

House File 2349 - Introduced

HOUSE FILE 2349

BY WILLS

A BILL FOR

1 An Act providing for a regulatory relief program.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 15E.22 Regulatory relief office.

2 1. The economic development authority shall establish a
3 regulatory relief office under the control of the director of
4 the authority.

5 2. The regulatory relief office shall have the following
6 duties:

7 a. Administer the regulatory relief program as described in
8 section 15E.24.

9 b. Act as a liaison between private businesses and
10 applicable state agencies to identify state laws or regulations
11 that could potentially be waived or suspended under the
12 regulatory relief program.

13 3. The regulatory relief office may do any of the following:

14 a. Review state laws and regulations that may unnecessarily
15 inhibit the creation and success of new companies or industries
16 and provide recommendations to the governor and the general
17 assembly on modifying such state laws and regulations.

18 b. Create a framework for analyzing the risk level to
19 the health, safety, and financial well-being of consumers
20 related to permanently removing or temporarily waiving laws
21 and regulations inhibiting the creation or success of new and
22 existing companies or industries.

23 c. Propose potential reciprocity agreements between states
24 that use or are proposing to use similar regulatory relief
25 programs as described in this subchapter.

26 4. By October 1 of each year, the regulatory relief office
27 shall issue a written annual report on the activities of the
28 office, which report shall include all of the following:

29 a. Information regarding each participant in the regulatory
30 relief program, including which industries each participant
31 represents and the anticipated or actual cost savings that each
32 participant experienced.

33 b. Recommendations regarding any laws or regulations that
34 should be permanently modified.

35 c. Information regarding outcomes for consumers.

1 *d.* Recommendations for changes to the regulatory relief
2 program or other duties of the regulatory relief office.

3 5. The economic development authority shall adopt
4 rules pursuant to chapter 17A as necessary for purposes of
5 establishing the office and implementing the requirements of
6 the regulatory relief program.

7 Sec. 2. NEW SECTION. **15E.23 Regulatory relief advisory**
8 **committee.**

9 1. The authority shall establish a regulatory relief
10 advisory committee consisting of thirteen members, including
11 nine voting members and four ex officio nonvoting members. The
12 advisory committee shall be composed of all of the following:

13 *a.* Nine voting members, appointed by the director of the
14 authority, as follows:

15 (1) Six members who represent business interests.

16 (2) Three members who represent state agencies that
17 regulate businesses.

18 *b.* The nonvoting members of the committee shall be two state
19 representatives, one appointed by the speaker of the house of
20 representatives and one by the minority leader of the house of
21 representatives, and two state senators, one appointed by the
22 majority leader of the senate and one by the minority leader
23 of the senate.

24 2. The director of the economic development authority
25 shall, on an annual basis, designate the chairperson of
26 the advisory committee. Members of the advisory committee
27 appointed by the director shall serve four-year staggered terms
28 as determined by the director.

29 3. A majority of the voting members of the advisory
30 committee constitutes a quorum for the purpose of conducting
31 advisory committee business, and the action of the majority of
32 a quorum constitutes the action of the advisory committee.

33 4. The advisory committee shall advise and make
34 recommendations to the regulatory relief office concerning the
35 regulatory relief program as described in section 15E.24.

1 Sec. 3. NEW SECTION. **15E.24 Regulatory relief program.**

2 1. The regulatory review office shall establish a
3 regulatory relief program. The purpose of the regulatory
4 relief program is to enable a business to obtain legal
5 protections and limited access to the market in the state to
6 demonstrate an innovative offering without obtaining a license
7 or other authorization that might otherwise be required.

8 2. *a.* The regulatory review office shall establish a
9 process for purposes of receiving applications from businesses
10 to participate in the regulatory relief program.

11 *b.* The application shall include a description of the
12 innovative offering to be demonstrated by the participant, to
13 include all of the following information:

14 (1) Statements from the applicant on how the offering is
15 subject to licensing, legal prohibition, or other authorization
16 requirements.

17 (2) Identification of each law or regulation that the
18 applicant seeks to have waived or suspended while participating
19 in the regulatory relief program.

20 (3) How the innovative offering would benefit consumers.

21 (4) What risks might exist for consumers who use or purchase
22 the offering.

23 (5) How participating in the regulatory relief program
24 would enable a successful demonstration of the offering.

25 (6) A description of the proposed demonstration plan for the
26 offering, including estimated time periods for beginning and
27 ending the demonstration.

28 (7) How the applicant will end the demonstration and protect
29 consumers if the demonstration fails.

30 (8) A list of each state agency, if any, that the applicant
31 knows regulates the applicant's business relative to the
32 offering.

33 (9) Discloses criminal convictions of the applicant or
34 any person who seeks to participate with the applicant in
35 demonstrating an offering.

1 (10) Such other information as the regulatory review office
2 requires.

3 3. Upon receipt of an application to participate in the
4 regulatory relief program, the regulatory relief office shall
5 acknowledge receipt of the application, forward information
6 in the application to affected state agencies for review, and
7 notify the applicant which state agencies will review the
8 application.

