

JAN 17 2014

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# A BILL FOR AN ACT

RELATING TO THE SMALL BUSINESS REGULATORY FLEXIBILITY ACT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Act 168, Session  
2 Laws of Hawaii 1998, codified as chapter 201M, Hawaii Revised  
3 Statutes, established the small business regulatory flexibility  
4 act. Act 168 provided for a petition process to an agency for  
5 regulatory review, periodic administrative review of rules with  
6 small business impacts, and an independent regulatory review  
7 board, known as the small business regulatory review board, to  
8 consider concerns of small businesses and make recommendations  
9 to adopt, amend, or repeal rules.

10           Unfortunately, the legislature also finds that the small  
11 business regulatory review board has been going beyond the scope  
12 of its powers, as described under chapter 201M, Hawaii Revised  
13 Statutes, and is hindering the same administrative process it  
14 was originally intended to help.

15           The legislature further finds that the small business  
16 regulatory flexibility act and small business regulatory review  
17 board have not been functioning as envisioned. Accordingly, the



1 purpose of this Act is to repeal chapter 201M, Hawaii Revised  
2 Statutes.

3 SECTION 2. Section 201N-12, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§201N-12[+] **Rules.** The coordinator may adopt interim  
6 rules to implement this chapter without regard to the notice and  
7 public hearing requirements of section 91-3 [~~or the small~~  
8 ~~business impact review requirements of chapter 201M~~]; provided  
9 that any amendment of the interim rules shall be subject to  
10 [~~chapters~~] chapter 91 [~~and 201M~~]."

11 SECTION 3. Section 231-10.7, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) Notwithstanding any other law in title 14[7] or  
14 chapter 91[~~, or chapter 201M~~] to the contrary, the department is  
15 authorized to adopt any temporary rules as the department may  
16 deem proper as provided in this section. Temporary rules may  
17 include the adoption, amendment, or repeal of any rules  
18 concerning any matters which the department is authorized to  
19 regulate."

20 SECTION 4. Section 302A-1162, Hawaii Revised Statutes, is  
21 amended by amending subsection (c) to read as follows:



1           "(c) The department may adopt, amend, or repeal rules  
2 pursuant to chapter 91 to establish a list of specific vaccines  
3 that are available or may become available. Notwithstanding the  
4 notice, public hearing, and comment requirements of chapter 91  
5 [~~and the provisions of chapter 201M~~], the director of health, in  
6 consultation with the state epidemiologist, may adopt, amend, or  
7 repeal as rules, the immunization recommendations of the United  
8 States Department of Health and Human Services, Advisory  
9 Committee on Immunization Practices, including interim  
10 recommendations, as they apply to the list of specific vaccines,  
11 if any, described in this subsection. The department shall make  
12 the adoption, amendment, or repeal of rules regarding United  
13 States Department of Health and Human Services, Advisory  
14 Committee on Immunization Practices immunization recommendations  
15 known to the public by:

16           (1) Giving public notice of the substance of the proposed  
17 rules at least once statewide; and

18           (2) Posting the full text of the proposed rulemaking  
19 action on the Internet as provided in section 91-2.6.

20 The rules, when adopted, amended, or repealed pursuant to  
21 chapter 91 as modified by this section, shall have the force and  
22 effect of law. The department may defer the effective date of



1 adopted, amended, or repealed rules to allow sufficient time to  
2 ensure compliance with the new, amended, or repealed rules."

3 SECTION 5. Section 325-32, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) The department may adopt, amend, or repeal rules  
6 pursuant to chapter 91 to establish a list of specific vaccines  
7 that are available or may become available. Notwithstanding the  
8 notice, public hearing, and comment requirements of chapter 91  
9 [~~and the provisions of chapter 201M~~], the director of health, in  
10 consultation with the state epidemiologist, may adopt, amend, or  
11 repeal as rules, the immunization recommendations of the United  
12 States Department of Health and Human Services, Advisory  
13 Committee on Immunization Practices, including interim  
14 recommendations, as they apply to the list of specific vaccines,  
15 if any, described in this subsection. The department shall make  
16 the adoption, amendment, or repeal of rules regarding United  
17 States Department of Health and Human Services, Advisory  
18 Committee on Immunization Practices immunization recommendations  
19 known to the public by:

20 (1) Giving public notice of the substance of the proposed  
21 rules at least once statewide; and



1           (2) Posting the full text of the proposed rulemaking  
2           action on the Internet as provided in section 91-2.6.  
3 The rules, when adopted or amended pursuant to chapter 91 as  
4 modified by this section, shall have the force and effect of  
5 law. The department may defer the effective date of adopted,  
6 amended, or repealed rules to allow sufficient time to ensure  
7 compliance with the new, amended, or repealed rules."

8           SECTION 6. Section 346-181, Hawaii Revised Statutes, is  
9 amended by amending subsection (d) to read as follows:

10           "(d) The department may adopt interim rules to carry out  
11 the purposes of this section without regard to chapter 91 [~~or~~  
12 ~~201M~~]; provided that:

- 13           (1) The department shall hold at least one public hearing  
14           prior to the adoption of interim rules;  
15           (2) The interim rules shall comply with all applicable  
16           state and federal laws; and  
17           (3) The interim rules shall be effective for no more than  
18 one year after their adoption."

19           SECTION 7. Chapter 201M, Hawaii Revised Statutes, is  
20 repealed.

21           SECTION 8. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY:

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# S.B. NO. 2487

**Report Title:**

Small Business Regulatory Flexibility Act; Small Business Regulatory Review Board

**Description:**

Repeals chapter 201M, Hawaii Revised Statutes, the Small Business Regulatory Flexibility Act.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

