
A BILL FOR AN ACT

RELATING TO THE SMALL BUSINESS REGULATORY FLEXIBILITY ACT.

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

PART I

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

11 Unfortunately, the legislature also finds that the small
12 business regulatory review board has not been functioning as
13 originally envisioned. The legislature further finds that the
14 small business regulatory review board's role is to look at the
15 impact of rules on small businesses.

16 The legislature additionally finds that in order for the
17 small business regulatory review board to function effectively,
18 board members must have a thorough understanding of the role of



1 board members and the parameters of that role. Clarifying the
2 contents of the board's annual report to the legislature will
3 also assist with the efficient operation of the board.

4 The legislature further finds that a five-year sunset date
5 for the small business regulatory review board and its
6 establishing chapter should be implemented. This will enable a
7 future legislature to review the board's performance after the
8 effective date of this Act.

9 Accordingly, the purpose of this Act is to better ensure
10 that the small business regulatory review board functions as
11 originally envisioned by:

12 (1) Requiring members of the small business regulatory
13 review board to receive training by the appropriate
14 division of the department of the attorney general to
15 ensure that the members have a clear understanding of
16 the role of board members and the parameters of the
17 members' role, including the hierarchy of the Hawaii
18 Revised Statutes and the Hawaii Administrative Rules;

19 (2) Clarifying the contents of the annual report that the
20 small business regulatory review board must submit to
21 the legislature; and



1 (3) Establishing a sunset date of June 30, 2019, for the
2 small business regulatory review board and chapter
3 201M, Hawaii Revised Statutes.

4 **PART II**

5 SECTION 2. Section 201M-5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§201M-5 Small business regulatory review board; powers.**

8 (a) There shall be established within the department of
9 business, economic development, and tourism, for administrative
10 purposes, a small business regulatory review board to review any
11 proposed new or amended rule or to consider any request from
12 small business owners for review of any rule adopted by a state
13 agency and to make recommendations to the agency or the
14 legislature regarding the need for a rule change or legislation.
15 For requests regarding county ordinances, the board may make
16 recommendations to the county council or the mayor for
17 appropriate action.

18 (b) The board shall consist of nine members, who shall be
19 appointed by the governor pursuant to section 26-34; provided
20 that:

21 (1) Three members shall be appointed from a list of
22 nominees submitted by the president of the senate;



- 1 (2) Three members shall be appointed from a list of
2 nominees submitted by the speaker of the house of
3 representatives;
- 4 (3) Two members shall be appointed by the governor;
- 5 (4) The director of business, economic development, and
6 tourism, or the director's designated representative,
7 shall serve as an ex officio[+], [] voting member of
8 the board;
- 9 (5) The appointments shall reflect representation of a
10 variety of businesses in the State;
- 11 (6) No more than two members shall be representatives from
12 the same type of business; and
- 13 (7) There shall be at least one representative from each
14 county.

15 For the purposes of paragraphs (1) and (2), nominations shall be
16 solicited from small business organizations, state and county
17 chambers of commerce, and other interested business
18 organizations.

19 (c) Except for the ex officio member, all members of the
20 board shall be either a current or former owner or officer of a
21 business and shall not be an officer or employee of the federal,
22 state, or county government. A majority of the board shall



1 elect the chairperson. The chairperson shall serve a term of
2 not more than one year, unless removed earlier by a two-thirds
3 vote of all members to which the board is entitled.

4 (d) A majority of all the members to which the board is
5 entitled shall constitute a quorum to do business, and the
6 concurrence of a majority of all the members to which the board
7 is entitled shall be necessary to make any action of the board
8 valid.

9 (e) The members of the board shall receive training by the
10 division of the department of the attorney general that oversees
11 the State's boards and commissions to ensure that the members
12 have a clear understanding of the role of board members and the
13 parameters of the members' role, including the hierarchy of the
14 Hawaii Revised Statutes and the Hawaii Administrative Rules.

15 ~~(e)~~ (f) In addition to any other powers provided by this
16 chapter, the board may:

- 17 (1) Adopt any rules necessary to implement this chapter;
18 (2) Organize and hold conferences on problems affecting
19 small business; and
20 (3) Do any and all things necessary to effectuate the
21 purposes of this chapter.



1 "~~[+]§201N-12[+]~~ **Rules.** The coordinator may adopt interim
2 rules to implement this chapter without regard to the notice and
3 public hearing requirements of section 91-3 [~~or the small~~
4 ~~business impact review requirements of chapter 201M~~]; provided
5 that any amendment of the interim rules shall be subject to
6 [~~chapters~~] chapter 91 [~~and 201M~~]."

7 SECTION 4. Section 231-10.7, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

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

16 SECTION 5. Section 302A-1162, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) The department may adopt, amend, or repeal rules
19 pursuant to chapter 91 to establish a list of specific vaccines
20 that are available or may become available. Notwithstanding the
21 notice, public hearing, and comment requirements of chapter 91
22 [~~and the provisions of chapter 201M~~], the director of health, in



1 consultation with the state epidemiologist, may adopt, amend, or
2 repeal as rules, the immunization recommendations of the United
3 States Department of Health and Human Services, Advisory
4 Committee on Immunization Practices, including interim
5 recommendations, as they apply to the list of specific vaccines,
6 if any, described in this subsection. The department shall make
7 the adoption, amendment, or repeal of rules regarding United
8 States Department of Health and Human Services, Advisory
9 Committee on Immunization Practices immunization recommendations
10 known to the public by:

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

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

15 The rules, when adopted, amended, or repealed pursuant to
16 chapter 91 as modified by this section, shall have the force and
17 effect of law. The department may defer the effective date of
18 adopted, amended, or repealed rules to allow sufficient time to
19 ensure compliance with the new, amended, or repealed rules."

20 SECTION 6. Section 325-32, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) 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 or amended pursuant to chapter 91 as
21 modified by this section, shall have the force and effect of
22 law. The department may defer the effective date of adopted,



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

3 SECTION 7. Section 346-181, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) The department may adopt interim rules to carry out
6 the purposes of this section without regard to chapter 91 [~~e~~
7 ~~201M~~]; provided that:

8 (1) The department shall hold at least one public hearing
9 prior to the adoption of interim rules;

10 (2) The interim rules shall comply with all applicable
11 state and federal laws; and

12 (3) The interim rules shall be effective for no more than
13 one year after their adoption."

14 SECTION 8. Chapter 201M, Hawaii Revised Statutes, is
15 repealed.

16 **PART IV**

17 SECTION 9. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 10. This Act shall take effect upon its approval;
20 provided that part III of this Act shall take effect on June 30,
21 2019.



Report Title:

Small Business Regulatory Review Board; Small Business Regulatory Flexibility Act; Board Members; Training; Annual Report

Description:

Requires members of the small business regulatory review board to receive training by the appropriate division of the department of the attorney general. Clarifies the contents of the annual report that the small business regulatory review board must submit to the legislature. Sunsets the small business regulatory review board and chapter 201M, Hawaii Revised Statutes, the Small Business Regulatory Flexibility Act, on 06/30/2019. (SD1)

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

