

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Torrasi

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 statements of small business consideration.

PETITION OF:

NAME:

David M. Torrasi

DISTRICT/ADDRESS:

14th Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 189 OF 2007-2008.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and 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 Official Edition, is
2 hereby amended by adding:—

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

5 (8) “Small business” means a business entity, including its affiliates, that (A) is independently owned and
6 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 amended by
8 inserting after the words “proposed regulation” in line 24 the following:—shall include the statement of
9 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 amended by
11 inserting after the words “proposed action” in lines 22-23 the following:—shall include the statement of
12 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 by striking lines
14 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 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 Section 5A. Periodic Review.

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

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

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

61 (1) The continuing need for the rule;

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

63 (3) The complexity of the rule;

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

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