

SENATE FLOOR VERSION

March 1, 2023

SENATE BILL NO. 118

By: Bergstrom

[industry regulation - program - Commission -
recommendations - consultations - application -
agreement - denial - rules - demonstration -
disclosure - records - report - participation -
codification - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 802 of Title 40, unless there is
created a duplication in numbering, reads as follows:

As used in this act:

1. "Applicable agency" means a department or agency of the
state that by law regulates a business activity and person engaged
in such business activity including the issuances of licenses or
other types of authorization, which the office determines would
otherwise regulate a participant;

1 2. "Applicant" means a person that purchases or otherwise
2 enters into a transaction or agreement to receive an offering
3 pursuant to a demonstration by a participant;

4 3. "Commission" means the General Regulatory Business Program
5 Advisory Commission;

6 4. "Commissioner" means the Commissioner of Labor;

7 5. "Consumer" means a person that purchases or otherwise enters
8 into a transaction or agreement to receive an offering pursuant to a
9 demonstration by a participant;

10 6. "Demonstrate" or "demonstration" means to temporarily
11 provide an offering in accordance with the provisions of this act;

12 7. "Director" means the Director of the General Regulatory
13 Business Relief Office;

14 8. "Innovation" means the use or incorporation of a new idea, a
15 new or emerging technology, or a new use of existing technology to
16 address a problem, provide a benefit, or otherwise offer a product,
17 production method, or service;

18 9. "Innovative offering" means an offering that includes an
19 innovation;

20 10. "Participant" means a person whose application to
21 participate in the General Regulatory Business Program is in
22 accordance with the provisions of this act;

23 11. "Product" means a commercially distributed good that is:

24 a. tangibly personal property,

1 b. the result of a production process, and

2 c. passed through the distribution channel before
3 consumption;

4 12. "Production" means the method or process of creating or
5 obtaining a good, which may include assembling, breeding, capturing,
6 collecting, extracting, fabricating, farming, fishing, gathering,
7 growing, harvesting, hunting, manufacturing, mining, processing,
8 raising, or trapping a good;

9 13. "Program" means the General Regulatory Business Program
10 created in Section 5 of this act, which allows a person to
11 temporarily demonstrate an offering under a waiver or suspension of
12 one or more state laws and regulation;

13 14. "Regulatory relief office" means the General Regulatory
14 Business Relief Office created in Section 2 of this act; and

15 15. "Service" means any commercial activity, duty, or labor
16 performed for another person.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 802.1 of Title 40, unless there
19 is created a duplication in numbering, reads as follows:

20 A. There is created within the Department of Labor the General
21 Regulatory Business Relief Office.

22 B. 1. The regulatory relief office shall be administered by
23 the Director of the General Regulatory Business Relief Office.

1 2. The Director shall report to the Commissioner of Labor and
2 may appoint staff subject to the approval of the Commissioner.

3 C. The regulatory relief office shall:

4 1. Administer the provisions of this act;

5 2. Administer the General Regulatory Business Program; and

6 3. Act as a liaison between private businesses and applicable
7 agencies to identify state laws or agency rules that could
8 potentially be repealed or suspended under the Program.

9 D. The regulatory relief office may:

10 1. Review state laws and regulations that may unnecessarily
11 inhibit the creation and success of new companies or industries and
12 provide recommendations to the Governor and the Legislature on
13 modifying such laws and regulations;

14 2. Create a framework for analyzing the risk level to the
15 health, safety, and financial well-being of consumers related to
16 permanently removing or temporarily suspending laws and agency rules
17 inhibiting the creation or success of new and existing companies or
18 industries;

19 3. Propose potential reciprocity agreements between states that
20 use or are proposing to use similar programs as described in this
21 act; and

22 4. In accordance with administrative rules and this act,
23 establish rules regarding:
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- a. administering this act including making rules regarding application process and the reporting requirements of participants, and
- b. cooperating and consulting with other agencies in this state that administer business programs.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 802.2 of Title 40, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the General Regulatory Business Program Advisory Commission.

