

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Public Safety

Regulation/Package Title: Commercial Driver Training Schools

Rule Number(s): 4501-7-01, 4501-7-03, 4501-7-04, 4501-7-05, 4501-7-06, 4501-7-09, 4501-7-10, 4501-7-11, 4501-7-12, 4501-7-13, 4501-7-14, 4501-7-21, 4501-7-24, 4501-7-25, 4501-7-28, 4501-7-30, 4501-7-31, 4501-7-37, 4501-7-39

Date: August 3, 2015

Rule Type:

| | |
|---|--|
| <input type="checkbox"/> New | <input type="checkbox"/> 5-Year Review |
| <input checked="" type="checkbox"/> Amended | <input type="checkbox"/> Rescinded |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

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117
CSIOhio@governor.ohio.gov

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 for the education and training of beginning drivers and commercial drivers. The rules address the requirements for the licensing of driver training schools and instructors. These rules are proposed for amendment to clarify language, require a six-month probationary license period for all instructors and allow for immediate suspensions based upon conduct by an instructor or school as adopted by HB 53. The proposals include increasing hours of training for instructor applicants, defining the requirements for disability instructors, and requiring training on human trafficking prevention for CDL licensees.

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

ORC 4508.

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.

No federal requirements currently exist implementing or requiring training in the operation of commercial motor vehicles.

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 license schools, instructors and set consistent standards for those training the public in the operation of motor vehicles and commercial motor vehicles. The regulation is to protect the safety and welfare of the public by ensuring that all new drivers and CDL drivers receive consistent, quality instruction delivered by enterprises that meet specific standards in program administration and by instructors who meet the character, fitness, education, and experience requirements expected of persons who intend to instruct new drivers in the operation of motor vehicles.

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 probationary license requirement on the number of instructors passing the probationary period. The agency will measure the success of the

regulations for the disability instructors on how many new medically based instructors are licensed.

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.

All online, class "D," disability, and CDL driver training schools, were contacted in 2015 through an e-mail. The e-mails requested those interested in sitting on the rule review committee to send notification to the department. The committees were selected through a random drawing from those who volunteered.

Representatives for the class "D" schools included Mike Belcours (AAA-Allied Group Inc. Driving School), Rod Hall (First Drive Driving School), Lou Bevilacqua (The Driving School), Fran Tomba (Advanced Driving School), Sam Boyer (Elida High School), and Larry Kingston (Kingston Driver Training School). The representative for the Commercial Trucking Schools (CDL) was Ian Wilson (Cuyahoga County Community College). Additionally, representatives from the medical disability community provided some guidance. These members included Patrick Baker (Cleveland Clinic), Meredith Sweeney (O.S.U Driving Rehab Services), Michael Flis (MetroHealth Driver Rehabilitation Program), Charles Prinz (Skills on Wheels Driving Rehabilitation Program), Julie Dominik (Mercy's Driver Rehabilitation Program), Donna Guigas-Siegmán (Edwin Shaw Rehab LLC) AND Deborah Sams (Hillside Rehabilitation Hospital).

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

The stakeholders provided guidance on how the increased hours of training should be utilized. The ideas for the training hours have been incorporated into the regulation.

The stakeholders presented ideas on how occupational therapists and certified driver rehabilitation specialists should be given consideration on training they already receive. These concepts were incorporated into the rule.

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?

The agency reviewed the Code of Federal Regulations to ensure all standards were met at a minimum. The regulations included the health screening requirements, vehicle inspection requirements, etc.

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 a few alternative regulations. The stakeholder committee discussed in length the possibilities and opportunities for the state to provide the eight hours of basic instructor training. The ideas included the use of GoToMeeting.com, or a fully online eight hour course. While some of the possibilities may not be feasible for the timeline needed, the agency is considering those ideas to make the basic instructor course readily available.

The stakeholders presented the idea that no extension for a probationary instructor license should be given. However, the law allows for an extension, so the extension was drafted into the rules.

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 probationary license period requires an assessment during the six-month period. The assessment is based upon the progression and continued improvement of the instructor. If the training manager for a driver training school does not feel the instructor is improving, an extension on the probationary term may be granted.

