

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Public Safety

Regulation/Package Title: 4501-8 Abbreviated Adult Driver Training

Rule Number(s): 4501-8-01, 4501-8-02, 4501-8-03, 4501-8-04, 4501-8-05, 4501-8-06, 4501-8-07, 4501-8-08, 4501-8-09, 4501-8-10, 4501-8-11, 4501-8-12, 4501-8-13, 4501-8-14, 4501-8-15, 4501-8-16, 4501-8-17, 4501-8-18, 4501-8-19, 4501-8-20, 4501-8-21

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☐ Amended ☐ Rescinded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

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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 proposed regulations will provide licensing guidelines for brick-and-mortar schools and online programs to offer an abbreviated adult driver training course to Ohioans. The course will provide four hours of classroom or online with an option for the customer to choose four hours of behind-the-wheel training with a licensed instructor or twenty-four hours of driving with a licensed driver. The proposed rules set forth the application requirements for licensing, curriculum content for the classroom, online and behind-the-wheel training, facility requirements for the office and/or classroom of the business, and vehicle requirements. The proposed rules set forth the required records and record retention for the students, instructors and business. Additionally, the proposed rules address financial responsibility, character and fitness for those associated with the program, and the department's authority over the driver training enterprises.

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

O.R.C. 4508.02

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?

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 requiring driver education courses.

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 driver training schools, instructors and set consistent standards for those training the public in the operation of motor vehicles. The regulation is to protect the safety and welfare of the public by ensuring that adults who fail their initial road or maneuverability test receive additional instruction prior to attempting the test a second or subsequent time. The instruction will be 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 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?

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The agency will measure the success of the regulation through the increase in number of Ohioans passing their driver tests the second time.

Development of the Regulation

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

All online, class "D," and disability 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.

The committee consisted of current stakeholders for the class "D" schools including Sharon Fife (D&D Driving School), John Sawyer (Auto Club Driving Schools, Inc.), Ian Wilson (Cuyahoga Community College), and Rod Hall (First Drive Driving School). The representatives for the online driver education providers included Michael LaPlume (Costech Technologies), RoniSue Player (DriversEd.com), Paul Zalatoris (Top Driver), Justin McNaull (eDriving, LLC), and Brent Wall (All Star Driver Education). Additionally, Trey Counts (Skills on Wheels Driving Rehabilitation Program) represented the medical disability community.

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 the number of classroom hours and behind-the-wheel hours. They suggested six to eight hours of classroom and four hours of mandatory behind-the-wheel instruction. The suggestion was not incorporated into the proposed rules due to the projected cost of the course for students.

The stakeholders suggested a four hour class and four hours of behind-the-wheel training. The four hour class was accepted. The behind-the-wheel portion was drafted to provide customers with the option of four hours of training with an instructor or twenty-four hours of driving with any licensed driver. The concern was based upon affordability for the customers and availability of the schools to provide the behind-the-wheel portion.

The stakeholders provided guidance on the specific topics to include in the classroom and behind-the-wheel curriculum. These topics were considered and drafted into the curriculum.

The stakeholders suggested that all abbreviated adult course instructors had to be trained *under the class 'D' driving instructor rules found in Chapter 4501-7* of the Administrative Code. This would require the instructors to have approximately sixty (60) hours of training to teach the four hour classroom and four hour behind-the-wheel curriculum. This option was not considered because it would be cost prohibitive to a business.

The stakeholders also suggested considering allowing the adult remedial training in lieu of the abbreviated adult training continuing education course. This suggestion was not adopted because the adult remedial course curriculum providers are not regulated by the department, and the training provided under each curriculum provider is different.

Online stakeholders suggested allowing the training provided to instructors by other states in lieu of having instructor candidates go through the Ohio course for training. The suggestion *was not considered since Ohio is not familiar with other states' trainings and curriculums*. The training topics and materials would need to be consistent with the curricula taught in Ohio.

Online stakeholders also requested to have the state audit their instructor candidates in lieu of performing assessments on the candidates. The suggestion was not considered because the state does not have jurisdiction to perform these functions. Additionally, the online stakeholders suggested that the biometric verification was not a viable solution for identifying someone at the initial enrollment of the course. This was considered and the rule was modified to reflect the change.

