

HOUSE No. 3760

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to regulatory impact statements and administrative rulemaking..

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 2008
2 Official Edition, is hereby amended by striking out paragraph (6) and inserting in place thereof
3 the following paragraph:-

4 (6) "Regulatory impact statement" means a statement by the promulgating authority
5 which shall, to a reasonable degree of completeness: (i) identify the statutory change, problem,
6 issue or deficiency addressed by the proposed regulation; (ii) identify specifically who is affected
7 and to what extent by the proposed regulation; (iii) identify when such regulation becomes
8 effective, when such regulation will be changed, if known, and how and when the regulation
9 will be reviewed in the future, if at all; (iv) identify costs and/or benefits, including, without
10 limitation, impacts on businesses and jobs in the commonwealth and the impact to the protection
11 of natural resources and public health, if any. Any data, including written information or
12 material, statistics, measurements, calculations or other information used as the basis for the
13 regulation, including any such information provided to the agency by a consultant, vendor or
14 other third party, shall be part of the record and available to the public upon request.

15 SECTION 2. Section 2 of said chapter 30A, as so appearing, is hereby further amended
16 by inserting after the third paragraph the following paragraph:-

17 Every agency promulgating rules and regulations shall maintain a notification list of
18 persons and groups who are interested in the agency's rulemaking and who request preliminary
19 notification of agency rulemaking, with such request being renewed annually by said persons or
20 groups. Not later than 30 days prior to the notice of a hearing described above, the agency
21 conducting the hearing shall send a preliminary notification of agency rulemaking to each person
22 or group who has requested preliminary notification of rulemaking and to the appropriate
23 committee of the general court that has jurisdiction for the rule issuing agency, to the house and
24 senate committees on ways and means and to the small business advisory council. The
25 preliminary notification of rulemaking shall: (a) identify the rule to be noticed for hearing and
26 the scope of the proposed rule; (b) provide the statutory authority for such proposed rulemaking;
27 (c) identify the person within the agency responsible for the rulemaking and who can be
28 contacted for more information; and (d) state the purpose for proposing the new regulations or
29 change of regulation and generally, the goal or goals to be obtained.

30 SECTION 3. Said section 2 of said chapter 30A, as so appearing, is hereby further
31 amended by inserting after the fifth paragraph the following paragraph:-

32 Agencies may initiate emergency regulatory actions under relevant sections of this
33 chapter without prior compliance with sections 1, 2, 3, and 5; provided, however that compliance
34 shall be initiated as soon as practicable following the emergency action and, in any event, prior
35 to making any emergency action permanent.

36 SECTION 4. Section 3 of said chapter 30A, as so appearing, is hereby further amended
37 by inserting after the second paragraph the following paragraph:-

38 Every agency promulgating rules and regulations shall maintain a notification list of
39 persons and groups interested in the agency's rulemaking and who request preliminary
40 notification of agency rulemaking, with such request being renewed annually by said persons and
41 groups. Not later than 30 days prior to the notice described above the agency shall send a
42 preliminary notification of agency rulemaking to each person or group who has requested
43 preliminary notification of agency rulemaking and to the appropriate committee of the general
44 court that has jurisdiction for the rule issuing agency, to the house and senate committees on
45 ways and means and to the small business advisory council. The preliminary notification shall:
46 (a) identify the rule to be noticed and the scope of the proposed rule; (b) provide the statutory
47 authority for such proposed rulemaking; (c) identify the person within the agency responsible for
48 the rulemaking and who can be contacted for further information; and (d) state the purpose for
49 proposing the new regulations or change of regulation and generally, the goal or goals to be
50 obtained.

51 SECTION 5. Section 5 of said chapter 30A, as so appearing, is hereby amended by
52 striking the first sentence of the second paragraph and inserting in place thereof the following:-

53 No rule or regulation so filed with the state secretary, except those filed for the purpose
54 of setting rates, issuing grants or providing loans, and except those filed by the department of
55 telecommunications and energy or the division of insurance, shall become effective until a
56 regulatory impact statement has been completed, made public during the hearing process
57 described above and is filed with the state secretary. The secretary of the enforcing agency shall

58 review all regulatory impact statements prior to their filing with the state secretary to ensure and
59 certify that a proper methodology and approach was used by the agency submitting said impact
60 statement and to certify that the impact statement as submitted complies with the definition of
61 "regulatory impact statement" as set forth in section 1 of chapter 30A within 90 days of receipt.
62 In addition, no rule or regulation so filed, except those filed for the purpose of setting rates,
63 issuing grants or providing loans, and except those filed by the department of
64 telecommunications and energy or the division of insurance, shall become effective until the
65 promulgating agency has filed with the state secretary a statement verifying that said rule or
66 regulation does not conflict with, overlap or duplicate other agencies' rules or regulations.

67 SECTION 6. Section 8 of said chapter 30A is hereby amended by adding after the word
68 "regulations" at the end of said section 8 the following words: -

69 "provided, further, that said rulings shall have no precedential value nor shall they be
70 binding on any other parties or the agency issuing said rulings."