

— LEGISLATIVE —
TESTIMONY

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**“No-more-stringent”
Requirements Protect
Michigan Businesses**

Senate Energy and Environment Committee

Opposition to Senate Bill 14

Repealing Michigan’s “no-more-stringent” law would impose a regressive and contradictory weight on the state’s business community.

I am pleased to offer this testimony on behalf of the Energy and Environmental Policy Initiative at the Mackinac Center. The Mackinac Center is a nonprofit research and educational institute that advances the principles of free markets and limited government. Through our research and education programs, we challenge government overreach and advocate for a free-market approach to public policy that allows people to realize their potential and dreams.

The Mackinac Center submits this testimony in opposition to Senate Bill 14. This bill will reimpose an unnecessary and duplicative layer of regulatory busywork on Michigan’s businesses as they seek to comply with state and federal regulations that accomplish the same environmental protection goals.

In March 2017 the National Federation of Independent Business supported the passage of House Bill 4205, the “no-more-stringent” bill, which SB 14 would repeal. NFIB pointed to the value of “more scrutiny and justification when the promulgation of rules is stricter than existing federal rule[s].” NFIB explained that smaller companies are the hardest hit when federal and state regulations attempt to achieve the same environmental protection goals.

NFIB’s testimony explained that the per employee costs of complying federal regulations is as much as 36% higher than those paid by larger businesses. The NFIB continues to make the same arguments today. They point out that NFIB’s monthly Small Business Economic Trends survey ranks “unreasonable government regulations...as a top problem” for small business owners.

With the passage of HB 4205, now Public Act 602 of 2018, the Michigan legislature helped to ensure state agencies could not overregulate and protected private businesses from being forced to pay the cost of arbitrary and duplicative regulatory processes.

The state of Michigan has implemented numerous programs, claiming a desire to provide aid to struggling small businesses. The MEDC’s Small Business Assistance and Resources page lists programs such as the Michigan Economic Opportunity Fund, the Manufacturing Technology Grant, and many others. These programs are described as “providing opportunities for those who are socially and economically disadvantaged due to a lack of access to capital and credit.” However, SB 14 would represent a regressive step backward by the legislature. It is contradictory for one state government agency to provide financial assistance to small businesses while another consumes that financial aid through the imposition of costly and repetitive regulation.

The former Director of the Mackinac Center's Property Rights Network, Russ Harding, served as director of the Michigan Department of Environmental Quality, from 1995 through 2002. Harding also "held senior management posts in environmental and natural resources departments in Arizona, Alaska and Missouri." Harding's background and experience demonstrates an awareness of the needs of state regulatory agencies to protect the natural environment.

In numerous publications, Harding recommended passing "a law that curtails the Michigan Department of Environmental Quality's ability to issue regulations that are more stringent than those of the federal government." Harding recommended that if legislators were unsure of the appropriate level of regulatory expansion, they "should at least pass a law that prevents state agencies from promulgating regulations more stringent than federal requirements without approval of the Legislature."

Opponents of the existing "no-more-stringent" requirements of Public Act 602 of 2018 argued that the bill would negatively impact state level efforts to address unique or pressing environmental concerns. However, as far back as 2005, Harding pointed out that, "such a law wouldn't hurt the environment; in fact, a good argument can be made for the law on environmental grounds alone." His contention today appears prophetic.

In 2018, I described how environmental groups across Michigan worried that passing the "no-more-stringent" law, would restrict the state's ability to address concerns over per- and polyfluoroalkyl substances (PFAS). Representatives of these groups specifically argued that waiting for the EPA to regulate would leave the state "sitting here with no hope of an end in sight."

However, even after Public Act 602 of 2018 was implemented, the Department of Environment, Great Lakes, and Energy has described the state as a "national leader in addressing PFAS," as recently as January of 2023. The existence of the Michigan PFAS Action Response Team (MPART) demonstrates that "no-more-stringent" law has not restricted the ability of the state to address a pressing and unique environmental concern such as PFAS.

That is because Public Act 602 of 2018 was written to allow state agencies to competently address unusual situations that have not been fully addressed by federal regulators. Under the current system, state agencies need only demonstrate a "clear and convincing need" before moving ahead with state-specific or more stringent standards.

As we argued in 2018, "the strength of" Public Act 602 of 2018 "is in its recognition of the value of reasonable environmental regulation, while still protecting Michigan's businesses, and promoting transparency in the regulatory decisions made by state agencies."

Legislators should recognize that repealing the "no-more-stringent" requirements by passing SB 14 would represent a regressive step backward for the state of Michigan. Passing SB 14 would impose an additional layer of duplicative and expensive regulatory pressures on businesses with no real environmental benefits.

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The Mackinac Center for Public Policy is dedicated to improving the understanding of economic principles and public policy among private citizens and public officials. A nonprofit and nonpartisan research and education institute, the Mackinac Center has grown to be one of the largest state-based think tanks in the country since its founding in 1987.

Additional information about the Mackinac Center and its mission to improve the quality of life in Michigan through sound public policy can be found at www.mackinac.org.

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