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**By: Delegates Frank, Krysiak, Barve, Finifter, Morhaim, and M. Burns**

Introduced and read first time: January 18, 1996

Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **The Common Sense Act - Waiver of Regulations**

3 FOR the purpose of allowing certain heads of units of State government to waive the  
4 application of certain regulations under certain circumstances; allowing the head of  
5 a unit to make the waiver contingent on the satisfaction of certain conditions;  
6 establishing certain procedures for requesting a waiver of the application of a  
7 regulation; establishing certain procedures for granting or denying a waiver of the  
8 application of a regulation; defining certain terms; and generally relating to waiver  
9 of regulations.

10 BY adding to

11 Article 41 - Governor - Executive and Administrative Departments

12 Section 1-202.1

13 Annotated Code of Maryland

14 (1993 Replacement Volume and 1995 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article 41 - Governor - Executive and Administrative Departments**

18 1-202.1.

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
20 INDICATED.

21 (2) (I) "HEAD OF A UNIT" MEANS THE INDIVIDUAL OR GROUP OF  
22 INDIVIDUALS IN WHOM THE ULTIMATE LEGAL AUTHORITY OF A UNIT IS VESTED BY  
23 LAW.

24 (II) "HEAD OF A UNIT" INCLUDES THE DESIGNEE OF A HEAD OF A  
25 UNIT.

26 (3) (I) "REGULATION" MEANS A STATEMENT OR AN AMENDMENT OR  
27 REPEAL OF A STATEMENT THAT:

28 1. HAS A GENERAL APPLICATION;

29 2. HAS A FUTURE EFFECT;

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1                                   3. IS ADOPTED BY A UNIT TO DETAIL OR CARRY OUT A LAW  
2 THAT THE UNIT ADMINISTERS, GOVERN THE PROCEDURE BEFORE THE UNIT, OR  
3 GOVERN THE PRACTICE BEFORE THE UNIT; AND

4                                   4. IS IN ANY FORM, INCLUDING A GUIDELINE, RULE,  
5 STANDARD, STATEMENT OF INTERPRETATION, OR A STATEMENT OF POLICY.

6                                   (II) "REGULATION" DOES NOT INCLUDE:

7                                   1. A STATEMENT THAT CONCERNS ONLY THE INTERNAL  
8 MANAGEMENT OF THE UNIT;

9                                   2. A STATEMENT THAT DOES NOT AFFECT THE RIGHTS OF  
10 THE PUBLIC OR THE PROCEDURES AVAILABLE TO THE PUBLIC;

11                                  3. THE RESPONSE OF THE UNIT TO A PETITION FOR  
12 ADOPTION OF A REGULATION UNDER § 10-123 OF THE STATE GOVERNMENT  
13 ARTICLE; OR

14                                  4. A DECLARATORY RULING OF THE UNIT AS TO A  
15 REGULATION, ORDER, OR STATUTE UNDER TITLE 10, SUBTITLE 3 OF THE STATE  
16 GOVERNMENT ARTICLE.

17                                  (III) "REGULATION" MEANS ALL OR ANY PORTION OF A  
18 REGULATION.

19                                  (4) "UNIT" MEANS EACH UNIT IN THE EXECUTIVE BRANCH OF STATE  
20 GOVERNMENT THAT IS AUTHORIZED BY LAW TO ADOPT REGULATIONS.

21                                  (B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW EXCEPT FOR  
22 PARAGRAPH (2) OF THIS SUBSECTION, THE HEAD OF A UNIT MAY WAIVE THE  
23 APPLICATION OF A REGULATION IF THE WAIVER IS IN THE BEST INTERESTS OF THE  
24 PEOPLE OF THE STATE.

25                                  (2) THE HEAD OF A UNIT MAY NOT WAIVE A STATUTORY RIGHT, DUTY,  
26 ENTITLEMENT, PRIVILEGE, OR MANDATE EVEN IF THE STATUTORY RIGHT, DUTY,  
27 ENTITLEMENT, PRIVILEGE, OR MANDATE IS CONTAINED IN, REPRESENTED BY, OR  
28 RESTATED BY A REGULATION.

29                                  (3) THE REGULATION MAY BE WAIVED ON THE INITIATIVE OF THE  
30 HEAD OF A UNIT OR ON REQUEST OF A PERSON TO WHICH A REGULATION APPLIES.

31                                  (C) THE HEAD OF A UNIT OR THE DESIGNEE OF THE HEAD OF A UNIT MAY  
32 MAKE THE GRANT OF A WAIVER CONTINGENT ON THE SATISFACTION OF  
33 REASONABLE CONDITIONS.

34                                  (D) (1) A PERSON MAY SUBMIT TO THE HEAD OF A UNIT A REQUEST FOR A  
35 WAIVER ORALLY OR IN WRITTEN FORM.

36                                  (2) THE REQUEST SHALL DESCRIBE THE REGULATION AND THE  
37 REASON FOR THE REQUESTED WAIVER.

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1 (E) (1) WITHIN 30 DAYS AFTER THE HEAD OF A UNIT HAS ACTUAL  
2 KNOWLEDGE OF THE REQUEST, THE HEAD OF THE UNIT SHALL DETERMINE  
3 WHETHER TO WAIVE THE APPLICATION OF THE REGULATION.

4 (2) WITHIN 10 DAYS AFTER THE DETERMINATION, THE HEAD OF A UNIT  
5 SHALL SEND TO THE PERSON THAT REQUESTED THE WAIVER WRITTEN NOTICE OF  
6 THE DETERMINATION.

7 (3) A NOTICE OF THE DENIAL OF A WAIVER SHALL CONTAIN THE  
8 REASON FOR DENIAL.

9 (4) A NOTICE OF THE GRANT OF A WAIVER SHALL CONTAIN:

10 (I) THE EFFECTIVE DATE OF THE WAIVER;

11 (II) A DESCRIPTION OF THE WAIVED REGULATION; AND

12 (III) A DESCRIPTION OF ANY CONDITIONS ON WHICH THE WAIVER  
13 IS CONTINGENT.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 1996.