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 statistics and data obtained by the Ohio Bureau of Motor Vehicles and determined the approximate number of students to be forty thousand on an annual basis. The forty thousand people are first time adult driver license applicants who have failed either the road or maneuverability portion of the driving test.

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 the abbreviated adult program to include mandatory two-hour classroom and six hours of behind-the-wheel training. The intended focus was the hands-on driving skills. The agency determined this was not an appropriate alternative for the course because of unavailability of the schools to complete the program and the projected cost of the program was prohibitive for customers.

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.

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The agency allows the business to use its policies and standards to determine if the performance of a probationary instructor meets the requirements of a non-probationary license. The business has the ability to request an extension if a probationary instructor requires more time before being licensed as a non-probationary instructor. The determination is based upon an assessment performed by the adult training coordinator.

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

The abbreviated adult course for beginning drivers is a new program, and the rules are narrowly tailored to implement this program.

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 to communicate the framework for the abbreviated adult course, and its *impact on driver training schools and applicants for a driver's license*, through multiple means (i.e. e-mail, open forum, quarterly newsletters). The agency will also provide the basic instructor course multiple times throughout the year to provide ample opportunity for instructors to become licensed to teach the abbreviated adult course. This will help schools meet the increase in customer demand expected now that these rules require customers to receive additional instruction following a failed test.

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 288 licensed driver training enterprises with an additional 411 licensed satellite locations. Additionally, there are approximately 2,100 licensed instructors and training managers. Businesses affected by this new program cannot be fully determined since this is a new course and the number of providers will be based upon the applications of those businesses interested in providing the abbreviated adult course. The impact of the business community does include an increase in customers due to the new requirement for customers to receive mandated additional driver training.

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

The adverse impact would include license fees, employer time dedicated to compliance with record keeping, reporting and instructor training.

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.

4501-8-02

The estimated costs of compliance for stakeholders include costs for renting, leasing or using classroom and/or office space. The costs for space can range from \$700 - \$1000 for approximately 800 square feet of space. Additional costs are not incurred if the enterprise already operates other driver education courses from the same classroom or office.

4501-8-03

The estimated cost of compliance for stakeholders includes the cost of a physical examination at approximately \$80 annually for all instructors and adult training coordinators. Schools may pass the cost onto their individual instructors.

4501-8-04

*Original school license application**

Driver Training Enterprise Application - \$250 per location application fee

Background check - \$65 per authorizing official and owner

Postage for mailing application - \$10.50

Total cost for enterprise application - \$325.50

*Enterprise renewal fee - \$50 per location application fee***

Total cost for enterprise renewal - \$50 per location

**The cost for the original application fee does not apply for those driver training schools that operate other licensed programs. Since the school would already be licensed, the application would only be for adding a new program instead of a new license.*

***The cost for the renewal application fee would be applied to one license. When a driver training school operates more than one licensed driver training program, only one fee of \$50 would be applied.*

The estimated time to gather all documents for the application, including the fire inspection, building use agreement, and background check is estimated to be approximately half a day.

*Original Online license application**

Driver Training Enterprise Application - \$250 per location application fee

Security Assessment Fee - \$600

Background check - \$150 per authorizing official and owner

Postage for mailing application and written program- \$20.50

Total cost for enterprise application - \$1020.50

*Enterprise renewal fee - \$50 per location application fee***

Total cost for enterprise renewal - \$50 per location

**The cost for the background check is higher due to other state's ability to provide checks through third-party vendors.*

Additionally, the fee for mailing depends upon how the written format is provided.

The estimated time to gather all documents for the application, including the fire inspection, building use agreement, background check, security assessment and program is approximately one day.

4501-8-05

*Original school license application**

Driver Training Enterprise Application - \$25 per application fee

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Passport photos - \$15

Driver Abstract - \$8.50

Total cost for instructor application - \$113.50

*Instructor renewal fee - \$10 per location application fee***

Driver Abstract - \$8.50

Passport Photos - \$15

Total cost for enterprise renewal - \$33.50 per instructor

The cost for the original application fee does not apply for those driver training instructors that operate under other licensed programs. Since the instructor would already be licensed, the application would only be used for adding a new type of training instead of a new license.

***The cost for the renewal application fee would be applied to one license. When a driver training school operates more than one licensed driver training program, only one fee of \$10 would be applied.*

The estimated time to gather all documents for the application, is approximately three hours. The estimated time to gather all documents need for the renewal portion is one hour.