9 4. Each state agency in receipt of an application to
10 participate in the regulatory relief program shall, in a timely
11 fashion, submit a written report to the regulatory relief
12 office which includes a recommendation to the regulatory
13 relief office that the applicant either be admitted or denied
14 participation in the program. The written report shall include
15 reasons for the determination by the state agency.

16 a. A state agency shall recommend that the applicant be
17 admitted into the regulatory relief program if the agency
18 determines that the consumer's or public's health, safety, or
19 financial well-being can be protected through less-restrictive
20 means than the existing relevant laws or regulations. The
21 written report shall provide a recommendation of how that can
22 be achieved.

23 b. A state agency shall recommend that the applicant be
24 denied participation in the regulatory relief program if the
25 state agency determines that a temporary waiver or suspension
26 of the relevant laws or regulations would potentially
27 significantly harm the health, safety, or financial well-being
28 of consumers or the public and the likelihood of such harm
29 occurring or create unreasonable expenses for taxpayers in the
30 state. A state agency may also recommend that the applicant be
31 denied participation in the regulatory relief program if the
32 state agency determines, in the state agency's sole discretion,
33 that the applicant's innovative offering fails to comply
34 with standards or specifications required by federal law or
35 regulation or previously approved for use by a federal agency.

1 The written report shall include reasons for the determination
2 by the state agency that the applicant be denied participation
3 in the program.

4 *c.* If a state agency recommends that an applicant be
5 denied participation in the regulatory relief program, the
6 regulatory relief office shall deny the application and notify
7 the applicant.

8 5. *a.* Upon receipt of written reports by applicable state
9 agencies that do not recommend denial of the application,
10 the regulatory review office shall review the application to
11 determine whether to accept the applicant into the regulatory
12 review program. The regulatory review office shall provide
13 the application and written reports to the regulatory relief
14 advisory committee which shall review the application and
15 written reports and submit a recommendation to the office
16 regarding the application. The regulatory relief office may
17 also seek information from affected state agencies in making a
18 decision on whether to accept the applicant into the program.
19 The consultation with each applicable state agency may include
20 seeking information about whether the applicable state agency
21 has previously issued a license or other authorization to
22 the applicant and whether the applicable state agency has
23 previously investigated, sanctioned, or pursued legal action
24 against the applicant.

25 *b.* In reviewing an application under this section, the
26 regulatory relief office shall consider all of the following:

27 (1) Whether a competitor of the applicant is or has been a
28 participant in the regulatory relief program and, if so, weigh
29 that as a factor in favor of allowing the applicant to also
30 become a participant in the regulatory relief program.

31 (2) Whether the applicant's plan will adequately protect
32 consumers from potential harm identified by an applicable
33 agency in the applicable agency's written report.

34 (3) Whether the risk of harm to consumers is outweighed
35 by the potential benefits to consumers from the applicant's

1 participation in the regulatory relief program.

2 (4) Whether certain state laws or regulations that regulate
3 an offering should not be waived or suspended even if the
4 applicant is approved as a participant in the regulatory
5 relief program, including applicable antifraud or disclosure
6 provisions.

7 6. Following review of the application, the regulatory
8 relief office shall notify the applicant, in writing, whether
9 the regulatory relief office shall approve or deny the
10 application for participation in the regulatory relief program.
11 If the regulatory relief office director denies an application
12 submitted under this section, the regulatory relief office
13 shall provide to the applicant a written description of the
14 reasons for not allowing the applicant to be a participant in
15 the program.

16 7. If the regulatory relief office approves the
17 application, the regulatory relief office shall enter into a
18 written agreement with the applicant describing the specific
19 laws and regulations that are waived or suspended as part of
20 participation in the regulatory relief program. However,
21 the regulatory relief office shall not enter into a written
22 agreement with an applicant that waives or suspends a tax, fee,
23 or charge that is administered by the department of revenue.
24 The written agreement shall also not waive or suspend any law
25 or regulation if waiving or suspending the law or regulation
26 would prevent a consumer from seeking restitution in the event
27 that the consumer is harmed. When an applicant is approved for
28 participation in the program, the regulatory relief office may
29 provide notice of the approval to the public.

30 8. a. If the regulatory relief office approves an
31 application and enters into a written agreement with the
32 applicant, the applicant shall be allowed to participate in
33 the regulatory relief program. A participant in the program
34 has twelve months after the day on which the application
35 was approved to demonstrate the offering described in the

1 participant's application.

2 *b.* A participant in the regulatory relief program is deemed
3 to possess an appropriate license or other authorization under
4 the laws of the state for the purposes of any provision of
5 federal law requiring licensure or other authorization by the
6 state.

7 *c.* During the demonstration period, a participant in the
8 regulatory relief program is not subject to the enforcement of
9 state laws or regulations identified in the written agreement
10 between the regulatory relief office and the participant in the
11 program. However, a participant in the program does not have
12 immunity related to any criminal offense committed during the
13 participant's participation in the regulatory relief program.

