



General Assembly

**Amendment**

January Session, 2009

LCO No. 5881

**\*SB0088005881SR0\***

Offered by:

SEN. MCKINNEY, 28<sup>th</sup> Dist.

SEN. FASANO, 34<sup>th</sup> Dist.

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To: Senate Bill No. 880

File No. 190

Cal. No. 181

**"AN ACT CONCERNING TRADE WITH AFRICA."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Subsection (a) of section 4-168 of the general statutes is  
4 repealed and the following is substituted in lieu thereof (*Effective*  
5 *October 1, 2009*):

6 (a) Except as provided in subsection (g) of this section, an agency,  
7 prior to adopting a proposed regulation, shall: (1) Give at least thirty  
8 days' notice by publication in the Connecticut Law Journal of its  
9 intended action. The notice shall include (A) either a statement of the  
10 terms or of the substance of the proposed regulation or a description  
11 sufficiently detailed so as to apprise persons likely to be affected of the  
12 issues and subjects involved in the proposed regulation, (B) a  
13 statement of the purposes for which the regulation is proposed, (C) a  
14 reference to the statutory authority for the proposed regulation, (D)

15 when, where and how interested persons may obtain a copy of the  
16 small business impact and regulatory flexibility analyses required  
17 pursuant to section 4-168a, as amended by this act, and [(D)] (E) when,  
18 where and how interested persons may present their views on the  
19 proposed regulation; (2) give notice by mail to each joint standing  
20 committee of the General Assembly having cognizance of the subject  
21 matter of the proposed regulation; (3) give notice by mail to all persons  
22 who have made requests to the agency for advance notice of its  
23 regulation-making proceedings. The agency may charge a reasonable  
24 fee for such notice based on the estimated cost of providing the service;  
25 (4) provide a copy of the proposed regulation to persons requesting it.  
26 The agency may charge a reasonable fee for copies in accordance with  
27 the provisions of section 1-212; (5) [following] no later than the date of  
28 publication of the notice in the Connecticut Law Journal, prepare a  
29 fiscal note, including [(A)] an estimate of the cost or of the revenue  
30 impact (A) on the state or any municipality of the state, and (B) on  
31 small businesses in the state, including an estimate of the number of  
32 small businesses subject to the proposed regulation and the projected  
33 costs, including but not limited to, reporting, recordkeeping and  
34 administrative, associated with compliance with the proposed  
35 regulation and, if applicable, the regulatory flexibility analysis  
36 prepared under section 4-168a, as amended by this act. The governing  
37 body of any municipality, if requested, shall provide the agency,  
38 within twenty working days, with any information that may be  
39 necessary for analysis in preparation of such fiscal note; (6) afford all  
40 interested persons reasonable opportunity to submit data, views or  
41 arguments, orally at a hearing granted under subdivision (7) of this  
42 subsection or in writing, and to inspect and copy the fiscal note  
43 prepared pursuant to subdivision (5) of this subsection; (7) grant an  
44 opportunity to present oral argument if requested by fifteen persons,  
45 by a governmental subdivision or agency or by an association having  
46 not less than fifteen members, if notice of the request is received by the  
47 agency within fourteen days after the date of publication of the notice;  
48 and (8) consider fully all written and oral submissions respecting the  
49 proposed regulation and revise the fiscal note in accordance with the

50 provisions of subdivision (5) of this subsection to indicate any changes  
51 made in the proposed regulation. No regulation shall be found invalid  
52 due to the failure of an agency to give notice to each committee of  
53 cognizance pursuant to subdivision (2) of this subsection, provided  
54 one such committee has been so notified.

55 Sec. 502. Section 4-168a of the general statutes is repealed and the  
56 following is substituted in lieu thereof (*Effective October 1, 2009*):

57 (a) As used in this section:

58 (1) "Agency", "proposed regulation" and "regulation" shall have the  
59 same meanings as provided in section 4-166; and

60 (2) "Small business" means a business entity, including its affiliates,  
61 that (A) is independently owned and operated and (B) employs fewer  
62 than [fifty] seventy-five full-time employees or has gross annual sales  
63 of less than five million dollars, provided that an agency, in adopting  
64 regulations in accordance with the provisions of this chapter, may  
65 define "small business" to include a greater number of full-time  
66 employees, not to exceed applicable federal standards or five hundred,  
67 whichever is less, if necessary to meet the needs and address specific  
68 problems of small businesses.