B. The Commission shall consist of eleven (11) members to be appointed and serve as follows:

1. Six members appointed by the Director of the General Regulatory Business Relief Office who represent business interests and are selected from a variety of industries;

2. Three members appointed by the Director who represent state agencies that regulate business;

3. One member of the Senate, appointed by the President Pro Tempore of the Senate; and

4. One member of the House of Representatives, appointed by the Speaker of the House of Representatives.

C. 1. Except as otherwise provided in paragraph 2 of this subsection, members of the Commission who are not members of the Legislature shall be appointed to four-year terms.

1 2. The Director may adjust the length of terms of appointments
2 and reappointments to the Commission so the majority of members are
3 appointed every two years.

4 D. The Director shall appoint a chair for the Commission
5 annually.

6 E. A majority of the Commission shall constitute a quorum for
7 purposes of conducting the business of the Commission, and the
8 actions of the majority shall constitute the actions of the
9 Commission.

10 F. The Commission shall advise and make recommendations to the
11 regulatory relief office as described in this act.

12 G. The regulatory relief office shall provide administrative
13 staff support for the Commission.

14 H. Members shall not receive a salary for duties performed as
15 members of the Commission but shall be reimbursed for their actual
16 and necessary expenses incurred in the performance of Commission
17 duties pursuant to the provisions of the State Travel Reimbursement
18 Act.

19 I. The Commission shall be subject to the Oklahoma Open Meeting
20 Act and the Oklahoma Open Records Act.

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 802.3 of Title 40, unless there
23 is created a duplication in numbering, reads as follows:
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1 A. The Director of the General Regulatory Business Relief
2 Office shall prepare a report on the activities of the General
3 Regulatory Business Relief Office, which shall include:

4 1. Information regarding each participant in the General
5 Regulatory Business Program created in this act including which
6 industries each participant represents and the anticipated or actual
7 cost savings that each participant experienced;

8 2. Recommendations regarding any laws or agency rules that
9 should be permanently amended;

10 3. Information regarding outcomes for consumers; and

11 4. Recommendations for changes to the Program or other duties
12 of the regulatory relief office.

13 B. By October 1 of each year, the Director shall provide the
14 report to the Legislature.

15 SECTION 5. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 802.4 of Title 40, unless there
17 is created a duplication in numbering, reads as follows:

18 A. There is hereby created in the General Regulatory Business
19 Relief Office the General Regulatory Business Program.

20 B. In administering the Program, the regulatory relief office:

21 1. Shall consult with each applicable agency;

22 2. Shall establish a program to enable a person to obtain legal
23 protections and limited access to the market in this state to
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1 demonstrate an innovative offering without obtaining a license or
2 other authorization that might otherwise be required;

3 3. May enter into agreements with or adopt the best practices
4 of corresponding federal regulatory agencies or other states that
5 are administering similar programs; and

6 4. May consult with businesses in this state about existing or
7 potential proposals for the Program.

8 C. 1. An applicant for the Program may contact the regulatory
9 relief office to request a consultation regarding the Program before
10 submitting an application.

11 2. The regulatory relief office may provide assistance to an
12 applicant in preparing an application for submission.

13 D. An applicant for the Program shall provide the regulatory
14 relief office an application in a form prescribed by the regulatory
15 relief office that:

16 1. Confirms the applicant is subject to the jurisdiction of
17 this state;

18 2. Confirms the applicant has established a physical or virtual
19 location in this state, from which the demonstration of an
20 innovative offering will be developed and performed and where all
21 required records, documents, and data will be maintained;

22 3. Contains relevant personal and contact information for the
23 applicant including legal names, addresses, telephone numbers, email
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1 addresses, website addresses, and other information required by the
2 regulatory relief office;

3 4. Discloses criminal convictions of the applicant or other
4 participating personnel, if any;

5 5. Contains a description of the innovative offering to be
6 demonstrated including statements regarding:

7 a. how the offering is subject to licensing, legal
8 prohibition, or other authorization requirements
9 outside of the Program,

10 b. each law or rule that that the applicant seeks to have
11 waived or suspended while participating in the
12 Program,

