

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Public Safety

Regulation/Package Title: 4501-21 Remedial Driving Courses

Rule Number(s): 4501-21-01, 4501-21-02, 4501-21- 03, 4501-21-04, 4501-21-05, 4501-21-06,
4501-21-07, 4501-21-08, 4501-21-09, 4501-21-10, 4501-21-11, 4501-21-12, 4501-21-13, 4501-
21-14, 4501-21-15, 4501-21-16, 4501-21-17

Date: December 2014

Rule Type:

☒ New

☒ Amended

☐ 5-Year Review

☐ Rescinded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

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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 remedial driving course. The rules address training requirements for instructors, course managers, chief instructors, and advanced skills instructors. The rules address the place of business for a remedial driving course office and classroom. The rules also address financial responsibility, certificates of completion, and records. Additionally, the rules package addresses the jurisdiction of the department in regulating, inspecting and taking action against an approved remedial driving course.

The proposed amendments includes incorporated materials, updating curriculum topics and requiring specialized continuing education for remedial driving course instructors, course managers, chief instructors, and advanced skills instructors. The proposed amendments include clarifications for home offices, application processes, renewal requirements, and closing procedures. The additional proposed amendments include clarification of requirements included in the enrollment contracts. Language from rule 4501-7-13 was removed pertaining to the certificate of completion. The language was moved to rule 4501-7-12. Additionally, the requirements for instructors was removed from rule 4501-7-13 and moved to the new rule 4501-21-16.

Rules 4501-21-11 to 4501-21-13 are proposed for simultaneous rescission and adoption as new under the same rule numbers due to reorganization of content and to clarify information to be provided in enrollment contracts, address materials incorporated by reference, and to move content pertaining to training requirements for instructors to new rule 4501-21-16. Rules 4501-21-16 and 4501-21-17 are proposed for adoption to set forth training and continuing education requirements for remedial driving course instructors and to address materials incorporated by reference in OAC Chapter 4501-21. Finally, rules 4501-21-02, as well as rules 4502-21-07 to 4501-21-10, are proposed for filing without change as it was determined that these rules are still required, but no change is needed at this time.

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

The statutes authorizing the adoption of these rules are sections 4510.037, 4510.038, and 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 rules do 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 is to ensure that remedial programs are consistently administered, curriculums are relevant and up-to-date, and personnel are qualified to instruct, thus increasing the successful completion of remedial instruction for students.

- 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 the regulations through the number of program reviews resulting in no violations. In addition, the agency will measure the success of the regulation through the number of complaints received resulting in investigations of the remedial driving programs..

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.

Tuesday, May 13, 2014, all remedial providers were contacted via e-mail with an invitation to participate on the remedial rule review committee. Representatives of remedial driving course providers and approved curriculum providers replied. Representatives for the remedial rule review committee included: Rod Hall (First Drive Driving School and Ohio's Best Adult Remedial curriculum); Sharon Fife (D&D Driving School); Colleen Butch (John Butch Driving School); Robert Momany (Safety Council of Northwest Ohio); Mark Bloom (Bloom School of Driving Dynamics); Deborah Drake (Ohio Driving Center LLC); W. Lisa Thomas (Addictions Resource Center); Phyllis Cole (Weekend Intervention Program); Karen Blumhorst (Capabilities Inc.); Kathy Dove (Great Oaks I.T.C.D.); Daniel Cox (Heights Driving School and Ohio Excellence for Remedial curriculum); Jeff Caldwell (Professional Driving Systems Driving School); and Lisa Harris (Superior Driving Academy).

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

The stakeholders addressed the need for clarification for use of a home office. This is clarified in several rules to allow for the use of a home office for administrative functions. The stakeholders discussed having the department track the *instructors'* completion of continuing education requirements. . The continuing education requirements are incorporated in the rules; however, the curriculum providers are responsible for tracking the information. The department does not have the staff to accommodate the number of instructors nor the means to track the instructors.

The stakeholders discussed the possibility of the department licensing all remedial instructors. This was not included in the rules because the jurisdiction of the department does not include licensing of instructors for the remedial programs.

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 (Mark Bloom and Jeff Caldwell).

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 allowing home offices for remedial programs. The agency determined this would be an alternate route for those remedial programs operating out of hosted sites at other businesses (i.e. hotel conference rooms or local car dealers). In these cases, students are only present at the host site location, while phone calls, course paperwork and online registration are handled at home. Consequently, remedial programs may use a home office for administrative functions, but no students are permitted in the home. .

