

HOUSE BILL 671

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2001 Regular Session
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By: **Delegates Busch and Kach (Task Force on Regulatory Reform)**

Introduced and read first time: February 7, 2001

Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2001

CHAPTER _____

1 AN ACT concerning

2 **Regulatory Review and Evaluation Act - Revision**

3 FOR the purpose of amending the Regulatory Review and Evaluation Act to ~~require~~
4 authorize participation and input by the public, other units of State government,
5 and stakeholders in the review of existing regulations; modifying the
6 requirements for work plans and evaluation reports to reflect ~~that~~ certain
7 participation and input; providing that certain other information may be
8 included in work plans and must be included in evaluation reports; altering the
9 time frame and schedule for completing and submitting work plans; requiring
10 that related regulations be submitted concurrently, with a limitation and
11 exception; authorizing each adopting authority within a unit of State
12 government to issue a certificate of exemption for certain regulations or groups
13 of related regulations under certain circumstances and with written
14 justification; authorizing the Governor and the Joint Committee on
15 Administrative, Executive, and Legislative Review to request that a regulation
16 or group of related regulations be reviewed notwithstanding the issuance of a
17 certificate of exemption; providing for the continuation of a certain schedule and
18 a certain manner of review of regulations under certain circumstances; defining
19 certain terms; and generally relating to the Regulatory Review and Evaluation
20 Act.

21 BY repealing and reenacting, with amendments,
22 Article - State Government
23 Section 10-130 and 10-133 through 10-135
24 Annotated Code of Maryland
25 (1999 Replacement Volume and 2000 Supplement)

26 BY adding to

1 Article - State Government
 2 Section 10-132.1
 3 Annotated Code of Maryland
 4 (1999 Replacement Volume and 2000 Supplement)

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

7 **Article - State Government**

8 10-130.

9 (a) In this Part VI the following words have the meanings indicated.

10 (B) "ADOPTING AUTHORITY" MEANS THE INDIVIDUAL OR ENTITY CHARGED
 11 UNDER LAW WITH ADOPTING REGULATIONS FOR A UNIT.

12 [(b)] (C) "Committee" means the Joint Committee on Administrative,
 13 Executive, and Legislative Review.

14 [(c)] (D) "Evaluation report" means the document prepared by a unit of State
 15 government in accordance with this part that results from the unit's review of its
 16 regulations.

17 [(d)] (E) "Regulation" has the meaning stated in § 10-101(g) of this subtitle
 18 and is limited to those regulations in effect at the time any action is required or taken
 19 under this part.

20 (F) "STAKEHOLDER" MEANS A PERSON THAT HAS AN INTEREST IN OR IS
 21 IMPACTED BY AN EXISTING REGULATION.

22 [(e)] ~~(G)~~ (G) "Unit" means each unit in the Executive Branch of State
 23 government that is authorized by law to adopt regulations.

24 [(f)] ~~(H)~~ (H) "Work plan" means a unit's proposal for the evaluation of its
 25 regulations.

26 10-132.1.

27 (A) (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE ADOPTING
 28 AUTHORITY FOR EACH UNIT SHALL EVERY 8 YEARS, BEGINNING ON OR AFTER
 29 OCTOBER 1, 2001, SUBMIT TO THE GOVERNOR AND TO THE COMMITTEE A SCHEDULE
 30 OF REGULATIONS TO BE REVIEWED UNDER THIS PART DURING THE FOLLOWING 8
 31 YEARS.

32 (2) (I) TO THE EXTENT POSSIBLE AND REASONABLE, AN ADOPTING
 33 AUTHORITY SHALL SCHEDULE RELATED REGULATIONS TO BE REVIEWED
 34 CONCURRENTLY.

1 (II) UNLESS GOOD CAUSE EXISTS FOR PUBLISHING A LARGER
2 GROUP OF REGULATIONS CONCURRENTLY, THE LARGEST GROUP OF REGULATIONS
3 THAT AN ADOPTING AUTHORITY MAY SCHEDULE FOR REVIEW CONCURRENTLY
4 SHALL BE A SUBTITLE.