13 c. how the offering would benefit consumers,

14 d. how the offering is different from other offerings
15 available in this state,

16 e. what risks may exist for consumers who use or purchase
17 the offering,

18 f. how participating in the Program would enable a
19 successful demonstration of the offering,

20 g. a description of the proposed demonstration plan
21 including estimated time periods for beginning and
22 ending the demonstration,

23 h. recognition that the applicant will be subject to all
24 laws and agency rules pertaining to the applicant's

1 offering after the conclusion of the demonstration,
2 and

3 i. how the applicant shall end the demonstration and
4 protect consumers if the demonstration fails;

5 6. Lists each government agency, if any, that the applicant
6 knows regulates the applicant's business; and

7 7. Provides any other required information as determined by the
8 regulatory relief office.

9 E. The regulatory relief office may collect an application fee
10 from an applicant set in administrative rules by the Department of
11 Labor.

12 F. An applicant shall file a separate application for each
13 innovative offering that the applicant wishes to demonstrate.

14 G. After an application is filed, the regulatory relief office:

15 1. Shall classify the application and any related information
16 provided by the applicant as confidential;

17 2. Consult with each applicable government agency that
18 regulates the applicant's business regarding whether more
19 information is needed from the applicant; and

20 3. Seek additional information from the applicant that the
21 regulatory relief office determines is necessary.

22 H. No later than five (5) business days after the day on which
23 a completed application is received, the regulatory relief office
24 shall:

1 1. Review the application and refer the application to each
2 applicable government agency that regulates the applicant's
3 business; and

4 2. Provide to the applicant:

- 5 a. an acknowledgement of receipt of the application, and
- 6 b. the identity and contact information of each
7 regulatory agency to which the application has been
8 referred for review.

9 I. 1. Subject to paragraphs 3 and 7 of this subsection, no
10 later than thirty (30) days after the applicable agency receives a
11 completed application for review, the applicable agency shall
12 provide a written report to the Director of the applicable agency's
13 findings.

14 2. The report shall:

- 15 a. describe any identifiable, likely, and significant
16 harm to the health, safety, or financial wellbeing of
17 consumers that the relevant law or rule protects
18 against, and
- 19 b. make a recommendation to the regulatory relief office
20 that the applicant either be admitted or denied
21 entrance into the Program.

22 3. a. the applicable agency may request an additional five
23 (5) business days to deliver the written report by
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1 providing notice to the Director, which request shall
2 automatically be granted, and

3 b. the applicable agency may only request one extension
4 per application.

5 4. If the applicable agency recommends an applicant under this
6 section be denied entrance into the Program, the written report
7 shall include a description of the reasons for the recommendation
8 including why a temporary waiver or suspension of the relevant laws
9 or agency rules would potentially significantly harm the health,
10 safety, or financial wellbeing of consumers or the public and the
11 likelihood of such harm occurring.

12 5. If the agency determines that the consumer's or public's
13 health, safety, or financial wellbeing can be protected through less
14 restrictive means than the existing relevant laws or agency rules,
15 then the applicable agency shall provide a recommendation of how
16 that may be achieved.

17 6. If an applicable agency fails to deliver a written report
18 pursuant to this subsection, the Director shall assume the
19 applicable agency does not object to the temporary waiver or
20 suspension of the relevant laws or agency rules for an applicant
21 seeking to participate in the Program.

22 7. Notwithstanding any other provisions of this section, an
23 applicable agency may by written notice to the regulatory relief
24 office:

1 a. within the thirty (30) days after the applicable
2 agency receives a completed application for review, or
3 within thirty-five (35) days if an extension has been
4 requested by the applicable agency, reject an
5 application if the applicable agency determines, in
6 the applicable agency's sole discretion, that the
7 applicant's offering fails to comply with standards or
8 specifications:

9 (1) required by federal law or rule, or

10 (2) previously approved for use by a federal agency,

11 or

12 b. reject an application preliminarily approved by the
13 regulatory relief office, if the applicable agency:

14 (1) recommended rejection of the application in
15 accordance with paragraph 4 of this subsection in
16 the agency's report, and

17 (2) provides in the written notice under paragraph 4
18 of this subsection, a description of the
19 applicable agency's reasons why approval of the
20 application would create a substantial risk of
21 harm to the health or safety of the public or
22 create unreasonable expenses for taxpayers of
23 this state.

