

Union Calendar No. 121

109TH CONGRESS
1ST SESSION

H. R. 230

[Report No. 109-208]

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a program to provide regulatory compliance assistance to small business concerns, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Mr. SWEENEY introduced the following bill; which was referred to the Committee on Small Business

JULY 28, 2005

Additional sponsors: Mr. LATHAM, Mr. CASE, Mr. SESSIONS, and Ms. ZOE LOFGREN of California

JULY 28, 2005

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on January 4, 2005]

A BILL

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a program to provide regulatory compliance assistance to small business concerns, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “National Small Business*
5 *Regulatory Assistance Act of 2005”.*

6 **SEC. 2. PURPOSE.**

7 *The purpose of this Act is to establish a program to—*

8 *(1) provide confidential assistance to small busi-*
9 *ness concerns;*

10 *(2) provide small business concerns with the in-*
11 *formation necessary to improve their rate of compli-*
12 *ance with Federal and State regulations;*

13 *(3) create a partnership among Federal agencies*
14 *to increase outreach efforts to small business concerns*
15 *with respect to regulatory compliance;*

16 *(4) provide a mechanism for unbiased feedback*
17 *to Federal agencies on the regulatory environment for*
18 *small business concerns; and*

19 *(5) utilize the service delivery network of Small*
20 *Business Development Centers to improve access of*
21 *small business concerns to programs to assist them*
22 *with regulatory compliance.*

1 **SEC. 3. DEFINITIONS.**

2 *In this Act, the definitions set forth in section 37(a)*
3 *of the Small Business Act (as added by section 4 of this*
4 *Act) shall apply.*

5 **SEC. 4. SMALL BUSINESS REGULATORY ASSISTANCE PRO-**
6 **GRAM.**

7 *The Small Business Act (15 U.S.C. 637 et seq.) is*
8 *amended—*

9 *(1) by redesignating section 37 as section 38;*
10 *and*

11 *(2) by inserting after section 36 the following*
12 *new section:*

13 **“SEC. 37. SMALL BUSINESS REGULATORY ASSISTANCE PRO-**
14 **GRAM.**

15 *“(a) DEFINITIONS.—In this section, the following defi-*
16 *initions apply:*

17 *“(1) ASSOCIATION.—The term ‘Association’*
18 *means the association recognized by the Adminis-*
19 *trator of the Small Business Administration under*
20 *section 21(a)(3)(A).*

21 *“(2) PARTICIPATING SMALL BUSINESS DEVELOP-*
22 *MENT CENTER.—The term ‘participating Small Busi-*
23 *ness Development Center’ means a Small Business*
24 *Development Center participating in the program.*

1 “(3) *PROGRAM.*—*The term ‘program’ means the*
2 *regulatory assistance program established under this*
3 *section.*

4 “(4) *REGULATORY COMPLIANCE ASSISTANCE.*—
5 *The term ‘regulatory compliance assistance’ means*
6 *assistance provided by a Small Business Development*
7 *Center to a small business concern to enable the con-*
8 *cern to comply with Federal regulatory requirements.*

9 “(5) *SMALL BUSINESS DEVELOPMENT CENTER.*—
10 *The term ‘Small Business Development Center’ means*
11 *a Small Business Development Center described in*
12 *section 21.*

13 “(6) *STATE.*—*The term ‘State’ means each of the*
14 *several States, the District of Columbia, the Common-*
15 *wealth of Puerto Rico, the Virgin Islands, Guam, and*
16 *American Samoa.*

17 “(b) *AUTHORITY.*—*In accordance with this section, the*
18 *Administrator shall establish a program to provide regu-*
19 *latory compliance assistance to small business concerns*
20 *through selected Small Business Development Centers, the*
21 *Association of Small Business Development Centers, and*
22 *Federal compliance partnership programs.*

23 “(c) *SMALL BUSINESS DEVELOPMENT CENTERS.*—

24 “(1) *IN GENERAL.*—*In carrying out the pro-*
25 *gram, the Administrator shall enter into arrange-*

1 *ments with selected Small Business Development Cen-*
2 *ters under which such Centers shall provide—*

3 *“(A) access to information and resources,*
4 *including current Federal and State nonpunitive*
5 *compliance and technical assistance programs*
6 *similar to those established under section 507 of*
7 *the Clean Air Act (42 U.S.C. 7661f);*

