

HOUSE No. 3760

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

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 to regulatory impact statements and administrative rulemaking.

PETITION OF:

NAME:

Michael J. Rodrigues

DISTRICT/ADDRESS:

8th Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and 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 which shall,
5 to a reasonable degree of completeness: (i) identify the statutory change, problem, issue or
6 deficiency addressed by the proposed regulation; (ii) identify specifically who is affected and to
7 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 by
16 inserting after the third paragraph the following paragraph:-

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

27 within the agency responsible for the rulemaking and who can be contacted for more
28 information; and (d) state the purpose for proposing the new regulations or change of regulation
29 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 amended by
31 inserting after the fifth paragraph the following paragraph:-

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

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

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

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

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

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

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