

Senate Bill 302

By: Senators Brush of the 24th, Johnson of the 1st and Crotts of the 17th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 50 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to state government, so as to enact the "State Regulatory
3 Responsibility Act"; to provide a short title; to provide a definition; to provide for the
4 legislative purpose of providing guidelines for state agencies to follow in determining when
5 to comply with federal guidance, submit to federal preemption, and comply with federal
6 regulatory mandates; to provide for other matters relative thereto; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 1 of Title 50 of the Official Code of Georgia Annotated, relating to general
11 provisions relative to state government, is amended by inserting at the end thereof a new
12 Code Section 50-1-7 to read as follows:

13 "50-1-7.

14 (a) This Code section shall be known and may be cited as the 'State Regulatory
15 Responsibility Act.'

16 (b) The purpose of this Code section is to provide guidelines for state agencies to follow
17 in determining when to comply with federal guidance, submit to federal preemption, and
18 comply with federal regulatory mandates.

19 (c) As used in this Code section, the term 'state agency' means a department, agency,
20 board, commission, or authority of state government.

21 (d) No state agency shall comply with any guidance or requirement by a federal agency
22 that is not entirely and in all respects consistent with state law, policy, and priorities, unless
23 such federal substantive rule is adopted in compliance with the federal Administrative
24 Procedure Act, 5 U.S.C. Section 553.

25 (e) Unless a federal guidance or requirement is clearly expressed and contained in a federal
26 statute or a federal substantive rule adopted in compliance with the federal Administrative

1 Procedure Act, 5 U.S.C. Section 553, no state agency shall fail to implement any state
2 statute, regulation, constitutional provision, or any order or other action authorized by any
3 such state law because of preemption by any federal law unless the federal law contains
4 preemptive language or preemption is so readily apparent from the text and legislative
5 history of the federal law or the state agency receives an opinion from the Attorney General
6 that such federal preemption clearly is required, under the totality of all relevant
7 circumstances, by the Constitution of the United States.

8 (f)(1) No state agency shall comply with any federal mandate that would require state
9 enactment, enforcement, administration, or implementation of any statute, rule, or other
10 law or that would require any form of regulation by the state or the performance of any
11 other governmental function protected against federal compulsion by the Tenth
12 Amendment or any other provision in the Constitution of the United States, unless:

13 (A) The state has agreed to take such action as a clear and express condition of receipt
14 of federal funds; or

15 (B) The state has agreed to take such action as a clear and express condition of
16 delegation of a federal program.

17 (2) Any ambiguity in a condition of receipt of federal funds or in a condition of
18 delegation of a federal program shall be construed so as to avoid federal control of any
19 state governmental function.

20 (3) No agency shall agree, as a condition of receiving federal funds, to comply with any
21 federal regulatory mandate or other requirement that the state agency perform a
22 governmental function within the scope of paragraph (1) of this subsection, unless:

23 (A) The federal funds are adequate to cover the costs of implementing the program;

24 (B) The state agency has express state statutory authority to implement the program;
25 and

26 (C) No action that the state agency is agreeing to perform conflicts with any state law.

27 (4) No state agency shall agree, as a condition of delegation of a federal program, to
28 comply with any federal regulatory mandate or other requirement that the state agency
29 perform a governmental function within the scope of paragraph (1) of this subsection
30 unless:

31 (A) The state agency has express state statutory authority to implement the program;
32 and

33 (B) No action that the state agency is agreeing to perform conflicts with any state law."

34 SECTION 2.

35 All laws and parts of laws in conflict with this Act are repealed.