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HB 401/95 - CGM

1996 Regular Session
6lr1007
CF 6lr1706

By: Delegates Arnick, Poole, and Preis

Introduced and read first time: January 10, 1996
Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: February 15, 1996

CHAPTER ____

1 AN ACT concerning

2 **Regulatory Standards and Accountability Act**

3 FOR the purpose of prohibiting a unit of State government after a certain date from
4 adopting a regulation that is more restrictive than an applicable federal standard or
5 regulation governing the same program or conduct unless certain conditions are
6 met; authorizing the AELR Committee to take certain action concerning certain
7 proposed regulations; specifying the effect of a request of the AELRCommittee for
8 reconsideration of certain proposed regulations; defining certain terms; providing
9 for the construction of this Act; and generally relating to regulatory standards and
10 accountability.

11 BY adding to

12 Article - State Government
13 Section 8-501 through 8-503, inclusive, to be under the new subtitle"Subtitle 5.
14 Regulatory Standards and Accountability Act"
15 Annotated Code of Maryland
16 (1995 Replacement Volume)

17 Preamble

18 WHEREAS, The General Assembly urges the Governor, by whatever meansthe
19 Governor determines, to institute within the Executive Branch a programto reduce
20 regulatory overlap and duplication among and between State agencies, and among and
21 between the State and federal government and the State and local governments, in the
22 regulation of programs and conduct; and

23 WHEREAS, The specific purpose of the program is to reduce, wherever
24 practicable, the number of governmental units that are involved in the regulation of

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1 programs and conduct, the number of standards and requirements used in the regulation
2 of programs and conduct, and the number of licenses, permits, approvals, and other
3 compliance requirements used in the regulation of programs and conduct;now, therefore,

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - State Government**

7 SUBTITLE 5. REGULATORY STANDARDS AND ACCOUNTABILITY ACT.

8 8-501.

9 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

11 (B) "COMMITTEE" MEANS THE JOINT COMMITTEE ON ADMINISTRATIVE,
12 EXECUTIVE, AND LEGISLATIVE REVIEW.

13 (C) "REGULATION" HAS THE MEANING STATED IN ~~§ 10-101(E)~~ § 10-101(G) OF
14 THIS ARTICLE.

15 (D) "UNIT" HAS THE MEANING STATED IN ~~§ 10-101(G)~~ § 10-101(I) OF THIS
16 ARTICLE.

17 8-502.

18 (A) AFTER OCTOBER 1, 1996, A UNIT MAY NOT ADOPT A REGULATION THAT
19 PROVIDES A STANDARD OR REQUIREMENT THAT IS MORE RESTRICTIVE THAN AN
20 APPLICABLE STANDARD OR REQUIREMENT ESTABLISHED UNDER A FEDERAL LAW
21 OR REGULATION WHICH GOVERNS THE SAME PROGRAM OR CONDUCT, UNLESS:

22 ~~(1)~~ THE UNIT THAT PROPOSES THE REGULATION:

23 ~~(1)~~ (1) MAKES A SPECIFIC FINDING CONCERNING THE
24 ~~COMPELLING~~ PUBLIC INTEREST THAT, IN THE JUDGMENT OF THE UNIT, REQUIRES
25 THE PROPOSED DEVIATION FROM THE FEDERAL STANDARD OR REQUIREMENT;

26 ~~(2)~~ (2) INDICATES THE EXTENT TO WHICH THE COST OF
27 COMPLIANCE WITH THE PROPOSED REGULATION EXCEEDS THE COST OF
28 COMPLIANCE WITH THE FEDERAL STANDARD OR REQUIREMENT;

29 ~~(3)~~ (3) ANALYZES:

30 ~~1-~~ THE IMPACT OF THE REGULATION ON THE COMPETITIVE
31 POSITION OF BUSINESSES IN THE STATE THAT MAY BE REQUIRED TO CONFORM TO
32 THE PROPOSED REGULATION; ~~AND~~

33 ~~2-~~ THE SIGNIFICANT INCREMENTAL BENEFIT OR
34 IMPROVEMENT THAT WOULD BE GAINED BY ADOPTION OF THE PROPOSED
35 REGULATION;