69 (b) Prior to the adoption of any proposed regulation, [on and after  
70 October 1, 1994,] each agency shall prepare a regulatory flexibility  
71 analysis in which the agency shall [, where consistent with public  
72 health, safety and welfare,] consider utilizing regulatory methods that  
73 will accomplish the objectives of applicable statutes while minimizing  
74 adverse impact on small businesses. Such regulatory methods shall be  
75 consistent with public health, safety and welfare. The agency shall  
76 consider, without limitation, each of the following methods of  
77 reducing the impact of the proposed regulation on small businesses:

78 (1) The establishment of less stringent compliance or reporting  
79 requirements for small businesses;

80 (2) The establishment of less stringent schedules or deadlines for  
81 compliance or reporting requirements for small businesses;

82 (3) The consolidation or simplification of compliance or reporting  
83 requirements for small businesses;

84 (4) The establishment of performance standards for small businesses  
85 to replace design or operational standards required in the proposed  
86 regulation; and

87 (5) The exemption of small businesses from all or any part of the  
88 requirements contained in the proposed regulation.

89 (c) Prior to the adoption of any proposed regulation that may have  
90 an adverse impact on small businesses, each agency shall notify the  
91 Department of Economic and Community Development and the joint  
92 standing committee of the General Assembly having cognizance of  
93 matters relating to commerce of its intent to adopt the proposed  
94 regulation. [The Department of Economic and Community  
95 Development] Said department and committee shall advise and assist  
96 agencies in complying with the provisions of this section.

97 (d) The requirements contained in this section shall not apply to  
98 emergency regulations issued pursuant to subsection (c) of section 4-  
99 168; regulations that do not affect small businesses directly, including,  
100 but not limited to, regulations concerning the administration of federal  
101 programs; regulations concerning costs and standards for service  
102 businesses such as nursing homes, long-term care facilities, medical  
103 care providers, day care facilities, water companies, nonprofit 501(c)(3)  
104 agencies, group homes and residential care facilities; and regulations  
105 adopted to implement the provisions of sections 4a-60g to 4a-60i,  
106 inclusive.

107 Sec. 503. Section 4-168b of the general statutes is repealed and the  
108 following is substituted in lieu thereof (*Effective October 1, 2009*):

109 (a) Each agency shall maintain an official regulation-making record

110 for the period required by law for each regulation it proposes in  
111 accordance with the provisions of section 4-168, as amended by this  
112 act. The regulation-making record and materials incorporated by  
113 reference in the record shall be available for public inspection and  
114 copying.

115 (b) The agency regulation-making record shall contain: (1) Copies of  
116 all publications in the Connecticut Law Journal with respect to the  
117 regulation or the proceeding upon which the regulation is based; (2) a  
118 copy of any written analysis prepared for the proceeding upon which  
119 the regulation is based, including the regulatory flexibility analyses  
120 required pursuant to section 4-168a, as amended by this act; (3) all  
121 written petitions, requests, submissions, and comments received by the  
122 agency and considered by the agency in connection with the  
123 formulation, proposal or adoption of the regulation or the proceeding  
124 upon which the regulation is based; (4) the official transcript, if any, of  
125 proceedings upon which the regulation is based or, if not transcribed,  
126 any tape recording or stenographic record of such proceedings, and  
127 any memoranda prepared by any member or employee of the agency  
128 summarizing the contents of the proceedings; (5) a copy of all official  
129 documents relating to the regulation, including the regulation filed in  
130 the office of the Secretary of the State, a statement of the principal  
131 considerations in opposition to the agency's action, and the agency's  
132 reasons for rejecting such considerations, as required pursuant to  
133 section 4-168, as amended by this act, and the fiscal note prepared  
134 pursuant to subsection (a) of said section 4-168 and section 4-170, as  
135 amended by this act; (6) a copy of any petition for the regulation filed  
136 pursuant to section 4-174; and (7) copies of all comments or  
137 communications between the agency and the legislative regulation  
138 review committee.

