

107TH CONGRESS
1ST SESSION

H. R. 750

To amend provisions of law enacted by the Small Business Regulatory Enforcement Fairness Act of 1996 to ensure full analysis of potential impacts on small entities of rules proposed by certain agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2001

Mrs. KELLY (for herself, Mr. ENGLISH, Ms. PRYCE of Ohio, and Mr. SWEENEY) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend provisions of law enacted by the Small Business Regulatory Enforcement Fairness Act of 1996 to ensure full analysis of potential impacts on small entities of rules proposed by certain agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Review
5 Panel Technical Amendments Act of 2001”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds the following:

3 (1) A vibrant and growing small business sector
4 is critical to creating jobs in a dynamic economy.

5 (2) Small businesses bear a disproportionate
6 share of regulatory costs and burdens.

7 (3) Federal agencies must consider the impact
8 of their regulations on small businesses early in the
9 rulemaking process.

10 (4) The Small Business Advocacy Review Panel
11 process that was established by the Small Business
12 Regulatory Enforcement Fairness Act of 1996 has
13 been effective in allowing small businesses to partici-
14 pate in rules that are being developed by the Envi-
15 ronmental Protection Agency and the Occupational
16 Safety and Health Administration.

17 (b) PURPOSES.—The purposes of this Act are the fol-
18 lowing:

19 (1) To provide a forum for the effective partici-
20 pation of small businesses in the Federal regulatory
21 process.

22 (2) To clarify and strengthen the Small Busi-
23 ness Advocacy Review Panel process.

24 (3) To expand the number of Federal agencies
25 that are required to convene Small Business Advo-
26 cacy Review Panels.

1 **SEC. 3. ENSURING FULL ANALYSIS OF POTENTIAL IMPACTS**
2 **ON SMALL ENTITIES OF RULES PROPOSED BY**
3 **CERTAIN AGENCIES.**

4 Section 609(b) of title 5, United States Code, is
5 amended to read as follows:

6 “(b)(1) Before the publication of an initial regulatory
7 flexibility analysis that a covered agency is required to
8 conduct under this chapter, the head of the covered agency
9 shall—

10 “(A) notify the Chief Counsel for Advocacy of
11 the Small Business Administration (in this sub-
12 section referred to as the ‘Chief Counsel’) in writing;

13 “(B) provide the Chief Counsel with informa-
14 tion on the potential impacts of the proposed rule on
15 small entities and the type of small entities that
16 might be affected; and

17 “(C) not later than 30 days after complying
18 with subparagraphs (A) and (B)—

19 “(i) with the concurrence of the Chief
20 Counsel, identify affected small entity rep-
21 resentatives; and

22 “(ii) transmit the information referred to
23 in subparagraph (B) to the identified small en-
24 tity representatives for the purposes of obtain-
25 ing advice and recommendations about the po-
26 tential impacts of the draft proposed rule.

1 “(2)(A) Not earlier than 30 days after the covered
2 agency transmits information pursuant to paragraph
3 (1)(C)(ii), the head of the covered agency shall convene
4 a review panel for the draft proposed rule. The panel shall
5 consist solely of full-time Federal employees of the office
6 within the covered agency that will be responsible for car-
7 rying out the proposed rule, the Office of Information and
8 Regulatory Affairs of the Office of Management and
9 Budget, and the Chief Counsel.

10 “(B) The review panel shall—

11 “(i) review any material the covered agency has
12 prepared in connection with this chapter, including
13 any draft proposed rule;

14 “(ii) collect advice and recommendations from
15 the small entity representatives identified under
16 paragraph (1)(C)(i) on issues related to paragraphs
17 (3), (4), and (5) of section 603(b) and section
18 603(c); and

19 “(iii) allow any small entity representative iden-
20 tified under paragraph (1)(C)(i) to make an oral
21 presentation to the panel, if requested.

22 “(C) Not later than 60 days after the date a covered
23 agency convenes a review panel pursuant to this para-
24 graph, the review panel shall report to the head of the
25 covered agency on—

1 “(i) the comments received from the small enti-
2 ty representatives identified under paragraph
3 (1)(C)(i); and

4 “(ii) its findings regarding issues related to
5 paragraphs (3), (4), and (5) of section 603(b) and
6 section 603(c).

7 “(3) The head of the covered agency shall print in
8 the Federal Register the report of the review panel under
9 paragraph (2)(C), by the earlier of—

10 “(A) 120 days after the date the head of the
11 covered agency receives the report; or

12 “(B) as part of the publication of the notice of
13 proposed rulemaking for the proposed rule.

14 “(4) Where appropriate, the covered agency shall
15 modify the draft proposed rule, the initial regulatory flexi-
16 bility analysis for the draft proposed rule, or the decision
17 on whether an initial regulatory flexibility analysis is re-
18 quired for the draft proposed rule.”.

19 **SEC. 4. DEFINITIONS.**

20 Section 609(d) of title 5, United States Code, is
21 amended to read as follows:

22 “(d) For the purposes of this section—

23 “(1) the term ‘covered agency’ means the Envi-
24 ronmental Protection Agency, the Occupational
25 Safety and Health Administration of the Depart-

1 ment of Labor, and the Internal Revenue Service of
2 the Department of the Treasury; and

3 “(2) the term ‘small entity representative’
4 means a small entity, or an individual or organiza-
5 tion that represents a small entity.”.

6 **SEC. 5. EFFECTIVE DATE.**

7 This Act shall take effect upon the expiration of the
8 90-day period beginning on the date of the enactment of
9 this Act.

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