

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Department of Public Safety, Bureau of Motor Vehicles

Regulation/Package Title: New Motor Vehicle Dealer Show and Display Penalties

Rule Number(s): 4501:1-3-12

Date: April 2, 2015

**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☐ Rescinded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**

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

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

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This rule is being proposed to implement provisions of House Bill 318 that require the Motor Vehicle Dealers Board to adopt rules establishing the amount of administrative penalty that a person may be ordered to pay for violation of section 4517.22 or 4517.221 of the Revised Code. This rule establishes the amount of such penalty at not more than five hundred dollars for the first violation and not more than one thousand dollars for subsequent violations.

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

Ohio Revised Code sections 4501.02 and 4517.22.

**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.

**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)?**

R.C. 4517.22 requires the board to adopt rules establishing the amount of administrative penalties a person must pay for each violation of sections 4517.22 or 4517.221 of the R.C.

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

The Motor Vehicle Dealer Board will monitor the number of disciplinary hearings resulting from violations of sections 4517.22 and 4517.221 of the Revised Code. With the enactment of an administrative penalty the agency anticipates new motor vehicle dealers to comply with the requirements to display at a location other than the dealer's established place of business.

**Development of the Regulation**

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

The Bureau of Motor Vehicles (BMV) distributed a copy of the proposed rule to stakeholder representatives on March 16, 2015, including representatives and attorneys from the dealer associations (Ohio Auto Dealers Association (OADA), and Greater Cleveland Auto Dealers Association (GCADA)). The group was given the opportunity to discuss and provide feedback on the proposed rule. No comments were received from stakeholders.

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

There was no discussion or feedback provided during the first comment period of the proposed rule in March 2015.

**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?**

N/A.

**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 BMV did not consider any regulatory alternatives as R.C. 4517.22 requires the board to adopt rules establishing administrative penalties not to exceed \$1,000 for each violation of the statutes.

**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.***

This rule does not set forth specific actions for stakeholders to complete, and therefore, performance-based provisions were not considered.

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

Research was completed by reviewing the Ohio Revised Code Chapter 4517. and Ohio Administrative Code Chapter 4501:1-3.

**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.**

Implementation will include published updates through the BMV's dealer licensing website, which is the resource typically used for communications between the dealers and the BMV dealers licensing section.

The affidavit for a new motor vehicle dealer show, new motor vehicle dealer display, distributor display, and manufacturer display will be updated to include the administrative penalty information.

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

- a. There are currently one thousand six hundred and thirty five (1,635) new motor vehicle dealers and sixty six (66) distributors that would be impacted by the adoption of this rule.
- b. Pursuant to section 4517.22 of the Revised Code, the Motor Vehicle Dealers Board shall adopt rules establishing the amount of administrative penalty that a person may be ordered to pay for violation of section 4517.22 or 4517.221 of the Revised Code. This rule establishes the amount of such penalties.
- c. Pursuant to section 4517.22 of the Revised Code, the Motor Vehicle Dealers Board shall adopt rules establishing the amount of administrative penalty that a person may be ordered to pay for violation of section 4517.22 or 4517.221 of the Revised Code. This rule establishes the amount of such penalty at not more than five hundred dollars for the first violation and not more than one thousand dollars for subsequent violations.

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

The Motor Vehicle Dealers Board determined that the rule is justified as pursuant to section 4517.22 of the Revised Code, which requires the Board to adopt rules establishing the amount of administrative penalty that a person may be ordered to pay for violation of section 4517.22 or 4517.221 of the Revised Code. This rule complies with that requirement.

### **Regulatory Flexibility**

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

Not applicable. Section 4517.22 of the Revised Code does not provide any means of alternative compliance.

However, as the statute authorizes the Board to charge administrative penalties up to one thousand dollars per violation. This rule does provide the Board discretion and flexibility by establishing a tier of administrative penalties from five hundred to one thousand dollars.

**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?**

N/A.

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

Motor vehicle dealers may call the BMV and speak directly with a dealer licensing customer service assistant, and view Ohio Revised Code and Administrative Code requirements via the BMV's dealer licensing website.