
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 576

Session of
1987

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SCHULER, NOYE, BOWSER, MARKOSEK, HALUSKA, DAWIDA, MOEHLMANN,
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BLACK, FLICK, O'BRIEN, BUSH, J. L. WRIGHT, COY, E. Z. TAYLOR,
PHILLIPS, McVERRY AND SALOOM, MARCH 3, 1987

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, MARCH 3, 1987

AN ACT

1 Permitting the inclusion in all State rules and regulations of
2 flexible provisions designed to benefit small businesses,
3 small organizations and individuals.

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

6 Section 1. Short title.

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

9 Section 2. Findings and purpose.

10 (a) Findings.--The General Assembly finds that:

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

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

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

8 (3) Over-regulation and burdensome requirements
9 affecting small businesses are costly, reduce innovation and
10 expansion, reduce competition and threaten the existence of
11 some small businesses.

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

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

23 (b) Purpose.--It is the purpose of this act to establish as
24 a principle of regulatory policy that regulatory and reporting
25 requirements fit the scale of those being regulated, that fewer,
26 simpler requirements be made of individuals, small organizations
27 and small businesses and that to achieve these ends agencies be
28 empowered and encouraged to issue regulations consistent with
29 public health, safety and welfare which include flexible
30 standards designed to meet the particular needs and resources of

1 individuals, small organizations and small businesses. This act
2 is not intended to justify imposing greater burdens on larger
3 entities than would be imposed without this act.

4 Section 3. Definitions.

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

8 "Agency" or "State agency." Each of the principal
9 departments in the executive branch of the State government and
10 all bureaus, boards, divisions, commissions, councils,
11 authorities, offices or officers within any of the departments
12 now existing or hereafter established and authorized by statute
13 to make, adopt or promulgate rules and regulations.

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

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

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

29 Section 4. Flexible provisions in regulations.

30 Whenever any State agency reviews, proposes or adopts any

1 rule or regulation or amendment to a rule or regulation, the
2 agency may include within the regulation flexible provisions
3 which may be applied to individuals, small businesses or small
4 organizations. Flexible provisions may be included within any
5 regulation, if such provisions are not otherwise prohibited by
6 law, and if such provisions are consistent with the protection
7 of public health, safety and welfare. Flexible provisions may
8 include, but are not limited to, specialized prescriptive or
9 performance standards, simplified reporting requirements, and
10 simplified permit, licensing or certification procedures and
11 standards.

12 Section 5. Petition for proposed rulemaking.

13 (a) General rule.--Any individual, small business or small
14 organization may file an informal petition with any State agency
15 requesting the issuance, amendment, waiver or repeal of a
16 regulation in order to adopt flexible provisions as provided in
17 section 4.

18 (b) Content.--Any petition filed pursuant to this section
19 shall set forth clearly and concisely the specific regulation,
20 amendment, waiver or repeal requested and shall cite by
21 appropriate reference the statutory authority for the
22 regulation. Such petition shall set forth the facts upon which
23 the need for the proposed flexible provisions are based and
24 shall explain how the proposed rulemaking will both benefit
25 individuals, small businesses and small organizations and be
26 consistent with the protection of public health, safety and
27 welfare.

28 (c) Hearing and review criteria.--The agency may hold a
29 public hearing to consider the proposed rulemaking and, in the
30 review of the proposal, may consider the following factors:

1 (1) The nature of any reports and the estimated cost of
2 their preparation by individuals, small organizations and
3 small businesses which would be required under the new rule
4 compared to existing agency rules.

5 (2) The nature and estimated costs of other measures or
6 investments that would be required by individuals, small
7 organizations and small businesses in complying with the new
8 rules compared to existing agency rules.

9 (3) The nature and estimated cost of any legal,
10 consulting and accounting services which individuals, small
11 organizations and small businesses would incur in complying
12 with the new rule compared to existing agency rules.

13 (4) Compared to current agency rules, the ability of
14 individuals, small organizations and small businesses to
15 absorb the costs estimated under paragraphs (1), (2) and (3)
16 without suffering economic harm and without adversely
17 affecting competition in the marketplace.

18 (5) The additional cost, if any, to the agency of
19 administering or enforcing a rule which contains flexible
20 provisions for compliance by individuals, small organizations
21 or small businesses.

22 (6) The impact on the public interest of adopting
23 flexible provisions of compliance for individuals, small
24 organizations or small businesses.

25 (d) Flexible provisions in regulations.--The agency shall,
26 within 180 days, determine whether it is lawful, desirable and
27 feasible to adopt flexible provisions in regulations for
28 individuals, small organizations or small businesses and notify
29 the petitioner in writing and, if the agency determines that it
30 is lawful, desirable and feasible to adopt such provisions, the

1 agency shall submit for review a notice of proposed rulemaking
2 containing the appropriate flexible provisions.

3 (e) Effect of decision.--The agency decision regarding any
4 petition filed pursuant to this section shall be final, and
5 shall not constitute an adjudication as defined in 2 Pa.C.S. §
6 101 (relating to definitions), or be subject to appeal as
7 provided by 2 Pa.C.S. § 702 (relating to appeals), or otherwise.

8 Section 6. Procedure when agency defines either small business
9 or small organization.

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

22 Section 7. Cooperation.

23 Every agency of State government is authorized and required
24 to furnish upon request, advice and assistance to any other
25 agency making determinations pursuant to this act.

26 Section 8. Effective date.

27 This act shall take effect immediately.