

CS FOR HOUSE BILL NO. 33(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/17/05

Referred: Judiciary

Sponsor(s): REPRESENTATIVES MEYER, Wilson, Kelly, Neuman, McGuire

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to regulations that may govern the conduct of small businesses; and
2 providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 44.62 is amended by adding a new section to read:

5 **Sec. 44.62.218. Regulations affecting small businesses.** (a) Before an
6 agency adopts a proposed regulation that may govern the conduct of small businesses,
7 or when a person petitions an agency under AS 44.62.220 to adopt a proposed
8 regulation that may govern the conduct of small businesses, the agency shall prepare
9 an economic effect statement under (b) of this section, prepare a regulatory flexibility
10 analysis under (c) of this section, and notify the department that the agency intends to
11 adopt the proposed regulation or has received a petition under AS 44.62.220 to adopt
12 the proposed regulation.

13 (b) An agency shall use the information received under AS 44.62.210 and
14 44.62.215, information provided by the department under (e) of this section, and other

1 information in the files of the agency to prepare the economic effect statement
2 required by (a) of this section. The economic effect statement must provide

3 (1) a general description and an estimate of the number of small
4 businesses that would be subject to the proposed regulation;

5 (2) the projected reporting, recordkeeping, and other administrative
6 costs that small businesses would be required to incur in order to comply with the
7 proposed regulation, including an identification of the type of professional skills
8 necessary to prepare the report or record or to take the administrative action;

9 (3) a statement of the probable economic effect that the proposed
10 regulation would have on the small businesses whose conduct would be governed by
11 the proposed regulation; and

12 (4) a description of any alternative methods of achieving the purpose
13 of the proposed regulation that would be less intrusive or less costly for the small
14 businesses whose conduct would be governed by the proposed regulation.

15 (c) In the regulatory flexibility analysis required by (a) of this section, an
16 agency shall consider using regulatory methods that

17 (1) minimize the effects of the proposed regulation on small businesses
18 while accomplishing the objectives of statutes authorizing the proposed regulation;
19 and

20 (2) are consistent with health, safety, environmental welfare, and
21 economic welfare.

22 (d) When preparing the regulatory flexibility analysis under (c) of this section,
23 the agency shall consider

24 (1) the establishment of less stringent compliance or reporting
25 requirements for small businesses;

26 (2) the establishment of less stringent schedules or deadlines for
27 compliance or reporting requirements for small businesses;

28 (3) the consolidation or simplification of compliance or reporting
29 requirements for small businesses;

30 (4) the establishment of performance standards to replace design or
31 operational standards for small businesses; and

1 (5) the exemption of small businesses from all or any part of the
2 requirements contained in the proposed regulation.

3 (e) The department shall advise and assist agencies to comply with this
4 section.

5 (f) This section does not apply to regulations of

6 (1) a board or commission whose members are subject to confirmation
7 by the legislature;

8 (2) the ombudsman;

9 (3) the office of victims' rights;

10 (4) the Alaska State Council on the Arts;

11 (5) the Local Boundary Commission;

12 (6) the division of elections;

13 (7) the administrative component of the Department of Administration
14 that administers motor vehicle and driver's license laws;

15 (8) the Department of Corrections;

16 (9) the Department of Fish and Game; or

17 (10) the Department of Military and Veterans' Affairs.

18 (g) This section does not create a private cause of action. If an agency fails to
19 comply with this section, the failure does not establish a ground on which to invalidate
20 a regulation that has been filed by the lieutenant governor under AS 44.62.080. This
21 subsection is not intended to prevent judicial review of a regulation under
22 AS 44.62.300 for a reason unrelated to this section.

23 (h) In this section,

24 (1) "department" means the Department of Commerce, Community,
25 and Economic Development;

26 (2) "governs the conduct" means regulates the manner in which a small
27 business conducts its business activities but does not include the imposition of a fee to
28 cover the cost of a state service if the fee is charged uniformly to all users of the
29 service;

30 (3) "proposed regulation" means a proposal for a new regulation or for
31 a change in or an addition to an existing regulation but does not include the repeal of

1 an existing regulation; or

2 (4) "regulation" has the meaning given in AS 44.62.640, but does not
3 include an emergency regulation under AS 44.62.250 - 44.62.260;

4 (5) "small business" means

5 (A) a business entity, including its affiliates, that

6 (i) is independently owned and operated; and

7 (ii) employs fewer than 100 employees;

8 (B) a village corporation; in this subparagraph, "village
9 corporation" has the meaning given in 43 U.S.C. 1602(j); or

10 (C) a nonprofit utility that employs fewer than 100 employees;
11 in this subparagraph, "utility" has the meaning given in AS 42.05.990.

12 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 TRANSITION. AS 44.62.218, enacted by sec. 1 of this Act, applies to a proposed
15 regulation proposed by an agency on or after January 1, 2006 or by an interested person under
16 AS 44.62.220 on or after January 1, 2006. In this section, "proposed regulation" has the
17 meaning given in AS 44.62.218, enacted by sec. 1 of this Act.

18 * **Sec. 3.** This Act takes effect January 1, 2006.