8 *“(B) training and educational activities;*

9 *“(C) confidential, free-of-charge, one-on-one,*
10 *in-depth counseling to the owners and operators*
11 *of small business concerns regarding compliance*
12 *with Federal and State regulations, as long as*
13 *such counseling is not considered to be the prac-*
14 *tice of law in a State in which a Small Business*
15 *Development Center is located or in which such*
16 *counseling is conducted;*

17 *“(D) technical assistance;*

18 *“(E) referrals to experts and other providers*
19 *of compliance assistance who meet such stand-*
20 *ards for educational, technical, and professional*
21 *competency as are established by the Adminis-*
22 *trator; and*

23 *“(F) access to the Internet and training on*
24 *Internet use, including the use of the Internet*

1 *website established by the Administrator under*
2 *subsection (d)(1)(C).*

3 “(2) *REPORTS.*—

4 “(A) *IN GENERAL.*—*Each selected Small*
5 *Business Development Center shall transmit to*
6 *the Administrator a quarterly report that in-*
7 *cludes—*

8 “(i) *a summary of the regulatory com-*
9 *pliance assistance provided by the center*
10 *under the program; and*

11 “(ii) *any data and information ob-*
12 *tained by the center from a Federal agency*
13 *regarding regulatory compliance that the*
14 *agency intends to be disseminated to small*
15 *business concerns.*

16 “(B) *ELECTRONIC FORM.*—*Each report re-*
17 *quired under subparagraph (A) shall be trans-*
18 *mitted in electronic form.*

19 “(C) *INTERIM REPORTS.*—*A participating*
20 *Small Business Development Center may trans-*
21 *mit to the Administrator such interim reports as*
22 *the Center considers appropriate.*

23 “(D) *LIMITATION ON DISCLOSURE REQUIRE-*
24 *MENTS.*—*The Administrator shall not require a*
25 *Small Business Development Center to disclose*

1 *the name or address of any small business con-*
2 *cern that received or is receiving assistance*
3 *under the program, except that the Adminis-*
4 *trator shall require such a disclosure if ordered*
5 *to do so by a court in any civil or criminal ac-*
6 *tion.*

7 “(d) *DATA REPOSITORY AND CLEARINGHOUSE.*—

8 “(1) *IN GENERAL.*—*In carrying out the pro-*
9 *gram, the Administrator shall—*

10 “(A) *act as the repository of and clearing-*
11 *house for data and information submitted by*
12 *Small Business Development Centers;*

13 “(B) *submit to the President, the Committee*
14 *on Small Business and Entrepreneurship of the*
15 *Senate, and the Committee on Small Business of*
16 *the House of Representatives an annual report*
17 *that includes—*

18 “(i) *a description of the types of assist-*
19 *ance provided by participating Small Busi-*
20 *ness Development Centers under the pro-*
21 *gram;*

22 “(ii) *data regarding the number of*
23 *small business concerns that contacted par-*
24 *ticipating Small Business Development*

1 Centers regarding assistance under the pro-
2 gram;

3 “(iii) data regarding the number of
4 small business concerns assisted by partici-
5 pating Small Business Development Centers
6 under the program;

7 “(iv) data and information regarding
8 outreach activities conducted by partici-
9 pating Small Business Development Centers
10 under the program, including any activities
11 conducted in partnership with Federal
12 agencies;

13 “(v) data and information regarding
14 each case known to the Administrator in
15 which one or more Small Business Develop-
16 ment Centers offered conflicting advice or
17 information regarding compliance with a
18 Federal or State regulation to one or more
19 small business concerns;

20 “(vi) any recommendations for im-
21 provements in the regulation of small busi-
22 ness concerns; and

23 “(vii) a list of regulations identified by
24 the Administrator, after consultation with
25 the Chief Counsel for Advocacy of the Ad-

1 *ministration, who shall review such list,*
2 *and the Small Business and Agriculture*
3 *Regulatory Enforcement Ombudsman, as*
4 *being most burdensome to small business*
5 *concerns, and recommendations to reduce or*
6 *eliminate the burdens of such regulations;*
7 *and*

8 *“(C) establish an Internet website that—*

9 *“(i) provides access to Federal, State,*
10 *academic, and industry association Internet*
11 *websites containing industry-specific regu-*
12 *latory compliance information that the Ad-*
13 *ministrator deems potentially useful to*
14 *small businesses attempting to comply with*
15 *Federal regulations; and*

