

SENATE No. 87

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to small business impact statements.

PETITION OF:

NAME:

Ms. Chandler

DISTRICT/ADDRESS:

First Worcester

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02413 OF 2007-2008.]

The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine
—————

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
2 Official Edition, is hereby amended by adding:

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

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

7 **SECTION 2.** Section 2 of chapter 30A of the General Laws, as so appearing, is hereby
8 amended by inserting after the words “proposed regulation”; in line 24 the following:—indicate
9 how the statement of small business consideration required by section 5 of this chapter can be
10 obtained;

11 **SECTION 3.** Section 3 of chapter 30A of the General Laws, as so appearing, is hereby
12 amended by inserting after the words “proposed action”; in lines 22-23 the following:—indicate

13 how the statement of small business consideration required by section 5 of this chapter can be
14 obtained;

15 **SECTION 4.** Section 5 of Chapter 30A of the General Laws, as appearing in the 2004
16 Official Edition, is amended by striking lines 18 to 25, inclusive, and inserting in its place the
17 following:

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

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

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

24 (3) The appropriateness of performance standards versus design standards;

25 (4) An identification of all relevant regulations of the promulgating agency which may duplicate
26 or conflict with the proposed regulation;

27 (5) A statement of the probable effect on impacted small businesses;

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

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

32 Prior to the adoption of any proposed regulation, an agency shall prepare a regulatory flexibility
33 analysis in which the agency shall consider utilizing regulatory methods that will accomplish the
34 objectives of applicable statutes while minimizing adverse impact on small businesses. The

35 agency shall consider, without limitation, each of the following methods of reducing the impact
36 of the proposed regulation on small businesses:

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

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

41 (3) The consolidation or simplification of compliance or reporting requirements for small
42 businesses;

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

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

47 Prior to the adoption of any proposed regulation, each agency shall notify the Department of
48 Administration and Finance of its intent to adopt the proposed regulation. The Department of
49 Administration and Finance shall advise and assist agencies in complying with the provisions of
50 this section.

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

53 Section 5A. Periodic Review.

54 Within 4 years of the enactment of this law, each agency shall review all agency rules existing at
55 the time of enactment to determine whether such rules should be continued without change or
56 should be amended or rescinded consistent with the stated objectives of those statutes, to

57 minimize economic impact of the rules on small businesses in a manner consistent with the
58 stated objective of applicable statutes. If the head of the agency determines that completion of
59 the review of existing rules is not feasible by the established date the agency shall publish a
60 statement certifying that determination. The agency may extend the completion date by one year
61 at a time for a total of not more than five years.

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

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

67 (1) The continuing need for the rule;

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

69 (3) The complexity of the rule;

70 (4) The extent to which the rule overlaps, duplicates or conflicts with other Federal, State, and
71 local governmental rules; and

72 (5) The length of time since the rule has been evaluated or the degree to which technology,
73 economic conditions, or other factors have changed in the area affected by the rule