

## SENATE BILL No. 375

By Committee on Commerce

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AN ACT establishing the Kansas regulatory flexibility act.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. This act shall be known and may be cited as the Kansas regulatory flexibility act.

Sec. 2. As used in this act, unless context otherwise requires:

(a) "Agency" means each state board, commission, department or officer authorized by law to make rules and regulations or to determine contested cases;

(b) "proposed rule and regulation" means a proposal by an agency for a new regulation or for a change in, addition to or repeal of an existing rule and regulation;

(c) "rule and regulation," "rule," "regulation" and words of like effect are defined as provided in K.S.A. 77-415(1), and amendments thereto; and

(d) "small business" means a business entity, including its affiliates, that (1) is independently owned and operated and (2) employs fewer than 100 full-time employees or has gross annual sales of less than \$3,000,000.

Sec. 3. Prior to the adoption of any proposed rule and regulation that may have an adverse impact on small businesses, each agency shall prepare an economic impact statement that includes the following:

(a) An identification and estimate of the number of the small businesses subject to the proposed rule and regulation;

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

(c) a statement of the probable effect on impacted small businesses; and

(d) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule and regulation.

Sec. 4. (a) Prior to the adoption of any proposed rule and regulation, each agency shall prepare a regulatory flexibility analysis in which the agency shall, where consistent with health, safety, environmental and economic welfare, consider utilizing regulatory methods that will accom-

1 plish the objectives of applicable statutes while minimizing adverse im-  
2 pact on small businesses. The agency shall consider, without limitation,  
3 each of the following methods of reducing the impact of the proposed  
4 rule and regulation on small businesses:

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

7 (2) the establishment of less stringent schedules or deadlines for com-  
8 pliance or reporting requirements for small businesses;

9 (3) the consolidation or simplification of compliance or reporting  
10 requirements for small businesses;

11 (4) the establishment of performance standards for small businesses  
12 to replace design or operational standards required in the proposed rule  
13 and rule and regulation; and

14 (5) the exemption of small businesses from all or any part of the  
15 requirements contained in the proposed rule and regulation.

16 (b) Prior to the adoption of any proposed rule and regulation that  
17 may have an adverse impact on small businesses, each agency shall notify  
18 the Kansas small business development center of its intent to adopt the  
19 proposed rule and regulation. The Kansas small business development  
20 center shall advise and assist agencies in complying with the provisions  
21 of this section.

22 Sec. 5. (a) For any rule and regulation subject to this section, a small  
23 business that is adversely affected or aggrieved by final agency action is  
24 entitled to judicial review of agency compliance with the requirements of  
25 this section.

26 (b) A small business may seek such review during the period begin-  
27 ning on the date of final agency action and ending one year later.

28 Sec. 6. (a) Within four years of the enactment of this act, each agency  
29 shall review all agency rules and regulations existing at the time of en-  
30 actment to determine whether such rules and regulations should be con-  
31 tinued without change, or should be amended or rescinded, consistent  
32 with the stated objectives of those statutes, to minimize economic impact  
33 of the rules and regulations on small businesses in a manner consistent  
34 with the stated objective of applicable statutes. If the head of the agency  
35 determines that completion of the review of existing rules and regulations  
36 is not feasible by the established date the agency shall publish a statement  
37 certifying that determination. The agency may extend the completion  
38 date by one year at a time for a total of not more than five years.

39 (b) Rules and regulations adopted after the enactment of this act  
40 should be reviewed every five years from the publication of such rules  
41 and regulations to ensure that they minimize economic impact on small  
42 businesses in a manner consistent with the stated objectives of applicable  
43 statutes.

1 (c) In reviewing rules and regulations to minimize economic impact  
2 of such rule and regulation on small businesses, the agency shall consider  
3 the following factors:

- 4 (1) The continued need for the rule and regulation;
- 5 (2) the nature of complaints or comments received concerning the  
6 rule and regulation from the public;
- 7 (3) the complexity of the rule and regulation;
- 8 (4) the extent to which the rule and regulation overlaps, duplicates  
9 or conflicts with other federal, state and local governmental rules and  
10 regulations; and
- 11 (5) the length of time since the rule and regulation has been evaluated  
12 or the degree to which technology, economic conditions or other factors  
13 have changed in the area affected by the rule and regulation.

14 Sec. 7. This act shall take effect and be in force from and after its  
15 publication in the statute book.

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