16 *“(ii) arranges such Internet websites in*
17 *industry-specific categories.*

18 *“(e) REVIEW OF BURDENSOME REGULATIONS AND PE-*
19 *TITION FOR AGENCY REVIEW.—*

20 *“(1) TRANSMISSION OF LIST OF REGULATIONS*
21 *TO CHIEF COUNSEL FOR ADVOCACY.—The Adminis-*
22 *trator shall transmit to the Chief Counsel for Advoc-*
23 *acy of the Administration a copy of the list of regu-*
24 *lations submitted under subsection (d)(1)(B) as part*
25 *of the annual report required by that subsection.*

1 “(2) *REVIEW OF LIST OF REGULATIONS.*—*The*
2 *Chief Counsel for Advocacy shall review the list of*
3 *regulations transmitted under paragraph (1) and*
4 *identify any regulation that—*

5 “(A) *is eligible for review in accordance*
6 *with section 610 of title 5, United States Code;*

7 “(B) *has a significant impact on a substan-*
8 *tial number of small business concerns that is*
9 *substantially different from the impact indicated*
10 *in the final regulatory flexibility analysis for*
11 *that regulation, as published with the final regu-*
12 *lation in the Federal Register; or*

13 “(C) *has a significant impact on a substan-*
14 *tial number of small business concerns and for*
15 *which no final regulatory flexibility analysis*
16 *was ever performed.*

17 “(3) *NOTIFICATION AND AGENCY REVIEW.*—*With*
18 *respect to any regulation identified under paragraph*
19 *(2) the Chief Counsel for Advocacy shall—*

20 “(A) *notify the appropriate Federal rule-*
21 *making agency and the Office of Information*
22 *and Regulatory Affairs of the Office of Manage-*
23 *ment of the identification of such rule or regula-*
24 *tion; and*

25 “(B) *request the review of such regulation—*

1 “(i) in accordance with section 610 of
2 title 5, United States Code; or

3 “(ii) for any impact it has on small
4 business concerns.

5 “(4) ANNUAL REPORT.—The Chief Counsel for
6 Advocacy shall publish an annual report containing
7 a list of any regulation identified under paragraph
8 (2) and the disposition by the appropriate agency.

9 “(f) ELIGIBILITY.—

10 “(1) IN GENERAL.—A Small Business Develop-
11 ment Center shall be eligible to receive assistance
12 under the program only if the center is certified
13 under section 21(k)(2).

14 “(2) WAIVER.— With respect to a Small Busi-
15 ness Development Center seeking assistance under the
16 program, the administrator may waive the certifi-
17 cation requirement set forth in paragraph (1) if the
18 Administrator determines that the center is making a
19 good faith effort to obtain such certification.

20 “(3) EFFECTIVE DATE.—The restriction de-
21 scribed in paragraph (1) shall not apply to any
22 Small Business Development Center before October 1,
23 2005.

24 “(g) SELECTION OF PARTICIPATING STATE PRO-
25 GRAMS.—

1 “(1) *ESTABLISHMENT OF PROGRAM.—In con-*
2 *sultation with the Association and giving substantial*
3 *weight to the Association’s recommendations, the Ad-*
4 *ministrator shall select the Small Business Develop-*
5 *ment Center programs of 2 States from each of the*
6 *following groups of States to participate in the pro-*
7 *gram:*

8 “(A) *Group 1: Maine, Massachusetts, New*
9 *Hampshire, Connecticut, Vermont, and Rhode*
10 *Island.*

11 “(B) *Group 2: New York, New Jersey, Puer-*
12 *to Rico, and the Virgin Islands.*

13 “(C) *Group 3: Pennsylvania, Maryland,*
14 *West Virginia, Virginia, the District of Colum-*
15 *bia, and Delaware.*

16 “(D) *Group 4: Georgia, Alabama, North*
17 *Carolina, South Carolina, Mississippi, Florida,*
18 *Kentucky, and Tennessee.*

19 “(E) *Group 5: Illinois, Ohio, Michigan, In-*
20 *diana, Wisconsin, and Minnesota.*

21 “(F) *Group 6: Texas, New Mexico, Arkan-*
22 *sas, Oklahoma, and Louisiana.*

23 “(G) *Group 7: Missouri, Iowa, Nebraska,*
24 *and Kansas.*

1 “(H) Group 8: Colorado, Wyoming, North
2 Dakota, South Dakota, Montana, and Utah.

3 “(I) Group 9: California, Guam, Hawaii,
4 Nevada, and Arizona.

