
ENGROSSED HOUSE BILL 1525

State of Washington

60th Legislature

2007 Regular Session

By Representatives Chase, Kessler, Morris, Sump, B. Sullivan, Hunt and Hudgins

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1 AN ACT Relating to regulatory fairness for small businesses;
2 amending RCW 19.85.020, 19.85.030, and 19.85.040; and creating a new
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) A vibrant and growing small business sector is critical to
7 creating jobs in a dynamic economy;

8 (2) Small businesses bear a disproportionate share of regulatory
9 costs and burdens;

10 (3) Fundamental changes that are needed in the regulatory and
11 enforcement culture of state agencies to make them more responsive to
12 small business can be made without compromising the statutory missions
13 of the agencies;

14 (4) When adopting rules to protect the health, safety, and economic
15 welfare of Washington, state agencies should seek to achieve statutory
16 goals as effectively and efficiently as possible without imposing
17 unnecessary burdens on small employers;

18 (5) Uniform regulatory and reporting requirements can impose

1 unnecessary and disproportionately burdensome demands including legal,
2 accounting, and consulting costs upon small businesses with limited
3 resources;

4 (6) The failure to recognize differences in the scale and resources
5 of regulated businesses can adversely affect competition in the
6 marketplace, discourage innovation, and restrict improvements in
7 productivity;

8 (7) Unnecessary regulations create entry barriers in many
9 industries and discourage potential entrepreneurs from introducing
10 beneficial products and processes;

11 (8) The practice of treating all regulated businesses the same
12 leads to inefficient use of regulatory agency resources, enforcement
13 problems, and, in some cases, to actions inconsistent with the
14 legislative intent of health, safety, environmental, and economic
15 welfare legislation;

16 (9) Alternative regulatory approaches which do not conflict with
17 the state objective of applicable statutes may be available to minimize
18 the significant economic impact of rules on small businesses; and

19 (10) The process by which state rules are developed and adopted
20 should be reformed to require agencies to solicit the ideas and
21 comments of small businesses, to examine the impact of proposed and
22 existing rules on such businesses, and to review the continued need for
23 existing rules.

24 **Sec. 2.** RCW 19.85.020 and 2003 c 166 s 1 are each amended to read
25 as follows:

26 ((Unless the context clearly indicates otherwise,)) The definitions
27 in this section apply through this chapter unless the context clearly
28 requires otherwise.

29 (1) "Industry" means all of the businesses in this state in any one
30 four-digit standard industrial classification as published by the
31 United States department of commerce, or the North American industry
32 classification system as published by the executive office of the
33 president and the office of management and budget. However, if the use
34 of a four-digit standard industrial classification or North American
35 industry classification system would result in the release of data that
36 would violate state confidentiality laws, "industry" means all

1 businesses in a three-digit standard industrial classification or the
2 North American industry classification system.

3 (2) "Minor cost" means a cost per business that is less than three-
4 tenths of one percent of annual revenue or income, or one hundred
5 dollars, whichever is greater, or one percent of annual payroll.
6 Provided: That for the rules of the department of social and health
7 services "minor cost" means cost per business that is less than fifty
8 dollars of annual cost per client or other appropriate unit of service.

9 (3) "Small business" means any business entity, including a sole
10 proprietorship, corporation, partnership, or other legal entity, that
11 is owned and operated independently from all other businesses, and that
12 has fifty or fewer employees.

13 ((+2)) (4) "Small business economic impact statement" means a
14 statement meeting the requirements of RCW 19.85.040 prepared by a state
15 agency pursuant to RCW 19.85.030.

16 ((+3)) "Industry" means all of the businesses in this state in any
17 one four digit standard industrial classification as published by the
18 United States department of commerce. However, if the use of a four
19 digit standard industrial classification would result in the release of
20 data that would violate state confidentiality laws, "industry" means
21 all businesses in a three digit standard industrial classification.)

