

SENATE NO. 133



AN ACT RELATIVE TO SMALL BUSINESS IMPACT STATEMENTS

*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 appearing in the 2004 Official Edition,
2 is hereby amended by adding:

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

5 (8) "Small business" means a business entity, including its affiliates, that (A) is independently owned
6 and operated and (B) employs fewer than 50 full-time employees.

7 SECTION 2. Section 5 of Chapter 30A of the General Laws, as appearing in the 2004 Official Edition,
8 is amended by striking lines 18 to 25, inclusive, and inserting in its place the following:

9 Such small business impact statement shall include, but not be limited to, the following:

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

- 12 (2) The projected reporting, recordkeeping, and other administrative costs required for compliance
13 with the proposed regulation, including the type of professional skills necessary for preparation
14 of the report or record;
- 15 (3) The appropriateness of performance standards versus design standards;
- 16 (4) An identification of all relevant regulations of the promulgating agency which may duplicate or
17 conflict with the proposed regulation;
- 18 (5) A statement of the probable effect on impacted small businesses;
- 19 (6) A description of any less intrusive or less costly alternative methods of achieving the purpose
20 of the proposed regulation.

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

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

- 27 (1) The establishment of less stringent compliance or reporting requirements for small businesses;
- 28 (2) The establishment of less stringent schedules or deadlines for compliance or reporting
29 requirements for small businesses;
- 30 (3) The consolidation or simplification of compliance or reporting requirements for small
31 businesses;
- 32 (4) The establishment of performance standards for small businesses to replace design or
33 operational standards required in the proposed regulation; and

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

36 Prior to the adoption of any proposed regulation, each agency shall notify the Department of
37 Administration and Finance of its intent to adopt the proposed regulation. The Department of
38 Administration and Finance shall advise and assist agencies in complying with the provisions of this
39 section.

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

42 Section 5A. Periodic Review.

43 Within 4 years of the enactment of this law, each agency shall review all agency rules existing at the
44 time of enactment to determine whether such rules should be continued without change or should be
45 amended or rescinded consistent with the stated objectives of those statutes, to minimize economic
46 impact of the rules on small businesses in a manner consistent with the stated objective of applicable
47 statutes. If the head of the agency determines that completion of the review of existing rules is not
48 feasible by the established date the agency shall publish a statement certifying that determination. The
49 agency may extend the completion date by one year at a time for a total of not more than five years.

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

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

55 (1) The continuing need for the rule;

56 (2) The nature of complaints or comments received concerning the rule from the public;

- 57 (3) The complexity of the rule;
- 58 (4) The extent to which the rule overlaps, duplicates or conflicts with other Federal, State, and
- 59 local governmental rules; and
- 60 (5) The length of time since the rule has been evaluated or the degree to which technology,
- 61 economic conditions, or other factors have changed in the area affected by the rule.