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 adult remedial and of the advanced juvenile driver improvement program would determine the successful completion of each instructor based upon their established requirements.

The juvenile driver improvement course provides for a final assessment of the students, but does not require a test for the student to complete the course. Therefore, the juvenile driver *improvement program provider would determine the student's successful completion through* participation in the course.

Additionally, in the advanced juvenile driver improvement program, the successful completion of the program is determined *by the student's* progress in the behind-the-wheel skills assessment.

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 4510.311, 4510.037, and 4510.038 and Ohio Administrative Code Chapters 4501-21-01 through 4501-21-15 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 intends to hold an open forum for all remedial driving courses and remedial curriculum providers to discuss the changes in the rules and address any additional questions pertaining to the changes. The date and time for the open forum has not yet been established. The agency will continue to follow standard policies for approving curriculum providers and the remedial driving course providers. If there are problems arising from complaints, discrepancies or violations from biennial program reviews, curriculum or applications, agency staff will contact the applicant or provider to give 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 approximately 150 remedial driving course providers and eight curriculum providers.

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

The adverse impact includes the costs associated with curriculum provider training programs, continuing education courses, driving abstracts and background checks for authorizing officials, and cost for certificates of completion issued to students.

c. Quantify the expected adverse impact from the regulation.

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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.

4501-21-03

This rule requires driver training schools to have an established place of business, and this rule defines, at minimum, what constitutes a place of business. It is difficult to summarize specific costs as costs will vary with each facility and location based on a licensee’s preference for his business beyond that which is minimally required. However, it is expected that the requirements set forth in this rule will not create costs of compliance that exceed those associated with establishing and maintaining a typical driver training school. The estimated cost for stakeholders who choose to lease a place of business includes a lease agreement, which average about \$735.83 per location with multi-year terms or on a month-to-month term.

**Note: The costs of compliance for some schools’ place of business may be minimized if they run other businesses from the same office (i.e. Driver Intervention Programs or other driver education programs). Some approved providers may have no costs of compliance if they operate programs through hotels where they only use the office the day of the course. In these cases, the business operations only occur on the day the course operates.*

4501-21-04

The rule does require the authorizing official to report any injury, mental or physical impairments, and includes any alcohol, drug or medicinal *impairment that affects the person’s* ability to instruct or manage the program safely. Additionally, the school shall notify the department of any legal action that is filed by or against the remedial driving course because the remedial driving course failed to perform or operate its courses safely.

4501-21-05

The estimated costs of compliance include background check fees for applications and renewals, and postage.

Remedial Driving Course Application

Background check - \$30 - \$80 per authorizing official and owner

Postage for mailing application - \$3.03

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Total cost for enterprise application - \$33.03 – \$83.03

*Note: The cost for a background check depends upon the business used to complete the fingerprinting. The business may impose an additional fee for services.

The time associated with compiling a remedial driving course application is estimated to be two to four hours depending upon how many locations are being opened.

A remedial driving course shall supply a copy of a current fire inspection. The time associated with the inspection includes scheduling of up to a month to schedule and the actual inspection is on average thirty (30) minutes.

A remedial driving course shall supply a copy of the building use agreement. The time associated with obtaining the building use agreement is estimated to be one week. The timeframe depends upon the lessor and lessee.

Renewal of Remedial Course Approval

Background check - \$30 - \$80 per authorizing official and owner

Postage for mailing application - \$3.03

Total cost for enterprise application - \$33.03 – \$83.03

*Note: The current process for remedial course renewals include a full renewal as addressed in rule every other year. Therefore, the costs listed apply for every other year. The alternate year only requires one item that may be faxed.

The time associated with compiling a remedial driving course renewal is estimated to be one to three hours. The time depends upon the number of locations used by the remedial driving course.

In addition to the costs provided above, the rule requires specific report of information pertaining to the closure of the remedial driving course. No direct costs are associated with sending in the closing form. The time associated with filing out the form is 5 minutes.

4501-21-06

While there are no direct monetary costs, there is time associated with creating and submitting a proposed curriculum to obtain approval by the department to become a remedial curriculum provider. The time associated with developing the curriculum may take four to six months. The time associated with obtaining approval may take two months.

