

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Public Safety

Regulation/Package Title: 4501-21

Rule Number(s): 4501- 21-01, 4501-21-02, 4501-21-04, 4501-21-05, 4501-21-06, 4501-21-08, 4501-21-12, 4501-21-13, 4501-21-15

Date: _____

Rule Type:

☐ New ☐ 5-Year Review

☒ **Amended** ☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

The rules in this package set forth the requirements to apply and become certified as a provider of an adult remedial driving course, a juvenile remedial course or an advanced

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juvenile program. The rules address the training requirements for the courses and instructors. These rules are proposed for amendment to incorporate advanced juvenile driver improvement programs in accordance with legislative changes set forth in SB19 of the 129th General Assembly. The proposed amendments include required course curriculum topics, training for advanced skills instructors and chief instructors, application process and range requirements.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

The statute authorizing the adoption of this regulation is division 4511.311 of the Revised Code.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.

No, the rule does not implement a federal requirement.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

N/A

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

It is the agency's responsibility and statutory authority to set standards to approve remedial courses. The regulation also establishes safety measures for students and standards for instructors providing advanced juvenile driver training.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The agency will measure the success of this regulation through the number of approved advanced juvenile driver improvement providers and the number of issued certificates of completion to students. The agency will also measure the success of the regulation on the number of complaints we receive to investigate.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

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The Ohio Department of Public Safety worked with a stakeholder representative group throughout the rule making process. This group was comprised of current providers for advanced skills programs and current traditional juvenile driver improvement providers. The *current providers of an advanced program included Mark Bloom (Bloom's School of Driving Dynamix), Steve Bidlack (Mid-Ohio), John Phillips (Honda Transportation Research Center), Ken Stout (DriveTeam) and Jeff Caldwell (Professional Driving Systems Driving School).* The current traditional juvenile driver improvement providers included Sharon Fife (*D&D Driving School*) and Peggy Mooney (*Wyandot's Remedial Program*). The agency e-mailed an invitation to participate in the rule review to prospective committee members in July of 2012.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The stakeholder group assisted with the development of the advanced juvenile driver improvement *program's standards, reviewing the drafted rules and identifying the business impact. The stakeholder's group recommended* that the advanced skills instructor and chief instructor training programs be offered through approved curriculum providers. The agency included the training recommendation in paragraph (E) of rule 4501-21-13. The *stakeholder's group also* provided the department with the dimensions of the ranges currently used in the advanced programs. The department used the dimensions provided to establish a standard for range exercises found in paragraph (A) of rule 4501-21-15. Additionally, the stakeholder group recommended specific training background requirements for a person to become a chief instructor. The agency determined that a chief instructor would be required to have advanced training experience in other driver training areas within the preceding ten years or a minimum of sixty hours over a two-year period experience as an advanced skills instructor in the advanced juvenile driver improvement program. The experience requirements were established in paragraph (E)(2) of rule 4501-21-13.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

With the exception of rule 4501-21-15, scientific data was not used in drafting the rules for Chapter 4501-21. In rule 4501-21-15 the agency determined the standards of the range based upon speed and necessary safety requirements for a vehicle to navigate through each skill exercise safely. The standards were provided through the current advanced driver training providers (e.g. Honda Transportation Research Center, *Mid-Ohio and Bloom's School of Driving Dynamix*).

The agency contacted several insurance providers to obtain the minimum insurance requirements.

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10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The agency considered providing the curriculum and training for the skills instructors and chief instructors. The agency determined this to be a non-viable solution since the expertise was in the field with the current advanced skills providers. The agency also considered prospective enterprises to develop and submit their own curriculum for approval. The agency determined this was not a viable solution either since the expertise and training is with those providers of advanced courses. The expertise in driving dynamics needs to be established and the ability to train in an advanced setting needs to be standard for the safety of the public.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

The agency determined the curriculum providers of the advanced juvenile driver training program would determine the successful completion of each advanced skills instructor based on the assessment and hands-on training.

The proposed rules also provide for the successful completion of a student in the behind-the-wheel range exercises to be based on an assessment. The assessment is based upon the *student's progress in each skills exercise.*

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The agency performed a review of the Revised Code 4511.311 and Ohio Administrative Code Chapters 4501-21-01 through 4501-21-14 to prevent duplication.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The agency visited four advanced providers and ran through the program of each advanced program after the legislation was passed. The agency became familiar with each type of skills exercise and course curriculum. The agency will continue to attend all continuing education courses offered for the chief instructors to gain additional knowledge of the programs and updated information.

