

# HOUSE . . . . . No. 189

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By Mr. Torrasi of North Andover, petition of David M. Torrasi and Bradley H. Jones, Jr. relative to statements of small business consideration. Community Development and Small Business.

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## The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO STATEMENTS OF SMALL BUSINESS CONSIDERATION.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 1 of Chapter 30A of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 adding:—

4 (7) “Proposed regulation” means a proposal by an agency for a  
5 new regulation or for the amendment of, addition to, or repeal of an  
6 existing regulation.

7 (8) “Small business” means a business entity, including its affili-  
8 ates, that (A) is independently owned and operated and (B) employs  
9 fewer than 50 full-time employees.

1 SECTION 2. Section 2 of chapter 30A of the General Laws, as so  
2 appearing, is hereby amended by inserting after the words “proposed  
3 regulation” in line 24 the following:—the statement of small busi-  
4 ness consideration required by section 5 of this chapter;

1 SECTION 3. Section 3 of chapter 30A of the General Laws, as so  
2 appearing, is hereby amended by inserting after the words “proposed  
3 action” in lines 22-23 the following:—the statement of small busi-  
4 ness consideration required by section 5 of this chapter;

1 SECTION 4. Section 5 of Chapter 30A of the General Laws, as  
2 so appearing, is amended by striking lines 18 to 25, inclusive, and  
3 inserting in its place the following:—

4 Such statement of small business consideration shall include, but  
5 not be limited to, the following:

6 (1) An identification and estimate of the number of the small  
7 businesses subject to the proposed regulation;

8 (2) The projected reporting, recordkeeping, and other administra-  
9 tive costs required for compliance with the proposed regulation,  
10 including the type of professional skills necessary for preparation of  
11 the report or record;

12 (3) The appropriateness of performance standards versus design  
13 standards;

14 (4) An identification of all relevant regulations of the promul-  
15 gating agency which may duplicate or conflict with the proposed  
16 regulation;

17 (5) A statement of the probable effect on impacted small busi-  
18 nesses;

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

21 The state secretary shall notify all agencies required to file rules  
22 or regulations pursuant to this section.

23 Prior to the adoption of any proposed regulation, an agency shall  
24 prepare a regulatory flexibility analysis in which the agency shall  
25 consider utilizing regulatory methods that will accomplish the objec-  
26 tives of applicable statutes while minimizing adverse impact on  
27 small businesses. The agency shall consider, without limitation, each  
28 of the following methods of reducing the impact of the proposed  
29 regulation on small businesses:

30 (1) The establishment of less stringent compliance or reporting  
31 requirements for small businesses;

32 (2) The establishment of less stringent schedules or deadlines for  
33 compliance or reporting requirements for small businesses;

34 (3) The consolidation or simplification of compliance or reporting  
35 requirements for small businesses;

36 (4) The establishment of performance standards for small busi-  
37 nesses to replace design or operational standards required in the pro-  
38 posed regulation; and

39 (5) The exemption of small businesses from all or any part of the  
40 requirements contained in the proposed regulation.

41 Prior to the adoption of any proposed regulation, each agency  
42 shall notify the Department of Administration and Finance of its  
43 intent to adopt the proposed regulation. Also prior to the adoption of  
44 any proposed regulation, each agency shall make available for public  
45 review and comment the small business impact statement required  
46 by this section. The Department of Administration and Finance shall  
47 advise and assist agencies in complying with the provisions of this  
48 section.

1 SECTION 5. Chapter 30A of the General Laws, as appearing in  
2 the 2004 Official Edition, is amended by inserting the following  
3 section after section 5:—

4 Section 5A. Periodic Review.

5 Within 4 years of the enactment of this law, each agency shall  
6 review all agency rules existing at the time of enactment to deter-  
7 mine whether such rules should be continued without change or  
8 should be amended or rescinded consistent with the stated objectives  
9 of those statutes, to minimize economic impact of the rules on small  
10 businesses in a manner consistent with the stated objective of applic-  
11 able statutes. If the head of the agency determines that completion of  
12 the review of existing rules is not feasible by the established date the  
13 agency shall publish a statement certifying that determination. The  
14 agency may extend the completion date by one year at a time for a  
15 total of not more than five years.

16 Rules adopted after the enactment of this law should be reviewed  
17 every five years of the publication of such rules as the final rule to  
18 ensure that they minimize economic impact on small businesses in a  
19 manner consistent with the stated objectives of applicable statutes.

20 In reviewing rules to minimize economic impact of the rule on  
21 small businesses, the agency shall consider the following factors:

- 22 (1) The continuing need for the rule;
- 23 (2) The nature of complaints or comments received concerning  
24 the rule from the public;
- 25 (3) The complexity of the rule;
- 26 (4) The extent to which the rule overlaps, duplicates or conflicts  
27 with other Federal, State, and local governmental rules; and
- 28 (5) The length of time since the rule has been evaluated or the  
29 degree to which technology, economic conditions, or other factors  
30 have changed in the area affected by the rule.