1 8. If an applicable agency rejects an application under
2 paragraph 7 of this subsection, the regulatory relief office shall
3 not approve the application.

4 J. 1. Upon receiving a written report described in subsection
5 I of this section, the Director shall provide the application and
6 the written report to the Commission.

7 2. The Director may call the Commission to meet as needed, but
8 not less than once per quarter if applications are available for
9 review.

10 3. After receiving and reviewing the application and each
11 written report, the Commission shall provide to the Director the
12 Commission's recommendation as to whether or not the applicant
13 should be admitted as a participant under this act.

14 4. As part of the Commission's review of each written report,
15 the Commission shall use the criteria required for an applicable
16 agency as prescribed in subsection I of this section.

17 K. 1. In reviewing an application and each applicable agency's
18 written report, the regulatory relief office shall consult with each
19 applicable agency and the Commission before admitting an applicant
20 into the Program.

21 2. The consultation with each applicable agency and the
22 consultation with the Commission may include seeking information
23 about whether:
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- a. the applicable agency has previously issued a license or other authorization to the applicant, and
- b. the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant.

L. In reviewing an application under this section, the regulatory relief office and applicable agency shall consider whether a competitor to the applicant is or has been a participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a participant.

M. In reviewing an application under this section, the regulatory relief office shall consider whether:

1. The applicant's plan will adequately protect consumers from potential harm identified by an applicable agency in the applicable agency's written report;

2. The risk of harm to consumers is outweighed by the potential benefits to consumers from the applicant's participation in the Program; and

3. Certain state laws or agency rules that regulate an offering should not be waived or suspended even if the applicant is approved as a participant including applicable antifraud or disclosure provisions.

N. 1. An applicant becomes a participant if the regulatory relief office approves the application for the Program and enters

1 into a written agreement with the applicant describing the specific
2 laws or agency rules that are waived or suspended as part of
3 participation in the Program.

4 2. Notwithstanding any other provisions of this act, the
5 regulatory relief office may not enter into a written agreement with
6 an applicant that waives or suspends a tax, fee, or charges that are
7 administered by the Oklahoma Tax Commission.

8 O. 1. The Director may deny at the Director's sole discretion
9 any application submitted under this section for any reason
10 including if the Director determines that the preponderance of
11 evidence demonstrates that suspending or waiving enforcement of a
12 law or rule would cause a significant risk or harm to consumers or
13 residents of this state.

14 2. If the Director denies an application submitted under this
15 section, the regulatory relief office shall provide to the applicant
16 a written description of the reasons for not allowing the applicant
17 to be a participant.

18 3. The denial of an application submitted under this section is
19 not subject to:

20 a. agency or judicial review, or

21 b. the provisions of the Administrative Procedures Act.

22 P. The Director shall deny an application for participation in
23 the Program described in this section if the applicant or any person
24 who seeks to participate with the applicant in demonstrating an

1 offering has been convicted, entered a plea of nolo contendere, or
2 entered a plea of guilty for any crime involving significant theft,
3 fraud, or dishonesty if the crime bears a significant relationship
4 to the applicant's or other participant's ability to safely and
5 competently participate in the Program.

6 Q. When an applicant is approved for participation in the
7 Program, the Director may provide notice of the approval to
8 competitors of the applicant and the public.

9 SECTION 6. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 802.5 of Title 40, unless there
11 is created a duplication in numbering, reads as follows:

12 A. If the General Regulatory Business Relief Office approves an
13 application under this section, the participant has twelve (12)
14 months after approval to demonstrate the offering described in the
15 participant's application.

16 B. An offering that is demonstrated within the General
17 Regulatory Business Program is subject to the following:

18 1. Each consumer shall be a resident of this state; and

19 2. No law or rule may be waived or suspended if waiving or
20 suspending the law or rule would prevent a consumer from seeking
21 restitution in the event that the consumer is harmed.