22 **Sec. 3.** RCW 19.85.030 and 2000 c 171 s 60 are each amended to read
23 as follows:

24 (1) In the adoption of a rule under chapter 34.05 RCW, an agency
25 shall prepare a small business economic impact statement: (a) If the
26 proposed rule will impose more than minor costs on businesses in an
27 industry; or (b) if requested to do so by a majority vote of the joint
28 administrative rules review committee within forty-five days of
29 receiving the notice of proposed rule making under RCW 34.05.320.
30 However, if the agency has completed the pilot rule process as defined
31 by RCW 34.05.313 before filing the notice of a proposed rule, the
32 agency is not required to prepare a small business economic impact
33 statement.

34 An agency shall prepare the small business economic impact
35 statement in accordance with RCW 19.85.040, and file it with the code
36 reviser along with the notice required under RCW 34.05.320. An agency
37 shall file a statement prepared at the request of the joint

1 administrative rules review committee with the code reviser upon its
2 completion before the adoption of the rule. An agency shall provide a
3 copy of the small business economic impact statement to any person
4 requesting it.

5 (2) Based upon the extent of disproportionate impact on small
6 business identified in the statement prepared under RCW 19.85.040, the
7 agency shall, where legal and feasible in meeting the stated objectives
8 of the statutes upon which the rule is based, reduce the costs imposed
9 by the rule on small businesses. Methods to reduce the costs on small
10 businesses may include:

11 (a) Reducing, modifying, or eliminating substantive regulatory
12 requirements;

13 (b) Simplifying, reducing, or eliminating recordkeeping and
14 reporting requirements;

15 (c) Reducing the frequency of inspections;

16 (d) Delaying compliance timetables;

17 (e) Reducing or modifying fine schedules for noncompliance; or

18 (f) Any other mitigation techniques.

19 (3) If the agency determines it cannot reduce the costs imposed by
20 the rule on small businesses, the agency shall provide a clear
21 explanation of why it has made that determination and include that
22 statement with its filing of the proposed rule pursuant to RCW
23 34.05.320.

24 (4)(a) All small business economic impact statements are subject to
25 selective review by the joint administrative rules review committee
26 pursuant to RCW 34.05.630.

27 (b) Any person affected by a proposed rule where there is small
28 business economic impact statement may petition the joint
29 administrative rules review committee for review pursuant to the
30 procedure in RCW 34.05.655.

31 **Sec. 4.** RCW 19.85.040 and 1995 c 403 s 403 are each amended to
32 read as follows:

33 (1) A small business economic impact statement must include a brief
34 description of the reporting, recordkeeping, and other compliance
35 requirements of the proposed rule, and the kinds of professional
36 services that a small business is likely to need in order to comply
37 with such requirements. It shall analyze the costs of compliance for

1 businesses required to comply with the proposed rule adopted pursuant
2 to RCW 34.05.320, including costs of equipment, supplies, labor,
3 professional services, and increased administrative costs. It shall
4 consider, based on input received, whether compliance with the rule
5 will cause businesses to lose sales or revenue. To determine whether
6 the proposed rule will have a disproportionate cost impact on small
7 businesses, the impact statement must compare the cost of compliance
8 for small business with the cost of compliance for the ten percent of
9 businesses that are the largest businesses required to comply with the
10 proposed rules using one or more of the following as a basis for
11 comparing costs:

12 (a) Cost per employee;

13 (b) Cost per hour of labor; or

14 (c) Cost per one hundred dollars of sales.

15 (2) A small business economic impact statement must also include:

16 (a) A statement of the steps taken by the agency to reduce the
17 costs of the rule on small businesses as required by RCW
18 19.85.030~~((+3))~~ (2), or reasonable justification for not doing so,
19 addressing the options listed in RCW 19.85.030~~((+3))~~ (2);

20 (b) A description of how the agency will involve small businesses
21 in the development of the rule; ~~((and))~~

22 (c) A list of industries that will be required to comply with the
23 rule. However, this subsection (2)(c) shall not be construed to
24 preclude application of the rule to any business or industry to which
25 it would otherwise apply; and

26 (d) The number of jobs that will be created or lost as the result
27 of compliance with the proposed rule.

28 (3) To obtain information for purposes of this section, an agency
29 may survey a representative sample of affected businesses or trade
30 associations and should, whenever possible, appoint a committee
31 ~~((under))~~ to engage in negotiated rule making pursuant to RCW
32 34.05.310(2) to assist in the accurate assessment of the costs of a
33 proposed rule, and the means to reduce the costs imposed on small
34 business.

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