

**MEMORANDUM**

**TO:** Pamela Watkins, Rules Administrator, Ohio Department of Public Safety

**FROM:** Paula Steele, Regulatory Policy Advocate

**DATE:** February 8, 2013

**RE:** **CSI Review – Commercial Driver’s License Schools** (OAC 4501-7-23 and 4501-7-25)

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office’s comments to the Agency as provided for in ORC 107.54.

**Analysis**

The Ohio Department of Public Safety has submitted a rule package consisting of two amended rules which address the requirements for licensing of commercial/trucking driver training schools and instructors. The proposed rules prescribe training requirements, character and fitness, and application processes for instructor and training manager licenses. The rule package was filed with the CSI Office on November 13, 2012 with a public comment period ending on December 27, 2012. There were two comments received during the public comment period.

The amendments primarily update references; however, a proposed amendment will require passport-type photos to be included with the instructor license application and thus creates an adverse impact. Currently, the rule permits the use of BMV photos or passport-type photos. However, ORC 4507.53 only permits the Department of Public Safety (including the BMV) to release its digitized photos to a court; or to state, local, or federal governmental agencies for criminal justice purposes.

According to the BIA, there was adequate early stakeholder outreach. While the proposed rule change will align with State law, its adverse impact will be the time and cost to obtain the photos. The two public comments received during the CSI review process were against this change because of the added burden. However, upon follow-up, one of the commenters noted that by allowing schools to email the photos, the Department has significantly reduced the cost and eliminated his concerns.

Review of the rule package prompted a follow-up discussion with the department along with a request for additional clarifications in the BIA concerning the public purpose, the adverse impact, and the justification of the proposed rule. The department provided a revised BIA and after reviewing it and the proposed rule, the CSI Office determined that the rule satisfactorily meets the standards espoused by the CSI Office, and the adverse impact identified in the BIA is justified because the existing rule is in conflict with Ohio Revised Code requirements and the Department has minimized the impact from the change.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Department of Public Safety should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office