The agency will review and approve the advanced juvenile driver improvement program curriculum providers. The agency will make all documents as required in the rules available to *each provider on the agency's website.* Additionally, standards for developing a curriculum, an advanced skills instructor and a chief instructor training program will be

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available on the agency's website. The agency will follow standard policies for approving each advanced juvenile driver training program provider and curriculum provider. If there is a problem with the range dimensions, curriculum or application, agency staff will contact the applicant and give the applicant time to remedy the problem.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

There are currently ninety (90) approved traditional juvenile remedial providers in the State of Ohio. There are at least five (5) providers of an advanced driving program in the State of Ohio that are not regulated by the agency.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

The adverse impact includes costs associated with an advanced skills instructor training program, a chief instructor training program, continuing education courses, driving abstracts, background checks and costs for certificates of completion issued to students.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

The estimated costs of compliance for advanced juvenile driver improvement program providers were provided by the stakeholder group previously listed. The program is new and the agency will better determine costs as the program is implemented.

Training program fees for an instructor or chief instructor of an advanced juvenile driver improvement program are established by the curriculum providers. The *stakeholder’s group estimates that curriculum training programs will cost between \$900 and \$1500.*

Training program fees for the continuing education requirements for chief instructors are established by the curriculum providers. The *stakeholder’s group estimates the continuing education course will cost between \$100 and \$200.*

The cost for an authorizing official to apply for an original approval is estimated to be between \$22 and \$80 for a background check. There are no fees required by the *agency for the submission of the “Remedial Course Provider Application.”*

The cost for an authorizing official to apply for a renewal is estimated to be between \$22 and \$80 for a background check. There are no fees required by the agency for a submission of a renewal for remedial driving course.

Annually authorizing officials are required to obtain a driving abstract for each chief instructor and advanced skills instructor. The costs associated with the driving abstracts are estimated to be \$8.50 per instructor.

The cost for certificates of completion is \$4 per certificate. Since the advanced juvenile driver improvement program is a newly established program, the total costs are difficult to specify at this time. The total costs for certificates are determined by the number of students completing the advanced juvenile driver improvement program.

The estimated cost for the equipment necessary to comply with the range, as set forth in rule 4501-21-15, would include a vehicle for the spin-and-skid car, equipment for the vehicle and insurance. The group provided separate estimates based on the *programs. A couple providers use the students' vehicles to provide the training which* reduces the costs for additional vehicles. The other providers use their own vehicles.

Equipment

Vehicle for Spin-and-skid car (with equipment) - \$10,000

The estimated cost provided above depends upon the *manufacturer's cost of the* devices required to *simulate the loss of grip and maintain all four of the vehicle's tire* contact patches as set forth in paragraph (E) of rule 4501-21-15.

The estimated insurance costs were determined as negligible. A company using their *own vehicles or the students' vehicles can be covered under the business' general* liability insurance so long as the vehicle is not used on public roads. Therefore those costs associated are already covered in the business general liability insurance.

A business applying for an initial course approval or a renewal of the course approval may spend approximately one hour filling out the required applications and supporting documents.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

It is the responsibility of the agency to ensure the protection of the public by setting standards for the training requirements for personnel and students receiving advanced driving instruction. The agency, along with the stakeholder group determined the regulations were balanced between the needs of the community regarding the quality of the program, student safety during skill exercises and the mandates of the legislation.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

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The proposed regulations in rule 4501-21-15 allow for consideration of alternative range dimensions in lieu of the department provided standards established by the stakeholder group and the agency. The proposed regulations in rule 4501-21-15 also provides for two different uses of vehicles for the exercises. The advanced provider may use their own vehicles *or they may use the students' vehicles for the exercises.*

The proposed regulations in rule 4501-21-13 allow for consideration of eligibility of a person for a chief instructor based on background and experience in instructing an advanced driver training program.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Agency policy directs staff to work with the schools and instructors to allow them time and consideration to correct paperwork violations. The staff identifies the issue and communicates with the school. The agency may also issue a warning letter, in lieu of notice of disciplinary action, should a minor violation be identified that may be corrected.

18. What resources are available to assist small businesses with compliance of the regulation?

To assist small businesses with compliance of the regulation, the agency created the Advanced Juvenile Driver Improvement Program Dimension Guide. The guide provides a resource on setting up the range dimensions as required by rule 4501-21-15.

The agency has also provided forms of all required documentation on the agency's website. These forms are available for use at no cost to the advanced provider.