22 C. This section does not restrict a participant who holds a
23 license or other authorization in another jurisdiction from acting
24 in accordance with that license or other authorization.

1 D. A participant is deemed to possess an appropriate license or
2 other authorization under the laws of this state for the purposes of
3 any provision of federal law requiring licensure or other
4 authorization by the state.

5 E. Except as provided in subsection F of this section, during
6 the demonstration period:

7 1. A participant is not subject to the enforcement of state
8 laws or agency rules identified in the written agreement between the
9 regulatory relief office and the participant;

10 2. A prosecutor may not file or pursue charges pertaining to a
11 law or rule identified in the written agreement between the
12 regulatory relief office and the participant; and

13 3. A state agency may not file or pursue any punitive action
14 against a participant including a fine or license suspension or
15 revocation, for the violation of a law or rule that is identified as
16 being waived or suspended in the written agreement between the
17 regulatory relief office and the participant.

18 F. Notwithstanding any other provision of this section, a
19 participant shall not have immunity related to any criminal offense
20 committed during the participant's participation in the Program.

21 G. By written notice, the regulatory relief office may end a
22 participant's participation in the Program at any time and for any
23 reason including if the Director determines that a participant is
24

1 not operating in good faith to bring an innovative offering to the
2 market.

3 H. The regulatory relief office and the regulatory relief
4 office's employees are not liable for any business losses or the
5 recouping of application expenses or other expenses related to the
6 Program including for:

7 1. Denying an applicant's application to participate in the
8 Program, for any reason; and

9 2. Ending a participant's participation in the Program at any
10 time and for any reason.

11 SECTION 7. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 802.6 of Title 40, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Before demonstrating an offering to a consumer, a
15 participant shall disclose the following to the consumer:

16 1. The name and contact information of the participant;

17 2. That the offering is authorized pursuant to this act and, if
18 applicable, that the participant does not have a license or other
19 authorization to provide an offering under state laws that regulate
20 an offering outside of the General Regulatory Business Program;

21 3. That the offering is undergoing testing and may not function
22 as intended and may expose the consumer to certain risks as
23 identified by the applicable agency's written report;

24

1 4. That the provider of the offering is not immune from civil
2 liability for any losses or damages caused by the offering;

3 5. That the provider of the offering is not immune from
4 criminal prosecution for violations of state law or agency rules
5 that are not suspended or waived as allowed by the Program;

6 6. That the offering is a temporary demonstration that may be
7 discounted at the end of the demonstration period;

8 7. The expected end date of the demonstration period; and

9 8. That a consumer may contact the General Regulatory Business
10 Relief Office and file a complaint regarding the offering being
11 demonstrated and provide the regulatory relief office's telephone
12 number and website address where a complaint may be filed.

13 B. The disclosures required by subsection A of this section
14 shall be provided to a consumer in a clear and conspicuous form and,
15 for an Internet or application-based offering, a consumer shall
16 acknowledge receipt of the disclosure before any transaction may be
17 completed.

18 C. The regulatory relief office may require that a participant
19 make additional disclosures to a consumer.

20 SECTION 8. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 802.7 of Title 40, unless there
22 is created a duplication in numbering, reads as follows:

23 A. No later than thirty (30) days before the end of the twelve-
24 month demonstration period, a participant shall:

1 1. Notify the General Regulatory Business Relief Office that
2 the participant shall exit the General Regulatory Business Program
3 and discontinue the participant's demonstration after the day on
4 which the twelve-month demonstration period ends; or

5 2. Seek an extension in accordance with Section 9 of this act.

6 B. Except as provided in subsection C of this section, if the
7 regulatory relief office does not receive notification as required
8 by subsection A of this section, the demonstration period shall end
9 at the end of the twelve-month period.

10 C. If a demonstration includes an offering that requires
11 ongoing duties, the participant may continue to do so but will be
12 subject to enforcement of the laws or agency rules that were waived
13 or suspended as part of the Program.

