

**MEMORANDUM**

TO: Valerie Luptak, Ohio Department of Public Safety

FROM: Cory Bailey, Regulatory Policy Advocate, Lt. Governor's Office

DATE: November 18, 2015

RE: **CSI Review – Commercial Driver Training Schools (OAC § 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)**

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) § 107.54, CSI has reviewed the abovementioned administrative rules and associated Business Impact Analysis (BIA). This memo represents CSI's comments to the Agency as provided for in ORC § 107.54.

Analysis

On August 3, 2015, the Ohio Department of Public Safety (ODPS) submitted a draft rule package consisting of 19 amended rules to the CSI Office for review. Since the rules are not being reviewed under the five-year rule review requirement, this recommendation will only evaluate the amendments to the rules. The official public comment period closed on August 17, 2015 with four comments submitted.

The draft rule package regulates the operation of commercial driver training schools, covering issues such as the licensing of CDL and class "D" schools and instructors, training requirements, and vehicle standards. The rules are being updated to comply with legislative changes made in House Bill 53, although not all of the proposed amendments are based in statute. Many of the changes are a part of the "Drive Toward a Safer Ohio" initiative, a broader reform effort through ODPS.

While some of the proposed amendments are simply updates to references or stylistic changes, substantive changes are made in several areas. The following are a few of the key amendments:

- As a result of changes in statute, applicants for a class “D” or CDL license will first receive a probationary license that lasts 180 days. Once the probationary term is successfully completed, a non-probationary license can be issued.
- The training requirement for class “D” instructors has been increased from 40 hours to 52 hours due to concerns with inadequate teaching.
- Training vehicles at CDL schools must now be inspected by the State Highway Patrol. Currently, CDL schools are able to inspect their own vehicles.
- All prospective new enterprise owners and authorizing officials must attend a new school orientation through ODPS.
- A three-hour basic instructor course provided by ODPS must be completed by all class “D” and CDL instructor candidates.
- Changes are made to the certification for training persons with a disability at class “D” schools.

ODPS created a volunteer committee of stakeholders representing online, class “D,” disability, and CDL driver training schools to review the amendments. According to the BIA, the stakeholders provided guidance on how the increased hours of training should be utilized and how occupational therapists and certified driver rehabilitation specialists should be given consideration on training they already receive. In both cases, the suggestions were incorporated into the rules.

In addition to the suggestions from the committee, a handful of comments were submitted by stakeholders during the CSI public comment period. The comments spanned a range of issues, but mainly focused on the basic instructor course, inspections by the Highway Patrol, the increase in the hour requirement for Class “D” instructors, and a new requirement for CDL schools to provide hard copy certificates of completion. The CSI Office followed-up with ODPS as well as other stakeholders regarding the necessity of these new requirements. The conversations revealed the specific reasons as to why the changes are being proposed. In the case of inspections, there have been recent issues with CDL schools failing to properly inspect their vehicles, and a majority of the schools already voluntarily receive inspections from the Highway Patrol. For the creation of the basic instructor course and additional hour requirement for class “D” instructors, ODPS cites recurring administrative issues, problems with instructor conduct, and reports of inadequate teaching as the reasons for the changes. Finally, hard copies of the certificate of completion are needed to accommodate out-of-state students who train and test in Ohio. According to ODPS, the materials for the certificates are provided.

The adverse impacts created by the amendments are substantial. They include the increased hour requirement for class “D” instructors, time and cost of attending the new school orientation, time to complete the basic instructor course, basic instructor course fee, and the probationary assessment among others. In some cases, ODPS has attempted to lessen the burden of the new

requirements. For instance, ODPS is hoping to make the basic instructor course available online. As already noted, a few of the changes are statutory, justifying any adverse impact to business. For the non-statutory amendments, ODPS cites the need to ensure the protection of the public by setting requirements for proper instructor training.

It is the responsibility of the CSI Office to determine if the adverse impacts of the amendments are justified. The CSI Office has concluded that the reasons stated above, which are strengthened by the stakeholder review process ODPS used, are adequate to justify the impacts. However, based on stakeholder input, it is clear that the burden of compliance for driver training schools has increased considerably over time. According to one stakeholder, the amount of paperwork and the time for processing the license of an instructor candidate have grown exponentially in recent years. The CSI Office encourages ODPS to evaluate ways to lessen the burden, particularly regarding administrative requirements.

Following review of the draft rules, BIA, and stakeholder outreach, it has been determined that the standards espoused by the CSI Office have been met, and the adverse impacts of the amendments are justified.

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 Ohio Department of Public Safety should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.