Training -

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 which may be as much as \$144 for the day.

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

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Additionally, schools will not incur training costs if an instructor has 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 the 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.

4501-8-06

The estimated costs of compliance include training and printing of certificates. Instructors who teach persons with disabilities will need to provide proof of specialized training to receive the disability endorsement on their instructor licenses. The cost for an initial training program for a disability instructor is estimated to be \$450 through a private provider. The cost for the instructor's continuing education requirement every three years is estimated to be \$90 for a one-day training provided through a private provider. Providers of drivers training are required to provide students with certificates of completion, which are obtained from the agency. Medically-based hospitals and rehabilitation clinics must also comply. The cost of each certificate is \$4.

4501-8-08

The estimated cost for vehicle insurance is approximately \$800 - \$2000 annually per vehicle. The cost depends upon the make, model and year of the vehicle. The total cost an enterprise pays is determined by the number of vehicles used for training.

The estimated cost for the bond can range from 10% to 30% of the face value of the bond. The face value of the bond is determined by the number of schools operated by the school and the number of students with whom the business has a valid contract. The percentage to be paid annually is based upon assets and credit scores.

Escrow accounts require the full amount of required coverage to be placed directly into an account. The amount is determined by the number of schools operated by the school and the number of students with whom the business has a valid contract.

4501-8-10

Certificate of Completion - \$4 per certificate

Certificate of Completion of an Online Adult Program - \$4 per certificate

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Certificate of Classroom Completion - \$4 per certificate

The total cost for one enterprise is determined by the number of students completing the program through that enterprise. The enterprise includes the cost of the certificate in the enrollment costs to the student.

4501-8-11

*Written training agreements (paper copy) - \$.25 per agreement**

**Note: The state makes a training agreement available as a resource. An enterprise may opt to use the states version and reduce printing costs to \$.05 per training agreement.*

Online training agreements –

Third party verification solution - \$.50 per user – the full cost to an enterprise depends on the number of students enrolling through the online portal. There is an additional monthly fee of \$40 for use of third party vendors. A signed and notarized affidavit can be used in lieu of third party verification. The costs for the affidavit are assumed by the parent and student.

4501-8-12

The costs associated with creating and maintaining student and business records are estimated to be more time based. The cost for the paperwork itself is estimated to be \$3 per student for the entire file. The time associated with completing, reviewing and filing the student records is estimated to be one hour per student.

The time to create the business files, including curriculum, instructor files, applications, and financial responsibility, is estimated to be one hour.

For an enterprise that is closing, the time involved with completing and sending the closing form is estimated to be five minutes. An enterprise may scan and e-mail the form or fax the form to the agency.

4501-8-13

The costs associated with the requirements for a vehicle include the auxiliary brake, additional inside rearview mirror, “student driver” verbiage placed on the front and back of the vehicle, and time to have each vehicle inspected by the highway patrol.

Auxiliary brake (including installation) - \$450

Inside rearview mirror - \$25

Student Driver signs - \$25 set

The equipment estimated total cost - \$500

Note – If the enterprise operates another driver training program using vehicles, the equipment is already installed and the cost becomes negated.

The time associated with having the vehicles inspected on an annual basis is approximately twenty (20) minutes per vehicle. If the enterprise operates another driver training program using vehicles, the inspection for the other program carries over and the time is negated.

4501-8-18

The cost of inspection for a brick-and-mortar school is time based.

Initial application inspection – 4 hours

Biennial inspection – 3 hours

The cost of an inspection for an online school takes approximately four to five hours to establish an account through their online portal with appropriate access and is estimated to cost about \$150 to set up. The estimated cost is based upon personnel hours to set up the access.

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 proposed regulations allow instructors of a class D program to forego the initial training and apply once they have completed a department approved adult learning based continuing education course. The application process for a licensed instructor of another

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program would be reduced and no fee would apply if the instructor already is licensed to instruct under a class D program. The fee for the renewal of the license would also be waived if the person is an instructor for the class D program.

Additionally, the proposed rules 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 an abbreviated adult training coordinator 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 for other programs regulated by the same office. The policy would carry over to the new abbreviated adult training course. 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 the ability to issue a written warning letter to a school with a minor infraction, such as a paperwork violation, or first-time offenders. The warning letter addresses the violation(s) and provide time for the school to correct or address the violation. 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.