5 “(J) Group 10: Washington, Alaska, Idaho,
6 and Oregon.

7 “(2) *DEADLINE FOR INITIAL SELECTIONS.*—*The*
8 *Administrator shall make selections under paragraph*
9 *(1) not later than 60 days after promulgation of regu-*
10 *lations under section 5 of the National Small Busi-*
11 *ness Regulatory Assistance Act of 2005.*

12 “(3) *ADDITIONAL SELECTIONS.*—*Not earlier than*
13 *the date 3 years after the date of the enactment of this*
14 *paragraph, the Administrator may select Small Busi-*
15 *ness Development Center programs of States in addi-*
16 *tion to those selected under paragraph (1). The Ad-*
17 *ministrator shall consider the effect on the programs*
18 *selected under paragraph (1) before selecting addi-*
19 *tional programs under this paragraph.*

20 “(4) *COORDINATION TO AVOID DUPLICATION*
21 *WITH OTHER PROGRAMS.*—*In selecting programs*
22 *under this subsection, the Administrator shall give a*
23 *preference to Small Business Development Center pro-*
24 *grams that have a plan for consulting with Federal*
25 *and State agencies to ensure that any assistance pro-*

1 *vided under this section is not duplicated by an exist-*
2 *ing Federal or State program.*

3 *“(h) MATCHING NOT REQUIRED.—Subparagraphs (A)*
4 *and (B) of section 21(a)(4) shall not apply to assistance*
5 *made available under the program.*

6 *“(i) DISTRIBUTION OF GRANTS.—*

7 *“(1) IN GENERAL.—Except as provided in para-*
8 *graph (2), each State program selected to receive a*
9 *grant under subsection (g) in a fiscal year shall be el-*
10 *igible to receive a grant in an amount not to exceed*
11 *the product obtained by multiplying—*

12 *“(A) the amount made available for grants*
13 *under this section for the fiscal year; and*

14 *“(B) the ratio that the population of the*
15 *State bears to the population of all the States*
16 *with programs selected to receive grants under*
17 *subsection (g) for the fiscal year.*

18 *“(2) MINIMUM AMOUNT.—The minimum amount*
19 *that a State program selected to receive a grant under*
20 *subsection (g) shall be eligible to receive under this*
21 *section for any fiscal year shall be \$200,000. The Ad-*
22 *ministrator shall reduce the amount described in*
23 *paragraph (1) as appropriate to carry out the pur-*
24 *poses of this paragraph and subsection (j)(2).*

1 “(j) *EVALUATION AND REPORT.*—Not later than 3
2 years after the establishment of the program, the Comp-
3 troller General of the United States shall conduct an evalua-
4 tion of the program and shall transmit to the Adminis-
5 trator, the Committee on Small Business and Entrepre-
6 neurship of the Senate, and the Committee on Small Busi-
7 ness of the House of Representatives a report containing
8 the results of the evaluation along with any recommenda-
9 tions as to whether the program, with or without modifica-
10 tion, should be extended to include the participation of all
11 Small Business Development Centers.

12 “(k) *AUTHORIZATION OF APPROPRIATIONS.*—

13 “(1) *IN GENERAL.*—There is authorized to be ap-
14 propriated to carry out this section \$5,000,000 for fis-
15 cal year 2006 and each subsequent fiscal year.

16 “(2) *LIMITATION ON USE OF OTHER FUNDS.*—
17 The Administrator shall carry out the program only
18 with amounts appropriated in advance specifically to
19 carry out this section.”.

20 **SEC. 5. PROMULGATION OF REGULATIONS.**

21 After providing notice and an opportunity for com-
22 ment and after consulting with the Association (but not
23 later than 180 days after the date of the enactment of this
24 Act), the Administrator shall promulgate final regulations
25 to carry out this Act, including regulations that establish—

1 (1) *priorities for the types of assistance to be*
2 *provided under the program;*

3 (2) *standards relating to educational, technical,*
4 *and support services to be provided by participating*
5 *Small Business Development Centers;*

6 (3) *standards relating to any national service*
7 *delivery and support function to be provided by the*
8 *Association under the program;*

9 (4) *standards relating to any work plan that the*
10 *Administrator may require a participating Small*
11 *Business Development Center to develop; and*

12 (5) *standards relating to the educational, tech-*
13 *nical, and professional competency of any expert or*
14 *other assistance provider to whom a small business*
15 *concern may be referred for compliance assistance*
16 *under the program.*

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A BILL

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