatory approaches which do not
conflict with the stated objective of applicable statutes may be available to minimize the significant economic impact of rules on small businesses.

(10) The process by which State regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, to examine the impact of proposed and existing rules on such businesses and to review the continued need for existing rules.

(d) For any regulation subject to this act, a small business that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of this section. A small business may seek such review during the period beginning on the date of final agency action and ending 18 months later.

(e) This act is not intended to create a right or benefit, substantive or procedural, enforceable at law by a person against another person or against the Commonwealth, its agencies or its officers.

Section 2. Section 3 of the act is amended by adding a definition to read:

Section 3. Definitions.

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

* * *

"Small business." As defined by the United States Small Business Administration’s Small Business Size Regulations under 13 CFR Ch. 1 Part 121 (relating to Small Business Size Regulations).
Section 3. Section 5(a) of the act, amended December 6, 2002 (P.L.1227, No.148), is amended and the section is amended by adding a subsection to read:

Section 5. Proposed regulations; procedures for review.

(a) On the same date that an agency submits a proposed regulation to the Legislative Reference Bureau for publication of notice of proposed rulemaking in the Pennsylvania Bulletin as required by the Commonwealth Documents Law, the agency shall submit to the commission and the committees a copy of the proposed regulation and a regulatory analysis form which includes the following:

(1) The title of the agency and the names, office addresses and telephone numbers of the agency officials responsible for responding to questions regarding the regulation or for receiving comments relating to the regulation.

(1.1) A specific citation to the Federal or State statutory or regulatory authority or the decision of a Federal or State court under which the agency is proposing the regulation, which the regulation is designed to implement or which may mandate or affect compliance with the regulation.

(2) A concise and, when possible, nontechnical explanation of the proposed regulation.

(3) A statement of the need for the regulation.

(4) Estimates of the direct and indirect costs to the Commonwealth, to its political subdivisions and to the private sector. Insofar as the proposed regulation relates to costs to the Commonwealth, the agency may submit in lieu of...
its own statement the fiscal note prepared by the Office of
the Budget pursuant to section 612 of the act of April 9,
1929 (P.L.177, No.175), known as "The Administrative Code of
1929."

(5) A statement of legal, accounting or consulting
procedures and additional reporting, recordkeeping or other
paperwork, including copies of forms or reports, which will
be required for implementation of the regulation and an
explanation of measures which have been taken to minimize
these requirements.

(7) A schedule for review of the proposed regulation,
including the date by which the agency must receive comments;
the date or dates on which public hearings will be held; the
expected date of promulgation of the proposed regulation as a
final-form regulation; the expected effective date of the
final-form regulation; the date by which compliance with the
final-form regulation will be required; and the date by which
required permits, licenses or other approvals must be
obtained.

(9) An identification of the types of persons, small
businesses, businesses and organizations which would be
affected by the regulation.

(10) An identification of the financial, economic and
social impact of the regulation on individuals, small
businesses, business and labor communities and other public
and private organizations and, when practicable, an
evaluation of the benefits expected as a result of the
regulation.

(10.1) For any proposed regulation that may have an
adverse impact on small businesses, an economic impact.
statement that includes the following:

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

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

(iii) A statement of the probable effect on impacted small businesses.

(iv) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

(11) A description of any special provisions which have been developed to meet the particular needs of affected groups and persons, including minorities, the elderly, small businesses and farmers.

(12) A description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

(12.1) A regulatory flexibility analysis in which the agency shall, where consistent with health, safety, environmental and economic welfare, consider utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small businesses. The agency shall consider, without limitation, each of the following methods of reducing the impact of the proposed regulation on small businesses:

(i) the establishment of less stringent compliance
or reporting requirements for small businesses;

(ii) the establishment of less stringent schedules
or deadlines for compliance or reporting requirements for
small businesses;

(iii) the consolidation or simplification of
compliance or reporting requirements for small
businesses;

(iv) the establishment of performance standards for
small businesses to replace design or operational
standards required in the proposed regulation; and

(v) the exemption of small businesses from all or
any part of the requirements contained in the proposed
regulation.

* * *

(a.1) Prior to the adoption of any proposed regulation that
may have an adverse impact on small businesses, each agency
shall notify the commission of its intent to adopt the proposed
regulation.

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Section 4. This act shall take effect in 60 days.