14 SECTION 9. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 802.8 of Title 40, unless there
16 is created a duplication in numbering, reads as follows:

17 A. No later than thirty (30) days before the end of the twelve-
18 month demonstration period, a participant may request an extension
19 of the demonstration period.

20 B. The General Regulatory Business Relief Office shall grant or
21 deny a request for an extension in accordance with subsection A of
22 this section by the end of the twelve-month period.

1 C. The regulatory relief office may grant an extension for not
2 more than twelve (12) months after the end of the demonstration
3 period.

4 SECTION 10. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 802.9 of Title 40, unless there
6 is created a duplication in numbering, reads as follows:

7 A. A participant shall retain records, documents, and data
8 produced in the ordinary course of business regarding an offering
9 demonstrated in the General Regulatory Business Program.

10 B. If a participant ceases to provide an offering before the
11 end of a demonstration period, the participant shall notify the
12 General Regulatory Business Relief Office and each applicable agency
13 and report on actions taken by the participant to ensure consumers
14 have not been harmed as a result. The regulatory relief office
15 shall establish quarterly reporting requirements for a participant
16 including information about any consumer complaints.

17 C. The regulatory relief office may request records, documents,
18 and data from a participant and, upon the regulatory relief office's
19 request, the participant shall make such records, documents, and
20 data available for inspection by the regulatory relief office.

21 D. 1. The participant shall notify the regulatory relief
22 office and each applicable agency of any incidents that result in
23 harm to the health, safety, or financial wellbeing of a consumer.
24

1 2. If a participant fails to notify the regulatory relief
2 office and each applicable agency of any incidents as described in
3 paragraph 1 of subsection E of this section, or the regulatory
4 relief office or an applicable agency has evidence that significant
5 harm to a consumer has occurred, the regulatory relief office may
6 immediately remove the participant from the Program.

7 E. 1. No later than thirty (30) days after the participant
8 exits the Program, the participant shall submit a written report to
9 the regulatory relief office and each applicable agency describing
10 an overview of the participant's demonstration including any:

- 11 a. incidents of harm to consumers,
- 12 b. legal action filed against the participant as a result
13 of the participant's demonstration, and
- 14 c. complaints filed with an applicable agency as a result
15 of the participant's demonstration.

16 2. No later than thirty (30) days after an applicable agency
17 receives the quarterly reporting described in subsection B of this
18 section or a written report from a participant pursuant to paragraph
19 1 of subsection E of this section, the applicable agency shall
20 provide a written report to the regulatory relief office on the
21 demonstration that describes any statutory or rule change the
22 applicable agency recommends as a result of the demonstration.

23 F. The regulatory relief office may remove a participant from
24 the Program at any time if the regulatory relief office determines

1 that a participant has engaged in, is engaging in, or is about to
2 engage in any practice or transaction that is in violation of this
3 act or that constitutes a violation of a law or rule for which
4 suspension or waiver has not been granted.

5 SECTION 11. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 802.10 of Title 40, unless there
7 is created a duplication in numbering, reads as follows:

8 A. The General Regulatory Business Relief Office shall create
9 and maintain on the Department of Labor's website a webpage that
10 invites residents and businesses in this state to make suggestions
11 regarding laws and agency rules that could be modified or eliminated
12 to reduce the regulatory burden of residents and businesses in this
13 state.

14 B. On no less than a quarterly basis, the regulatory relief
15 office shall compile the results of the suggestions from the webpage
16 and provide a written report to the Governor, the President Pro
17 Tempore of the Senate, and the Speaker of the House of
18 Representatives that describes the most common suggestions.

19 C. In creating the report described in subsection B of this
20 section, the regulatory relief office and the Commission:

21 1. Shall ensure the private information of residents and
22 businesses that make suggestions on the website is not made public;
23 and
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1 2. May evaluate the suggestions and provide analysis and
2 suggestions regarding which state laws and agency rules could be
3 modified or eliminated to reduce the regulatory burden of residents
4 and businesses in this state while still protecting consumers.

5 SECTION 12. This act shall become effective November 1, 2023.

6 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
7 March 1, 2023 - DO PASS
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