4501-21-07

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The estimated cost of compliance for stakeholders includes the cost for the bond or escrow account. The amount of coverage required is based upon the number of students trained or anticipated to be trained multiplied by the set cost of the course. The estimated cost of for the bond ranges from 1% to 30% of the actual amount of the bond. The percentage depends on credit and assets. The estimated cost for the escrow account requires the full amount to be placed into the account. The rule allows an exemption for a business that already maintains a bond or escrow account in an amount that would be sufficient to cover the cost of reimbursing students. Additionally the rule provides an exemption for those schools operating under the authority of the State of Ohio or a political subdivision.

4501-21-09

The rule may require time impacts for the stakeholders. Depending upon the number of locations, amount of student paperwork or questions posed by the small businesses, the time requirements may vary for each inspection. An inspection may require from fifteen minutes up to two hours for an inspection.

4501-21-12

The costs of compliance include the actual costs of certificates and time to capture appropriate data on the student records.

Certificate of completion - \$4

* The adverse impact on the schools is based on the total number of students that successfully completed a course by the business enterprise. The stakeholder group indicated these certificate costs are included in the cost of the course and paid by the student.

The estimated time to type and issue a certificate is approximately three (3) minutes per student.

The estimated time to complete all records and file them takes approximately five (5) to ten (10) minutes per student. The time estimate includes establishing the contract, recording all data captured in the required documents, and filing of the related documents.

4501-21-14

The estimated cost of compliance is difficult to identify since there are no current approved adult remedial programs offering technology-based instruction. In 2009, there was one approved provider; however no student took the course during the time the course was approved.

4501-21-15

The estimated cost for the equipment necessary to comply with the range would include a vehicle for the spin-and-skid car, equipment for the vehicle, and insurance. The cost for vehicles may be *reduced for those programs using the students' vehicles.*

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Equipment

Vehicle for spin-and-skid control - \$10,000

The estimates cost provided above depends upon the manufacturer's cost if the devices required to simulate loss of grip and maintain all four of the vehicle's tire contact patches.

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

4501-21-16

The estimated costs include training requirements through curriculum providers and the costs for a background check and driving record.

Adult Remedial Curriculum

The original three –day instructor course is estimated to cost between \$350 and \$1,000 per person for the training and curriculum.

Continuing education is estimated to be \$150 per person every five years.

*The costs are determined by the adult remedial curriculum provider.

Juvenile Driver Improvement Program

The cost for the original two-day training plus the curriculum is \$200 per person.

Continuing education is estimated to cost \$25 per person.

*Note: Since the department is responsible for writing the curriculum and training instructors in the curriculum, the costs are much lower. The course costs are limited to the cost of materials used during the training.

Advanced Juvenile Driver Improvement Curriculum

The cost for the original two-day training course and curriculum is estimated to be \$400.

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Continuing education is estimated to be \$100 per person every five years.

*The costs are determined by the curriculum provider.

The rule allows the department to require attendance of any department-sponsored workshops for all the remedial driving course instructors. It is the intention of the department, at this time, to not charge for those workshops.

Report of Information

The authorizing official, course manager, chief instructor, instructor, or advanced instructor is required to report any *criminal convictions or traffic convictions that would result in the person's* inability to instruct in a remedial driving course.

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 remedial driving course 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 programs 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.

The regulations in rule 4501-21-15 allow for consideration of alternative range dimensions in lieu of the department's standards established by the stakeholder group and the agency. The regulations in rule 4501-21-15 also provide for the use of two different vehicles for the exercises. *The advanced provider may use their own vehicles or they may use the students' vehicles for the exercises.* In addition, the regulations in rule 4501-21-16 allow for consideration of eligibility of a person for a chief instructor based on background and experience in instructing an advanced driver training program.

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Additionally, the agency is considering the alternate home office for those remedial programs that operate in one-day facilities, such as hotel conference rooms. The instructors only meet the students the day of class at the training location. The administrative tasks, including phone calls, creating certificates of completion and scheduling, may be accomplished at home. No student would be permitted to visit the home office; however, this would allow for reduced costs for offices where students would not be seen.

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 Adult Remedial Approval Criteria and the Advanced Juvenile Driver Improvement Program Resource Guide. The dimension guide provides a resource on setting up the range dimensions as required by rule 4501-21-15. The adult remedial approval criteria establish all standards required for creating an adult remedial curriculum. The advanced juvenile driver improvement program resource guide provides the established criteria for becoming approved as a curriculum provider.

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.