5 (B) (1) AT THE TIME THAT A UNIT'S REGULATIONS ARE SCHEDULED FOR
6 REVIEW UNDER THIS PART, AN ADOPTING AUTHORITY MAY CERTIFY TO THE
7 COMMITTEE AND THE GOVERNOR THAT THE REVIEW OF A REGULATION OR GROUP
8 OF RELATED REGULATIONS WOULD NOT BE EFFECTIVE OR COST-EFFECTIVE AND IS
9 EXEMPT FROM THE REVIEW PROCESS UNDER THIS SUBTITLE BECAUSE THE
10 REGULATION OR GROUP OF RELATED REGULATIONS WAS:

11 (I) ADOPTED TO IMPLEMENT A FEDERALLY MANDATED OR
12 FEDERALLY APPROVED PROGRAM; OR

13 (II) INITIALLY ADOPTED OR COMPREHENSIVELY AMENDED
14 DURING THE PRECEDING 8 YEARS.

15 (2) AN ADOPTING AUTHORITY ISSUING A CERTIFICATE OF EXEMPTION
16 SHALL PROVIDE THE GOVERNOR AND COMMITTEE WITH WRITTEN JUSTIFICATION
17 FOR THE CERTIFICATE OF EXEMPTION.

18 (3) IF THERE IS MORE THAN ONE ADOPTING AUTHORITY FOR A
19 REGULATION OR GROUP OF RELATED REGULATIONS FOR WHICH AN EXEMPTION IS
20 TO BE CERTIFIED, EACH ADOPTING AUTHORITY SHALL SIGN THE CERTIFICATE OF
21 EXEMPTION AND WRITTEN JUSTIFICATION REQUIRED UNDER THIS SUBSECTION.

22 (C) AT ANY TIME DURING A REVIEW CYCLE, THE GOVERNOR OR COMMITTEE
23 MAY ASK THAT AN ADOPTING AUTHORITY REVIEW A REGULATION OR GROUP OF
24 REGULATIONS FOR WHICH A CERTIFICATE OF EXEMPTION HAS BEEN ISSUED,
25 NOTWITHSTANDING THE CLAIM OF EXEMPTION.

26 10-133.

27 (a) [The] BASED ON THE SCHEDULES SUBMITTED BY THE ADOPTING
28 AUTHORITIES UNDER § 10-132.1 OF THIS SUBTITLE, THE Governor shall, by an
29 executive order consistent with this part, provide for the review and evaluation of the
30 regulations of each unit in accordance with this part.

31 (b) The executive order shall provide that a review and evaluation of the
32 regulations of all units be undertaken every 8 years, beginning on July 1, 1995 and is
33 repeated during each 8-year period thereafter.

34 (c) The executive order under subsection (b) of this section shall schedule the
35 evaluations in such a manner that:

36 (1) a deadline is established for each unit to complete its evaluation; and

37 (2) the deadlines of the various units are staggered across the entire
38 8-year period.

1 (d) (1) The executive order shall provide that, on written request from a
2 unit, the Governor may alter the deadline for that unit.

3 (2) If the Governor approves a request to alter a deadline, the unit shall
4 notify the Committee.

5 10-134.

6 (a) [Prior to] AT LEAST 1 YEAR BEFORE the commencement of the review and
7 evaluation of its regulations, each unit shall prepare a work plan and submit the work
8 plan to the Governor and, subject to § 2-1246 of this article, the Committee.

9 (b) The work plan shall:

10 (1) include a description of the procedures and methods to be used by the
11 unit, WHICH MAY INCLUDE:

12 (I) PROCEDURES FOR INVITING PUBLIC COMMENT, INCLUDING:

13 1. THE PUBLICATION OF NOTICES IN THE MARYLAND
14 REGISTER;

15 2. THE PUBLICATION OF NOTICES IN NEWSPAPERS OF
16 GENERAL CIRCULATION IN THE STATE;

17 3. THE POSTING OF A NOTICE ON THE UNIT'S WEBSITE OR
18 ON A STATEWIDE WEBSITE CREATED FOR UNITS TO POST NOTICES OF REGULATIONS
19 REVIEW;

