

**Rule Summary and Fiscal Analysis (Part A)****Department of Public Safety**

Agency Name

Division

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**4501-7-25**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Application for and renewal of CDL school instructor and training manager licenses.****RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **Yes**2. Are you proposing this rule as a result of recent legislation? **Yes**Bill Number: **HB98**General Assembly: **130**Sponsor: **Representatives  
Gonzales and Retherford**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **R.C. 4508.02**5. Statute(s) the rule, as filed, amplifies or implements: **R.C. 4508.02, R.C. 4508.03, R.C. 4508.04, R.C. 4508.05**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being filed according to a R.C. 119.032 review.

7. If the rule is an AMENDMENT, then summarize the changes and the content

of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rule sets forth the requirements for the training of instructors for class "A" and class "B," and the application process for the initial and renewal licenses. The rule further requires a specialized training and application process for training managers.

Paragraph (B)(1) was amended to separate the class "A" instructor license classification. Paragraph (B)(2) was proposed to provide for the class "B" instructor license classification. Language was added to paragraph (D)(2) to further clarify the requirement for the state and federal background checks. In paragraphs (D)(3) and (J)(3) language was added to clarify the requirements for passport photos. The language requires a plain solid background. Additional language is included to provide the format for electronically submitted photographs to clarify a process that is already in place. Paragraph (D)(6) was being amended to consider the training program in the classification for which the instructor intends to train. Paragraph (C)(8) was added to propose adding proof of taking the department provided sexual harassment course when applying for a license. Paragraphs (G), (H), (J), and (T) was being proposed for amendment to incorporate "renewal requirements." Paragraphs (M), (N), (O), and (P) was proposed to allow for a military member or spouse to renew without restrictions so long as the person or spouse was serving in a branch of the military. The additions of the four paragraphs were included to meet the requirements of section 5903.10 of the Revised Code. Paragraph (V) was amended to include instructors in the requirements for continuing education. Additionally, paragraph (W) was added to require for all instructors and training managers to take a sexual harassment course annually.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule incorporates the "Driver Training Instructor License Application," "Driver Training Personnel Physical Examination," "49 C.F.R. 391.43" and "Renewal Requirements." To comply with sections 121.71 to 121.74 of the Revised Code, this rule refers readers to 4501-7-01, which addresses the version/date of the material, as well as its availability. Paragraph (SS) of rule 4501-7-01 addresses all materials incorporated in the chapter in full compliance with statute.

9. If the rule incorporates a text or other material by reference, and it was

**infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

The "Driver Training Instructor License Application" and "Driver Training Personnel Physical Examination" are being filed with rule 4501-7-01 as part of this package. "Renewal requirements" and "49 C.F.R. 391.43" are not. "Renewal requirements" is a database application that is part of the Driver Training Program website, a program accessible to licensed schools, training managers, and instructors, or those who can reasonably be anticipated to be impacted by this rule, where information is electronically entered via an interface on the system. "49 C.F.R. 391.43" is subject to R.C. Section 121.75, which states that federal regulations are exempted from the provisions of R.C. section 121.71 to 121.74, as long as the material incorporated by reference is generally available and consists of a citation that will be intelligible to readers.

To comply with R.C. section 121.75, this rule refers readers to 4501-7-01 for dates and availability of all material incorporated by reference including federal regulations. These materials are still addressed in rule 4501-7-01 providing full citation, date/version as appropriate, and availability.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. Five Year Review (FYR) Date: **9/16/2014**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

**FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase/decrease** either **revenues/ expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will increase revenues.

\$23,655.00

The agency receives approximately \$5130 annually for initial instructor fees and approximately \$18,525 for renewal of instructor licenses. The total impact cannot be determined. The revenues are dependent upon the number of initial applications received and the number of instructors renewing. The total revenue generated for the renewal of instructor licenses includes all types of instructors and not just those licensed for CDL schools.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

The expenditures are appropriated through the 7036 fund (Highway Transportation Fund), ALI 761321 under Information and Education Operating.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The estimated costs of compliance for driver training instructors are outlined below and were provided by the CDL committee.

Instructor Fees

Initial Instructor application - \$25

Background checks # \$80 (encompasses a state and federal level check)

- state level \$30

- federal level \$80

Driver Abstract - \$8.50

Applicant photos - \$10

Physical - \$50 - \$75

Commercial instructor skills test - \$53.50 - \$85

Instructor's initial training - \$200 - \$500

Total cost for initial licensing of instructor - \$427.00 to \$783.50

Note: Schools will not incur training costs should an instructor have been trained within the previous ten years and is able to provide proof of such training. Additionally, the costs for the commercial instructor skills test depend upon the provider, third-party testing site or highway patrol testing site.

