

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Highway Patrol

Regulation/Package Title: Chapter 4501-52 Bus Inspection

Rule Number(s): 4501-52-01, 4501-52-02, 4501-52-03, 4501-52-05, 4501-52-06

Date: July 15, 2016

**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☐ Rescinded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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Chapter 4501-52 governs safety inspections of passenger-carrying vehicles. The chapter will not change with this review other than an amendment to 4501-52-01 to update some of the materials incorporated by reference. Specifically, the references in subsections 4501-52-01(C)(1) and (C)(2) to accessing the Federal Motor Carrier Safety Standards (FMVSS) and the Federal Motor Carrier Safety Regulations (FMCSR) in the Code of Federal Regulations (CFR) via the Internet is being changed from the site <http://www.gpoaccess.gov/cfr/index.html> to <http://www.ecfr.gov>. In addition, several reference dates are being updated to current dates in subsection (D).

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

Statutory authority is R.C. 4513.52

**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.*

Yes - the standards implement regulations contained within the Federal Motor Carrier Safety Standards (FMVSS) and the Federal Motor Carrier Safety Regulations (FMCSR) in the Code of Federal Regulations (CFR) regulating ~~buses~~ passenger-carrying vehicles operated for commercial purposes. No, the amendments are an update to materials incorporated by reference.

**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)?**

To comply with regulations contained within the Federal Motor Carrier Safety Standards (FMVSS) and the Federal Motor Carrier Safety Regulations (FMCSR) in the Code of Federal Regulations (CFR) regulating ~~buses~~ passenger-carrying vehicles operated for commercial purposes.

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

Passenger-carrying vehicles successfully passing the inspection and completing the annual vehicle registration process. Number of crashes that could be contributed to mechanic defects involving Ohio-plated passenger-carrying vehicles.

## **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.*

First Baptist Church of Grove City (OH); First Baptist Church of Glen Este (OH); S & S Coach Co.; Pioneer Trails Bus; Croswell VIP Motorcoach Services; Fun Bus; Lakefront Lines, Inc.; Cardinal Transportation, Ltd.; Buckeye Coach; Buckeye Charter Service; First Group; VAT, Inc.; and Ohio Trucking Association. All were contacted on December 29, 2015 via e-mail.

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

We received only two responses from stakeholders. One response wanted us to allow remedial measures to be taken on small items, such as replacing marking lights, before being noted on the inspection sheet. Our Licensing and Commercial Standards (LCS) section said that was more appropriate for our operations manual and not the OAC. In addition, our LCS section said they already are allowed to remedy but the deficiency must be noted for accuracy and efficiency purposes.

Another stakeholder wanted the exhaust requirements to be changed for church buses to mirror those required of school buses since the industry uses those buses for dual purposes (school buses converted from school to church use require modifications). Our LCS section said the OAC standard must mirror the federal standards in the CFR; otherwise, the church bus would could not be operated interstate which would make the regulations even more cumbersome and restrictive.

- 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 rule mirrors the CFR regulations.

- 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?**

We did not consider alternatives since the rules mirror the CFR regulations.

- 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.*

We did not consider performance-based regulations since the rules mirror the CFR regulations.

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

The LCS section mirrored the rules promulgated under the CFR to bring Ohio commercial passenger-carrying vehicles into compliance.

**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.**

Our LCS section already has a safety inspection process in place that meets federal and state standards for consistency. We are in continuous communications with stakeholders and are always available to take questions or concerns from stakeholders or the general public.

#### **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;**

**All companies/persons owning passenger-carrying vehicles with a gross vehicle weight rating or gross vehicle weight of 10,001 or more pounds or is designed to transport 16 or more passengers including the driver.**

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

**Failure to pass the inspection prevents the passenger-carrying vehicle owner from obtaining a new or renewed vehicle registration thereby preventing to legal operation of the vehicle.**

**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.*

**Adverse impact will be the inability of the passenger-carrying vehicle owner to legally operate the vehicle. The annual cost of \$100.00 allows the vehicle owner to have up to two (2) inspections conducted to successfully pass the vehicle and obtain the annual vehicle registration. Failure of two (2) inspections require the**

vehicle owner to pay another \$100.00 to obtain another two (2) inspections to attempt successful completion of the inspection/registration process.

This program adds no additional cost, other than the \$100.00 fee, as each passenger-carrying vehicle owner is required, by federal and state regulations, to maintain their passenger-carrying vehicles in safe operating condition. This inspection does relieve the passenger-carrying vehicle owner from the requirement to obtain and document a periodic (annual) inspection as required by federal and state regulations due to the Federal Motor Carrier Safety Administration recognizing the inspection as meeting the periodic (annual) inspection requirements. Successful completion of this inspection process allows the passenger-carrying vehicle owner to obtain the annual registration and provide documentation of passing the periodic (annual) inspection.

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

Ohio Revised Code Section 4513.52 requires rules for inspection and fee. OSHP is given discretion, with advice from PUCO, to adopt rules and determine what the criteria for a safe and lawful bus. Further, the inspection/registration process was established at the request of passenger-carrying vehicle commercial businesses and with the support of the Federal Motor Carrier Safety Administration and the Public Utilities Commission of Ohio.

**Regulatory Flexibility**

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

No. Passenger-carrying vehicle owner must successfully complete this inspection to obtain their annual vehicle registration.

**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?**

There are no fines associated with failure to complete this inspection.. Commercial passenger-carrying vehicle operators do benefit from maintaining their vehicles and passing this inspection with minimal violations/re-inspections as these inspections are included in the Vehicle Maintenance portion of the Federal Motor Carrier Safety Administration's Compliance, Safety, Accountability (CSA) Motor Carrier Safety

**Measurement System (SMS) program; a program to assess a commercial motor carrier's safety.**

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

The LCS section has available a manual containing all related Ohio Revised Code, Ohio Administrative Code and inspection criteria information. Our LCS section is open to communicate with stakeholders and the section is always available to take questions or concerns from stakeholders or the general public.