

A Bill

Balance of Powers Restoration Act

Whereas, the Constitution of The United States of America is the supreme law of the land;

Whereas, The United States of America was founded substantially on the principle of liberty to live and act as one chooses;

Whereas, the Constitution of the United States of America provides for certain powers of the Executive, Legislative and Judicial Branches of Government to protect individual liberty, and to provide for a proper separation and balance of power;

Whereas, subject to the veto power of the president of the United States, the Congress has the power to make laws;

Whereas, under the Constitution, individual liberty may be limited pursuant to laws enacted by Congress and signed into law by the president, but only for purposes specifically enumerated in the Constitution of the United States of America;

Whereas, the Executive Branch of government has been utilizing federal agencies to create regulations, edicts, pronouncements and other communications that, given the power of agencies and their ability to audit and penalize, have substantively become law;

Whereas, in many cases, the powers applied by federal agencies have not been granted to the agencies by any law, and no provision of the United States Constitution grants agencies such powers; and

Whereas, independent reputable studies have shown the excessive regulation in the United States is hurting the people and companies of the United States from a global competitive standpoint.

Therefore, in order to restore the power to make law in Congress, and to restore the separation and balance of powers, Congress hereby amends 5 U.S.C. § 553, by addition of the following subsections (f), (g), (h), (i) and (j), to be effective upon the date of execution of this bill into law:

(f) Notwithstanding any provision of law to the contrary, no agency may issue any regulation, edict, pronouncement, communication or act that functions as a law without specific authorization by Congress through a law enacted that specifically cites this subsection of this federal law for authority. For this purpose, any regulation, edict, pronouncement, communication or act that

requires any person, company, entity, organization or thing to do something, or prohibits any person, company, entity, organization or thing from doing something, functions as a law.

(g) Any final regulation in existence upon the enactment of this Act will be subject to the treatment accorded by subsection (f) of this section 553, except: (a) specific reference to 5 U.S.C § 553(f) does not apply; and (b) any final regulation ruled by the U.S. Supreme Court to be lawful prior to enactment of the Balance of Powers Restoration Act is law.

(h) Any agency regulation, edict, pronouncement, communication or act other than a final regulation promulgated in accordance with subsection (f) or (g) of this section is not law. However, if a federal court of law, upon final adjudication following all appeals, rules that an agency regulation, edit, pronouncement, communication or act is completely consistent with an existing law or laws (as applicable), then such regulation, edict, pronouncement, communication or action other than a final regulation promulgated in accordance with subsection (f) of this section will be treated as if it was law for all purposes.

(i) Subject to subsections (f), (g) and (h) of this section, any agency may issue guidance to persons, companies and organizations designed to assist persons, companies and organizations in implementation of any law or final regulation having the effect of law pursuant to subsections (f), (g) and (h) of this section.

(j) In the event an agency issues a regulation, edict, pronouncement, communication or act after enactment of the Balance of Powers Restoration Act that functions as a law without specific authorization from Congress through a law, and a court of law rules that the agency was not substantially justified (in accordance with the Equal Access to Justice Act or otherwise) in doing so, then the head of the agency who approved such regulation, edict, pronouncement, communication or act shall pay the greater of any fees and costs incurred by the agency (or the United States) due to such ruling or ten percent (10%) of the net worth of such head of agency to the Federal Government. For purposes of the preceding sentence, net worth will include all assets with respect to which an interest is owned and, if a person is married, his net worth will include the net worth of his spouse. It is unlawful, and punishable as a felony with a maximum prison term of ten years and a maximum fine of one-hundred times the fees and costs incurred by the agency (or the United States) for any person, entity or thing to directly or indirectly reimburse the head of an agency with respect to any liability incurred by such head of agency described in the preceding sentences. -END-