14 *d.* During the demonstration period, a participant in the
15 regulatory relief program shall provide notice to consumers
16 regarding the participant's participation in the program in a
17 manner as prescribed by the regulatory relief office.

18 *e.* During the demonstration period, a participant in the
19 regulatory relief program shall retain records, documents, and
20 data produced in the ordinary course of business regarding
21 an offering demonstrated in the program. The regulatory
22 relief office may request records, documents, and data from a
23 participant and, upon the regulatory relief office's request,
24 the participant shall make such records, documents, and data
25 available for inspection by the regulatory relief office.

26 *f.* A participant in the regulatory relief program shall be
27 required to submit quarterly reports and a final report at the
28 conclusion of the demonstration period to the regulatory relief
29 office containing such information as the office may require
30 regarding the participant's participation in the program. The
31 participant shall also notify the regulatory relief office
32 and each applicable state agency of any incidents that result
33 in harm to the health, safety, or financial well-being of a
34 consumer during the demonstration period.

35 *g.* If a participant in the regulatory relief program ceases

1 to provide an offering before the end of the demonstration
2 period, the participant shall notify the regulatory relief
3 office and shall no longer be granted the authority provided in
4 the written agreement.

5 *h.* By written notice, the regulatory relief office may end
6 a participant's participation in the regulatory relief program
7 at any time and for any reason, including if the regulatory
8 relief office determines that a participant in the program is
9 not operating in good faith to bring an innovative offering to
10 market.

11 9. At least thirty days before the end of the twelve-month
12 demonstration period, a participant shall notify the regulatory
13 relief office that the participant will exit the regulatory
14 relief program and discontinue the participant's demonstration
15 on the day the twelve-month demonstration period ends or shall
16 seek an extension from the regulatory relief office to continue
17 participation in the program. If the participant seeks an
18 extension, the regulatory relief office shall grant or deny
19 a request for an extension by the end of the demonstration
20 period. The regulatory relief office may grant an extension in
21 accordance with this section for not more than twelve months
22 after the end of the initial demonstration period.

23 10. The regulatory relief office and employees of the
24 regulatory relief office are not liable for any business losses
25 or the recouping of application expenses or other expenses
26 related to the regulatory relief program, including for denying
27 an applicant's application to participate in the program for
28 any reason or ending a participant's participation in the
29 regulatory relief program at any time and for any reason.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill establishes a regulatory relief program,
34 administered by a regulatory relief office which is created by
35 the bill.

1 New Code section 15E.22 requires the economic development
2 authority to establish a regulatory relief office under the
3 control of the director of the authority. The bill establishes
4 the duties of the office to include administering the
5 regulatory relief program created by the bill. The office is
6 also required to issue an annual written report concerning the
7 activities of the office. The bill provides that the economic
8 development authority shall adopt rules for purposes of the
9 office and the regulatory relief program.

10 New Code section 15E.23 establishes a 13-member regulatory
11 relief advisory committee. The committee shall consist
12 of nine voting members, appointed by the director of the
13 economic development authority, which shall include six
14 members representing business and three members representing
15 state agencies that regulate businesses, and four nonvoting
16 legislative members. The bill provides that the director of
17 the economic development authority designate the chair of the
18 advisory committee. The advisory committee is responsible for
19 advising and making recommendations to the regulatory relief
20 office regarding the regulatory relief program.

21 New Code section 15E.24 establishes the regulatory relief
22 program. The bill provides that the purpose of the program is
23 to enable businesses to obtain legal protections and limited
24 access to the market in the state to demonstrate an innovative
25 offering without obtaining a license or other authorization
26 that might otherwise be required. The bill establishes the
27 process by which a business may apply to participate in the
28 program. The bill describes the information required to be
29 included in an application to the regulatory relief office for
30 participation in the program. Applications for participation
31 in the program shall be forwarded by the regulatory relief
32 office to affected state agencies who will issue a written
33 report recommending acceptance or rejection of the application.
34 A state agency rejection of an application will result in
35 denial of the application. If no state agency recommends

1 rejection, the regulatory relief office shall forward the
2 application and the written reports to the regulatory relief
3 advisory committee who shall review the information and
4 submit a recommendation to the office. The regulatory review
5 office shall either accept or deny the application and shall
6 notify the applicant of the decision. If the application is
7 accepted, the regulatory relief agency shall enter into a
8 written agreement with the applicant describing the specific
9 laws and regulations that are waived or suspended as part of
10 the program. Participation in the program shall be for a
11 demonstration period of 12 months. The bill specifies various
12 reporting and disclosure requirements for a participant in the
13 program. The bill allows the regulatory relief office to end a
14 participant's participation in the program at any time. The
15 bill also permits a participant in the program to request an
16 extension of the program for not more than 12 months after the
17 end of the initial demonstration period. Finally, the bill
18 provides that the regulatory relief office and employees of the
19 regulatory relief office are not liable for any business losses
20 or the recouping of application expenses or other expenses
21 related to the regulatory relief program.