#### Instructor Renewal Fees

Renewal application - \$10

Driver abstract - \$8.50

Instructor photos - \$10

Total cost to renew instructor's license - \$28.50

#### Training Manager Fees

Training manager certification initial training course - \$550

Continuing education course required every three years - \$90

Note: If costs for wages, travel, and lodging are paid by the school, the cost to initially certify a training manager may be as much as \$1500. Likewise, the costs for continuing education may increase, as well, to an estimated total of \$700 to \$1000.

If costs for wages, travel and lodging are paid by the school, the cost to initially certify a disability instructor may be as much as \$800. Likewise, the costs for continuing education may increase to an estimated total of \$550.

#### Instructor Continuing Education Fees

Continuing Education course required every three years - \$25 - \$50

Note: The agency will provide credit for the continuing education course if the instructor can provide proof of attendance at a professional conference or if the enterprise requires an in-service for all employees. The agency intends to hold continuing education courses throughout Ohio to assist in reducing the costs incurred by the businesses and individuals. Additionally, schools may or may not pay for the amenities, such as meals or lodging.

The cost estimate was provided by the CDL rule review committee. Representatives for the CDL schools included Brian MacDonald (International

Trucking School of Ohio), Jim Rosen (Apollo Truck Driving Academy), Larry Braham (TDDS Technical Institute), Kreigh Spahr (Capital Transportation and Action in Motion), Eddie Mullins (Southern State Community College), Michael Moscinski (Trainco, Inc.), Michael Lattavo (Big Rig Truck Driving School, Inc.), Tom Hicswa (Clark State Community College), and Charles Thompson (Clark State Community College).

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

Yes. Pursuant to sections 4508.03 and 4508.04 of the Revised Code, no person shall operate a driver training school or act as a driver training instructor unless licensed by the director of public safety. The rule also prohibits an instructor from providing training until they are trained and licensed in the class of motor vehicle in which they intend to train.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

Yes, sanctions up to and including denial of application or revocation of license may be imposed if applicants or licensees fail to meet the requirements set forth in this rule.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

estimated costs of compliance for driver training instructors are outlined below and were provided by the CDL committee.

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- state level \$30

- federal level \$80

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Commercial instructor skills test - \$53.50 - \$85

Instructor's initial training - \$200 - \$500

Total cost for initial licensing of instructor - \$427.00 to \$783.50

Note: Schools will not incur training costs should an instructor have been trained within the previous ten years and is able to provide proof of such training.

Additionally, the costs for the commercial instructor skills test depend upon the provider, third-party testing site or highway patrol testing site.

#### Instructor Renewal Fees

Renewal application - \$10

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Instructor photos - \$10

Total cost to renew instructor's license - \$28.50

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Continuing education course required every three years - \$90

Note: If costs for wages, travel, and lodging are paid by the school, the cost to initially certify a training manager may be as much as \$1500. Likewise, the costs for continuing education may increase, as well, to an estimated total of \$700 to \$1000.

If costs for wages, travel and lodging are paid by the school, the cost to initially certify a disability instructor may be as much as \$800. Likewise, the costs for

continuing education may increase to an estimated total of \$550.

#### Instructor Continuing Education Fees

Continuing Education course required every three years - \$25 - \$50

Note: The agency will provide credit for the continuing education course if the instructor can provide proof of attendance at a professional conference or if the enterprise requires an in-service for all employees. The agency intends to hold continuing education courses throughout Ohio to assist in reducing the costs incurred by the businesses and individuals. Additionally, schools may or may not pay for the amenities, such as meals or lodging.

Sexual Harassment Training does not require a specific expenditure, however, the training will require approximately thirty minutes for instructors and training managers to complete annually.

The rule requires the driver training manager or authorizing official to report any traffic conviction received by an instructor or training manager. Additionally, the rule requires that the training manager and/or authorizing official report any criminal conviction of a training manager or instructor.

The rule also sets forth the requirement for a licensed instructor and training manager to provide proof of completion in order to receive continuing education credit. For the purposes of the newly proposed requirement of the sexual harassment course, no monetary costs will occur. It is estimated that the online course developed and provided by the department will take instructor and training managers thirty (30) minutes to complete.

The cost estimate was provided by the CDL rule review committee.

Representatives for the CDL schools included Brian MacDonald (International Trucking School of Ohio), Jim Rosen (Apollo Truck Driving Academy), Larry Braham (TDDS Technical Institute), Kreigh Spahr (Capital Transportation and Action in Motion), Eddie Mullins (Southern State Community College), Michael Moscinski (Trainco, Inc.), Michael Lattavo (Big Rig Truck Driving School, Inc.), Tom Hicswa (Clark State Community College), and Charles Thompson (Clark State Community College).