

HOUSE No. 207

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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 appearing in the 2006
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
6 independently 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:—shall
9 include the statement of small business consideration required by section 5 of this chapter;

10 SECTION 3. Section 3 of chapter 30A of the General Laws, as so appearing, is hereby
11 amended by inserting after the words “proposed action” in lines 22-23 the following:—shall
12 include the statement of small business consideration required by section 5 of this chapter;

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

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

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

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

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

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

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

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

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

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

33 businesses. The agency shall consider, without limitation, each of the following methods of
34 reducing the impact of the proposed regulation on small businesses:

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

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

39 (3) The consolidation or simplification of compliance or reporting requirements for small
40 businesses;

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

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

45 Prior to the adoption of any proposed regulation, each agency shall notify the Department
46 of Administration and Finance of its intent to adopt the proposed regulation. Also prior to the
47 adoption of any proposed regulation, each agency shall make available for public review and
48 comment the small business impact statement required by this section. 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
55 existing at the time of enactment to determine whether such rules should be continued without
56 change or should be amended or rescinded consistent with the stated objectives of those statutes,
57 to 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
66 agency shall 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,
71 and local governmental rules; and

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