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

The agency reviewed Section 4755.04 of the Revised Code to ensure the definition for occupational therapist was accurate. The agency also reviewed all other state regulations to ensure the proposals did not duplicate any existing regulations.

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 plans on communicating through multiple means (i.e. e-mail, open forum, quarterly newsletters). The agency will provide the basic instructor course multiple times throughout the year to provide ample opportunity for all new prospective instructors.

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 289 licensed driver training enterprises with an additional 425 licensed satellite locations. Additionally, there are approximately 2,100 licensed instructors and training managers.

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

The adverse impact includes increased hours of training with a new prospective employee, and the reporting of an additional assessment to the agency.

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.

4501-7-04

The estimated costs of compliance for stakeholders include the time and costs associated with traveling to Columbus, Ohio. The time and costs estimated to travel depends upon the location within the state from which the attendees are coming. There is no fee or cost for the orientation class.

4501-7-05

The estimated costs of compliance for driver training instructors are outlined below.

Basic Instructor Course –

Fee for course - \$25

Note: Although the rules do not require schools to pay for wages, travel and lodging, the schools may choose to pay for the amenities and training.

Training -

The increase in the required time for the instructor training program is estimated to take six to eight weeks to complete the full training. The members of the committee agreed that this was a

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typical amount of time for training since most driving enterprises already provided more training than the minimum amount required.

Schools will not incur training costs should an instructor applicant have a current and valid teaching degree issued through the Department of Education that includes training in driver education. Additionally, 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.

Probationary assessment –

The time required to assess an instructor is based upon their type of license. Each assessment may take two to three hours to complete. Since the assessments will be completed during a normal working day there is no additional cost to performing the assessments.

4501-7-24

The estimated costs of compliance for stakeholders include time and costs associated with traveling to Columbus, Ohio. The time and costs estimated to travel depends upon the location within the state from which the attendees are coming. There is no fee or cost for the orientation class.

4501-7-25

The estimated costs of compliance for driver training instructors are outlined below.

Basic Instructor Course –

Fee for course - \$25

Note: Although the rules do not require schools to pay for wages, travel and lodging, the schools may choose to pay for the amenities and training for the day.

Probationary assessment –

The time required to assess an instructor is based upon their type of license. Each assessment may take two to three hours to complete. Since the assessments will be completed during a normal working day there is no additional cost to performing the assessments.

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 requirements for proper instructor training and the character and fitness of persons who intend to provide and instruct in the operation of a motor vehicle. The agency, along with the participation of its stakeholders, determined the regulations were balanced between the needs of the community regarding quality driver's training and student safety and the mandates of legislation.

Regulatory Flexibility

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

The amendments allow for a certified driver rehabilitation (CDRS) specialist to forego the three year requirement to hold an instructor license before being eligible to apply for a training manager endorsement. The rigorous training requirements for a CDRS include the same material required for instructor training, but require more hours of instruction.

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?

The agency has implemented a policy in the inspection and investigation process to assist with waiving administrative action for first-time offenders and paperwork violations. The policy implemented includes a biennial program review. The program review allows for the authorizing official and training manager to review the paperwork with designated personnel. The program review allows for questions and clarifications to be provided as issues arise. If the program review results in any violations, the severity of the violations is reviewed, compared with previous inspections and then a course of action is determined. The agency has written warning letters to those schools with minor violations, such as paperwork, or first-time offenders. The warning letters address the violations and provide time for the school to correct or address the violations. If a violation is so minor, the agency will follow up in an e-mail identifying the discrepancy and allow the school to respond within a given timeframe.

A similar policy is implemented for investigations. If an investigation results in a minor infraction a warning letter is issued. If a severe allegation, such as sexual misconduct, is substantiated, administrative action is immediately taken without a warning even for first-time offenders.

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

The agency provides informational resources for the schools. There are no monetary resources available.

The rules require specific records and forms. These forms and templates for records are available on the agency website at no cost to the schools and instructors. The agency provides a copy of the Ohio Driver Training Curriculum to schools at no cost. The agency also provides a free two-hour information session, New School Orientation, for all new school owners. The New School Orientation is held at least five times throughout the year and provides guidance on the requirements and application process to begin the driver training school.