139 (c) The agency regulation-making record need not constitute the  
140 exclusive basis for agency action on that regulation or for judicial  
141 review thereof.

142 Sec. 504. Subsection (b) of section 4-170 of the general statutes is

143 repealed and the following is substituted in lieu thereof (*Effective*  
144 *October 1, 2009*):

145 (b) (1) No adoption, amendment or repeal of any regulation, except  
146 a regulation issued pursuant to subsection (f) of section 4-168, shall be  
147 effective until (A) the original of the proposed regulation approved by  
148 the Attorney General, as provided in section 4-169, the regulatory  
149 flexibility analyses as provided in section 4-168a, as amended by this  
150 act, and eighteen copies thereof are submitted to the standing  
151 legislative regulation review committee at the designated office of the  
152 committee, in a manner designated by the committee, by the agency  
153 proposing the regulation, (B) the regulation is approved by the  
154 committee, at a regular meeting or a special meeting called for the  
155 purpose, and (C) the regulation is filed in the office of the Secretary of  
156 the State by the agency, as provided in section 4-172. (2) The date of  
157 submission for purposes of subsection (c) of this section shall be the  
158 first Tuesday of each month. Any regulation received by the committee  
159 on or before the first Tuesday of a month shall be deemed to have been  
160 submitted on the first Tuesday of that month. Any regulation  
161 submitted after the first Tuesday of a month shall be deemed to be  
162 submitted on the first Tuesday of the next succeeding month. (3) The  
163 form of proposed regulations which are submitted to the committee  
164 shall be as follows: New language added to an existing regulation shall  
165 be in capital letters or underlining, as determined by the committee;  
166 language to be deleted shall be enclosed in brackets and a new  
167 regulation or new section of a regulation shall be preceded by the  
168 word "(NEW)" in capital letters. Each proposed regulation shall have a  
169 statement of its purpose following the final section of the regulation.  
170 (4) The committee may permit any proposed regulation, including, but  
171 not limited to, a proposed regulation which by reference incorporates  
172 in whole or in part, any other code, rule, regulation, standard or  
173 specification, to be submitted in summary form together with a  
174 statement of purpose for the proposed regulation. On and after  
175 October 1, 1994, if the committee finds that a federal statute requires,  
176 as a condition of the state exercising regulatory authority, that a

177 Connecticut regulation at all times must be identical to a federal statute  
178 or regulation, then the committee may approve a Connecticut  
179 regulation that by reference specifically incorporates future  
180 amendments to such federal statute or regulation provided the agency  
181 that proposed the Connecticut regulation shall submit for approval  
182 amendments to such Connecticut regulations to the committee not  
183 later than thirty days after the effective date of such amendment, and  
184 provided further the committee may hold a public hearing on such  
185 Connecticut amendments. (5) The agency shall [prepare a fiscal note,  
186 including an estimate of the cost or of the revenue impact on the state  
187 and any municipality, and shall] append a copy of the fiscal note,  
188 prepared pursuant to subsection (a) of section 4-168, as amended by  
189 this act, to each copy of the proposed regulation. At the time of  
190 submission to the committee, the agency shall mail or submit a copy of  
191 the proposed regulation and the fiscal note [, prepared in accordance  
192 with subsection (a) of section 4-168,] to (A) the Office of Fiscal Analysis  
193 which, within seven days of receipt, shall submit an analysis of the  
194 fiscal note to the committee; and (B) each joint standing committee of  
195 the General Assembly having cognizance of the subject matter of the  
196 proposed regulation. No regulation shall be found invalid due to the  
197 failure of an agency to submit a copy of the proposed regulation and  
198 the fiscal note to each committee of cognizance, provided such  
199 regulation and fiscal note has been submitted to one such committee."