20 4. THE MAILING OF NOTICES; AND

21 5. THE HOLDING OF PUBLIC HEARINGS AT VARIOUS
22 LOCATIONS AROUND THE STATE;

23 (II) PROCEDURES FOR ENSURING THE PARTICIPATION OF
24 STAKEHOLDERS IN THE REVIEW PROCESS;

25 (III) PROCEDURES FOR ENSURING THE PARTICIPATION IN THE
26 REVIEW PROCESS OF OTHER UNITS AFFECTED BY THE REGULATIONS; AND

27 (IV) PROCEDURES FOR GATHERING AND REVIEWING:

28 1. RECENT SCIENTIFIC INFORMATION RELATED TO THE
29 REGULATIONS BEING REVIEWED;

30 2. SIMILAR REGULATIONS ADOPTED OR REPEALED BY
31 OTHER STATES OR THE FEDERAL GOVERNMENT; AND

32 3. OTHER APPROPRIATE INFORMATION;

1 (2) identify the individual or individuals in the unit who will coordinate
2 the evaluation and communicate with the Committee; and

3 (3) establish the schedule the unit will follow to complete its evaluation
4 report in a timely manner.

5 (c) (1) Within 30 days after receipt of the work plan by the Committee, it
6 shall:

7 (i) advise the unit in writing of any part of the work plan with
8 which it disagrees;

9 (ii) submit to the unit in writing any changes it recommends to the
10 work plan; and

11 (iii) in the event of a disagreement, attempt to meet with the head of
12 the unit.

13 (2) The head of the unit and the Committee shall attempt to resolve any
14 disagreements within 30 days after the Committee acts under this subsection.

15 10-135.

16 (a) (1) Pursuant to the work plan adopted under § 10-134 of this subtitle,
17 each unit shall complete an evaluation report on or before the deadline established by
18 the executive order.

19 (2) Consistent with the requirements of § 10-132(1)(i) of this subtitle,
20 the evaluation report shall contain:

21 (I) A LIST OF ANY STAKEHOLDERS INVITED TO REVIEW THE
22 REGULATIONS AND A SUMMARY OF THEIR PARTICIPATION IN AND INPUT INTO THE
23 REVIEW PROCESS;

24 (II) A LIST OF ANY AFFECTED UNITS INVITED TO REVIEW THE
25 REGULATIONS AND A SUMMARY OF THEIR PARTICIPATION IN AND INPUT INTO THE
26 REVIEW PROCESS;

27 (III) A DESCRIPTION OF THE PROCESS USED TO SOLICIT PUBLIC
28 COMMENT, INCLUDING:

29 1. ANY NOTICE PUBLISHED IN THE MARYLAND REGISTER;

30 2. ANY NOTICE PUBLISHED IN NEWSPAPERS OF GENERAL
31 CIRCULATION;

32 3. ANY NOTICE POSTED ON THE UNIT'S WEBSITE OR ON A
33 STATEWIDE WEBSITE CREATED FOR UNITS TO POST NOTICES OF REGULATIONS
34 REVIEW;

35 4. ANY MAILING BY THE ADOPTING AUTHORITY; AND

1 (d) (1) During the 60-day review period established under subsection (b)(1)
2 of this section, the Committee may submit to the unit comments on and
3 recommendations for change in the unit's evaluation report.

4 (2) Within 30 days after the termination of the 60-day review period, the
5 unit shall:

6 (i) notify the Committee of the unit's agreement or disagreement
7 with the Committee's recommendations; and

8 (ii) attempt to resolve any disagreements.

9 (3) If the Committee submits no comments or recommendations under
10 this subsection, or if any disagreements have been resolved by the termination of the
11 period provided in subsection (d)(2) of this section, the evaluation report is deemed
12 approved.

13 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the
14 provisions of this Act, any regulation or group of regulations scheduled by the
15 Governor prior to January 10, 2001, for review prior to July 1, 2003 under § 10-133 of
16 the State Government Article shall be reviewed on the schedule established by the
17 Governor and in the manner and using the methodology mandated by law prior to the
18 implementation of this Act.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2001.