1 ~~(4)~~ (4) EXCEPT FOR A PROPOSED REGULATION SUBMITTED FOR
2 EMERGENCY ADOPTION UNDER § 10-111(B) OF THIS ARTICLE, PUBLISHES A NOTICE
3 OF THE PROPOSED REGULATION IN THE MARYLAND REGISTER THAT:

4 1- (I) CONTAINS A FULL AND COMPLETE SUMMARY OF
5 THE FINDING AND OTHER INFORMATION REQUIRED BY SUBITEMS ITEMS ~~(4)~~ (1)
6 THROUGH ~~(III)~~ (3) OF THIS ITEM SUBSECTION; AND

7 2- (II) STATES PROMINENTLY AND CLEARLY IN AN
8 INTRODUCTION TO THE PROPOSED REGULATION THAT THE REGULATION WOULD
9 ESTABLISH A STANDARD OR REQUIREMENT THAT IS MORE RESTRICTIVE THAN AN
10 APPLICABLE STANDARD OR REQUIREMENT ESTABLISHED UNDER A FEDERAL LAW
11 OR REGULATION; AND

12 ~~(5)~~ (5) EXCEPT FOR A PROPOSED REGULATION SUBMITTED FOR
13 EMERGENCY ADOPTION UNDER § 10-111(B) OF THIS ARTICLE, SPECIFIES A PROPOSED
14 EFFECTIVE DATE FOR THE REGULATION THAT IS NOT EARLIER THAN ~~90~~ 60 DAYS
15 AFTER PUBLICATION OF THE NOTICE; ~~AND.~~

16 ~~(2) THE COMMITTEE HOLDS A HEARING NO LATER THAN 45 DAYS~~
17 ~~AFTER THE DATE ON WHICH THE NOTICE OF THE PROPOSED REGULATION IS~~
18 ~~PUBLISHED IN THE MARYLAND REGISTER.~~

19 ~~(B) IF THE COMMITTEE FAILS TO HOLD A HEARING UNDER SUBSECTION~~
20 ~~(A)(2) OF THIS SECTION, THE UNIT MAY PROCEED TO ADOPT THE PROPOSED~~
21 ~~REGULATION.~~

22 (B) (1) EXCEPT FOR A PROPOSED REGULATION SUBMITTED FOR
23 EMERGENCY ADOPTION UNDER § 10-111(B) OF THIS ARTICLE, IF THE COMMITTEE
24 DECIDES BY MAJORITY VOTE TO CONDUCT A HEARING ON A PROPOSED
25 REGULATION UNDER THIS SECTION, THE HEARING SHALL BE HELD NOT LATER
26 THAN 30 DAYS AFTER THE DATE THAT THE NOTICE OF THE PROPOSED REGULATION
27 IS PUBLISHED IN THE MARYLAND REGISTER.

28 (2) IF THE COMMITTEE FAILS TO HOLD A HEARING UNDER PARAGRAPH
29 (1) OF THIS SUBSECTION, THE UNIT MAY PROCEED TO ADOPT THE PROPOSED
30 REGULATION.

31 8-503.

32 (A) THE COMMITTEE MAY:

33 (1) SOLICIT FURTHER COMMENT ON THE PROPOSED REGULATION FOR
34 10 DAYS AFTER ITS PUBLIC HEARING ON THE PROPOSED REGULATION; OR

35 (2) WITHIN ~~45~~ 10 DAYS AFTER THE PUBLIC HEARING, REQUEST THAT
36 THE UNIT RECONSIDER ANY PART OR ALL OF THE PROPOSED REGULATION.

37 (B) A REQUEST FOR RECONSIDERATION OF THE PROPOSED REGULATION BY
38 THE COMMITTEE SUSPENDS THE EFFECT OF THE PROPOSED REGULATION FOR A
39 PERIOD SPECIFIED BY THE COMMITTEE IN ITS REQUEST FOR RECONSIDERATION,
40 BUT FOR NOT MORE THAN 30 DAYS AFTER THE EFFECTIVE DATE THAT THE UNIT
41 ORIGINALLY PROPOSED FOR THE REGULATION.

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1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
2 construed to establish any private cause of action.

3 SECTION ~~2~~ 3, AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1996.