

FINAL BILL REPORT

HB 1352

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Synopsis as Enacted

Brief Description: Concerning licensing and regulatory requirements of small business owners.

Sponsors: Representatives Barkis, Chapman, J. Walsh, Shea, Koster, Wilcox, McCabe, Harmsworth, Cody, Tarleton, Kretz, Schmick, Short, Vick, Harris, Manweller, Smith, Stokesbary, MacEwen, Nealey, Condotta, Orcutt, Lytton, Springer, Kirby, Blake, Caldier, Jinkins, Taylor, Pike, Hayes, Muri, Holy, Haler, Steele, Kilduff and Tharinger.

House Committee on State Government, Elections & Information Technology
Senate Committee on Commerce, Labor & Sports

Background:

A number of state agency requirements apply specifically to small businesses.

For example, under the Regulatory Fairness Act, agencies must prepare a small business economic impact statement (impact statement) if a proposed rule will impose more than minor costs to businesses in a particular industry, or when requested to do so by the Joint Administrative Rules Review Committee. An agency must, where legal and feasible in meeting the objectives of the underlying law, reduce disproportionate costs imposed on small business. The agency must consider a number of specified methods to reduce costs, including reducing or eliminating substantive regulatory requirements, simplifying recordkeeping, reducing the frequency of inspections, delaying compliance timeframes, and reducing fines for noncompliance. Agencies must provide impact statements to any person who makes a request.

With respect to agency enforcement action, under the Administrative Procedure Act (APA) agencies must provide a small business with a copy of the law or rule that the small business is violating and allow at least seven calendar days to correct the violation before the agency may impose a fine, civil penalty, or administrative sanction. In addition, agencies must waive any fines, civil penalties, or sanctions for first-time paperwork violations by a small business. Exceptions to these requirements include: (1) when the agency head determines that the effect of the violation or waiver poses a direct danger to public health, results in a loss of income or benefits to an employee, or causes serious harm to the public interest; and (2) when the enforcement requirements are in conflict with federal law. For purposes of

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these requirements, a small business is a business with 250 or fewer employees or a gross revenue of less than \$7 million annually.

Summary:

The Attorney General (AG) must review the APA, related administrative rules, similar statutes, and case law to identify rights and protections afforded to small business owners selected for agency enforcement actions including audits, inspections, site visits, and record reviews.

The Departments of Agriculture, Ecology, Labor and Industries, and Revenue, and the Employment Security Department and State Fire Marshall must review their governing statutes, administrative rules, policy statements, guidance, and directives to identify current rights and protections for small business owners. Each agency must provide the AG with a list of the source documents for the rights and protections and a copy or electronic link to the documents. In addition, each agency must provide the AG with a copy or electronic link to any statements of rights or protections provided to small business owners at the time of any audit, inspection, or other enforcement action, and any statement of rights or protections provided to small business owners regarding the agency's administrative and appeal processes. The agencies must provide the information to the AG by August 31, 2017.

The AG must compile findings and submit a report to the relevant legislative committees by November 30, 2017. The report must include information submitted by the agencies, as well as recommendations by the AG for statutory or other changes to identify, clarify, and harmonize, where practical, rights and protections afforded to small business owners and methods to improve notices of rights provided to small business owners. The AG must provide agencies with the recommendations by October 30, 2017. Agencies may respond by providing written comments by November 13, 2017.

Criminal investigations or prosecutions are excluded from the provisions. "Small business" has the same meaning as in the APA.

The provisions expire on December 31, 2017.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 23, 2017