



Pennsylvania Manufacturers' Association

TESTIMONY BEFORE THE:
SENATE INTERGOVERNMENTAL OPERATIONS COMMITTEE

REGULATORY BURDEN IN PA

December 12, 2019

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Regulatory Burden in PA

With the ability to search for specific regulations based on key terms on the Pennsylvania Independent Regulatory Review Commission website, use the search term “water” in “final regulations” and the search result will generate 281 individual regulations. “Gas” will summate 189 regulations. “Land” will result in 218 regulations. And, “manufacturer” returns 316 unique regulations. Our employers are facing an onslaught of regulations from a breadth of departments at both the state and federal level. This creates uncertainty in business planning and results in companies not growing, expanding, and hiring as they could.

Good morning, Pennsylvania State Senate Intergovernmental Operations Committee Chairman Mastriano, and esteemed members of the committee. I am Carl A. Marrara, Vice President of Government Affairs for the Pennsylvania Manufacturers’ Association. Founded in 1909 by Bucks County industrialist Joseph R. Grundy, the Pennsylvania Manufacturers’ Association is the nonprofit, statewide trade organization representing the manufacturing sector in Pennsylvania’s public policy process. Headquartered just steps from the state capitol in Harrisburg, PMA works to improve Pennsylvania’s ability to compete with other states for investment, jobs, and economic growth. PMA’s mission is to improve Pennsylvania’s economic competitiveness by advancing pro-growth public policies that reduce the baseline costs of creating and keeping jobs in the commonwealth, including spending restraint, tax relief, limits on lawsuit abuse, regulatory reform, and ensuring a prepared workforce.

We at PMA have had the privilege of visiting many different manufacturers to see how they take raw materials and by the skilled hands of their workers, craft finished goods. On many occasions, I have heard them say that making customers happy is much easier than keeping the government happy. And what is at the root of this provocative thought? The answer is simple – excess regulations and slow bureaucratic processes.

Let’s first understand that the business community recognizes that without a healthy and sustainable natural environment it is difficult to maintain and attract high quality employees. However, it is equally important to ensure that environmental regulation is approached on sound scientific evidence to ensure that regulations are reasonable and within technological limits.

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A simple bright line ought to be that state regulations should not be more stringent than federal regulations unless there is a compelling reason that is unique to our commonwealth. It is imperative that Pennsylvania regulators not enact regulations that place Pennsylvania at a competitive disadvantage to our competitor states. In the most recent Forbes “Best States for Business Report” Pennsylvania ranked 39th in the category of “Regulatory Environment,” significantly contributing to our overall ranking of 38th. This isn’t good enough.

Included with this testimony is a document from our colleagues at the Mercatus Center at George Mason University. Senior Research Fellow James Broughel was in Harrisburg in mid-2017, testifying before the House State Government Committee regarding his project “State RegData.” He found that the, “Pennsylvania Code contains roughly 12.8 million words. It would take a person about 713 hours—or just under 18 weeks—to read the entire code, assuming a person reads regulations 40 hours per week as a full-time job.”

His study went on to examine words that contain restrictions within our code – words like, “shall, must, may not, and required.” He found that:

Pennsylvania has 153,661 regulatory restrictions in its administrative code. Some of these restrictions are vital for protecting the health and safety of citizens, but others just make the code unnecessarily complicated. There are 208 restrictions governing the design and use of ladders in the state,⁵ and there are 190 restrictions setting standards for consumer packages and containers.⁶ Surely some of these restrictions are not necessary for safeguarding public health, safety, or the environment.

Competitor states such as Arizona have 140 percent less restrictions than in our Commonwealth; 40 percent less in Missouri, and 15 percent less in Virginia. Conversely, states such as New York and Illinois have more than double the restrictions than Pennsylvania. However, the restrictions themselves are not often the whole of the problem.

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Government in Pennsylvania does not move at the speed of business. In communicating with our members before this hearing, it was the length of time permitting and regulatory decisions take in our Commonwealth that is the major concern. And, we hear this anodically from our members on the regular. Permits or decisions from the Pennsylvania Department of Environmental Protection, the Pennsylvania Department of Transportation, the Pennsylvania Department of Agriculture, and many others takes weeks, months, even years to settle.

Notwithstanding, it's very difficult to quantify this problem as different states have vastly different regulations, hosted by different departments, with different processes, so it is impossible to implement a study with an apples-to-apples comparison. What we do know is we have had members poached to other states because the time to permit a plant expansion would take longer and be more expensive in Pennsylvania than moving to a new state entirely.

Legislatively, we (PMA) support the following legislation to help right-size state government and expedite the permitting and decision-making processes:

House Bill 1055, sponsored by Representative Klunk, creates an independent Office of Repealer within the independent regulatory review commission. Within House Bill 1055, there is also a one in-two out regulation structure. Therefore, old, outdated regulations would be repealed to make room for new, updated regulations.

House Bills 430, 507, and 806, sponsored by Representative Benninghoff, Rothman, and Keefer, requires economically significant regulations imposed by executive agencies to receive approval by the General Assembly to become law.

House Bill 509, sponsored by Representative Rothman, addresses permit paralysis by creating an online repository for every department in the state where individuals, businesses, and nonprofits may track their permit application to see where it is in the review process.

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House Bill 762, sponsored by Representative O’Neal, aims to create a regulatory compliance officer within each agency to work directly with the communities bound by regulations to help explain regulations and resolve noncompliance issues before imposing penalties.

Senate Bill 891, sponsored by Senator Gene Yaw, establishing the Advanced Permit Review Program and the Advanced Permit Review Program Fund. The program is established within the Department of Environmental Resources to provide an expedited method of reviewing applications for permits by allowing the department to select qualified licensed professionals to perform an expedited review of permits.

Senate Bill 619. Sponsored by Senator Gene Yaw, to provide a definition of "pollution" in the Clean Streams Law, adding that an accidental discharge, spill, or release that does not cause a violation of any of the numeric water quality criteria does not qualify.

Lastly, because compliance itself is the public good that results from regulations, the Commonwealth should be a partner in compliance. We need for state government to end the “GOTCHA!” dynamic of fault-finding and imposing punitive fines and penalties as means of fundraising and instead make assistance with compliance the primary goal.

The goal of Pennsylvania policymakers should be to make it the smart business decision for employers to locate, expand, and hire here in this commonwealth rather than in one of our competitor states. That is why we support these important pieces of legislation referenced here today and applaud this committee’s efforts to examine the problems of over-regulation and opportunity cost due to backlogged bureaucratic decision-making. Thank you for allowing us to participate in this important hearing today.