

109TH CONGRESS  
1ST SESSION

# S. 769

To enhance compliance assistance for small businesses.

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IN THE SENATE OF THE UNITED STATES

APRIL 13, 2005

Ms. SNOWE introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

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## A BILL

To enhance compliance assistance for small businesses.

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 Com-  
5 pliance Assistance Enhancement Act of 2005”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Small businesses represent 99.7 percent of  
9 all employers, employ half of all private sector em-  
10 ployees, and pay 44.3 percent of total United States  
11 private payroll.

1           (2) Small businesses generated 60 to 80 per-  
2           cent of net new jobs annually over the last decade.

3           (3) Very small firms with fewer than 20 em-  
4           ployees spend 60 percent more per employee than  
5           larger firms to comply with Federal regulations.  
6           Small firms spend twice as much on tax compliance  
7           as their larger counterparts. Based on an analysis in  
8           2001, firms employing fewer than 20 employees face  
9           an annual regulatory burden of nearly \$7,000 per  
10          employee, compared to a burden of almost \$4,500  
11          per employee for a firm with over 500 employees.

12          (4) Section 212 of the Small Business Regu-  
13          latory Enforcement Fairness Act of 1996 (5 U.S.C.  
14          601 note) requires agencies to produce small entity  
15          compliance guides for each rule or group of rules for  
16          which an agency is required to prepare a final regu-  
17          latory flexibility analysis under section 604 of title  
18          5, United States Code.

19          (5) The Government Accountability Office has  
20          found that agencies have rarely attempted to comply  
21          with section 212 of the Small Business Regulatory  
22          Enforcement Fairness Act of 1996 (5 U.S.C. 601  
23          note). When agencies did try to comply with that re-  
24          quirement, they generally did not produce adequate  
25          compliance assistance materials.

1           (6) The Government Accountability Office also  
2 found that section 212 of the Small Business Regu-  
3 latory Enforcement Fairness Act of 1996 (5 U.S.C.  
4 601 note) and other sections of that Act need clari-  
5 fication to be effective.

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

8           (1) To clarify the requirement contained in sec-  
9 tion 212 of the Small Business Regulatory Enforce-  
10 ment Fairness Act of 1996 (5 U.S.C. 601 note) for  
11 agencies to produce small entity compliance guides.

12           (2) To clarify other terms relating to the re-  
13 quirement in section 212 of the Small Business Reg-  
14 ulatory Enforcement Fairness Act of 1996 (5 U.S.C.  
15 601 note).

16           (3) To ensure that agencies produce adequate  
17 and useful compliance assistance materials to help  
18 small businesses meet the obligations imposed by  
19 regulations affecting such small businesses, and to  
20 increase compliance with these regulations.

21 **SEC. 3. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL**  
22 **BUSINESSES.**

23           (a) IN GENERAL.—Section 212 of the Small Business  
24 Regulatory Enforcement Fairness Act of 1996 (5 U.S.C.

1 601 note) is amended by striking subsection (a) and in-  
2 serting the following:

3 “(a) COMPLIANCE GUIDE.—

4 “(1) IN GENERAL.—For each rule or group of  
5 related rules for which an agency is required to pre-  
6 pare a final regulatory flexibility analysis under sec-  
7 tion 605(b) of title 5, United States Code, the agen-  
8 cy shall publish 1 or more guides to assist small en-  
9 tities in complying with the rule and shall entitle  
10 such publications ‘small entity compliance guides’.

11 “(2) PUBLICATION OF GUIDES.—The publica-  
12 tion of each guide under this subsection shall in-  
13 clude—

14 “(A) the posting of the guide in an easily  
15 identified location on the website of the agency;  
16 and

17 “(B) distribution of the guide to known in-  
18 dustry contacts, such as small entities, associa-  
19 tions, or industry leaders affected by the rule.

20 “(3) PUBLICATION DATE.—An agency shall  
21 publish each guide (including the posting and dis-  
22 tribution of the guide as described under paragraph  
23 (2))—

1           “(A) on the same date as the date of publi-  
2 cation of the final rule (or as soon as possible  
3 after that date); and

4           “(B) not later than the date on which the  
5 requirements of that rule become effective.

6           “(4) COMPLIANCE ACTIONS.—

7           “(A) IN GENERAL.—Each guide shall ex-  
8 plain the actions a small entity is required to  
9 take to comply with a rule.

10          “(B) EXPLANATION.—The explanation  
11 under subparagraph (A)—

12           “(i) shall include a description of ac-  
13 tions needed to meet the requirements of a  
14 rule, to enable a small entity to know when  
15 such requirements are met; and

16           “(ii) if determined appropriate by the  
17 agency, may include a description of pos-  
18 sible procedures, such as conducting tests,  
19 that may assist a small entity in meeting  
20 such requirements.

21          “(C) PROCEDURES.—Procedures described  
22 under subparagraph (B)(ii)—

23           “(i) shall be suggestions to assist  
24 small entities; and

1                   “(ii) shall not be additional require-  
2                   ments relating to the rule.

3                   “(5) AGENCY PREPARATION OF GUIDES.—The  
4                   agency shall, in its sole discretion, taking into ac-  
5                   count the subject matter of the rule and the lan-  
6                   guage of relevant statutes, ensure that the guide is  
7                   written using sufficiently plain language likely to be  
8                   understood by affected small entities. Agencies may  
9                   prepare separate guides covering groups or classes of  
10                  similarly affected small entities and may cooperate  
11                  with associations of small entities to develop and dis-  
12                  tribute such guides. An agency may prepare guides  
13                  and apply this section with respect to a rule or a  
14                  group of related rules.

15                  “(6) REPORTING.—Not later than 1 year after  
16                  the date of enactment of the Small Business Compli-  
17                  ance Assistance Enhancement Act of 2005, and an-  
18                  nually thereafter, the head of each agency shall sub-  
19                  mit a report to the Committee on Small Business  
20                  and Entrepreneurship of the Senate and the Com-  
21                  mittee on Small Business of the House of Rep-  
22                  resentatives describing the status of the agency’s  
23                  compliance with paragraphs (1) through (5).”.

24                  (b) TECHNICAL AND CONFORMING AMENDMENT.—  
25                  Section 211(3) of the Small Business Regulatory Enforce-

1 ment Fairness Act of 1996 (5 U.S.C. 601 note) is amend-  
2 ed by inserting “and entitled” after “designated”.

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