



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Public Safety

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

4501-21 Remedial Driving Courses

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

Date of Submission for CSI Review: September 15, 2021

Public Comment Period End Date: September 29, 2021

Rule Type/Number of Rules:

New/_2_ rules

No Change/_3_ rules (FYR? __)

Amended/_13_ rules (FYR? __)

Rescinded/_ rules (FYR? __)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☒ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☒ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. 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 to apply and become certified as a remedial driving course. The rules address training requirements for instructors, course managers, chief instructors, and advanced skills instructors. The rules address the place of business for a remedial driving course office and classroom. The rules also address financial responsibility, certificates of completion, and records. Additionally, the rules package addresses the jurisdiction of the department in regulating, inspecting and taking action against an approved remedial driving course.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Authorized by: 4510.311, 4510.038, 5502.011

Amplifies: 4510.11, 4510.037, 4510.038

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4. 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.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

n/a

6. 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 set standards to approve remedial courses. The regulation is to ensure that remedial programs are consistently administered, curriculums are relevant and up-to-date, and personnel are qualified to instruct, thus increasing the successful completion of remedial instruction for students.

7. 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 regulations through the number of program reviews resulting in no violations. In addition, the agency will measure the success of the regulation through the number of complaints received resulting in investigations of the remedial driving programs.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. 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.

The Driver Training Program Office hosted a town hall meeting with remedial providers on June 26, 2020. The rules were posted to the Driver Training Bulletin board and the public facing website requesting feedback and impact. The bulletin board resides in the driver training system (DETS) and is sent to every remedial provider. Since very little feedback was provided, another announcement went out requesting interest of those in the remedial

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programs to participate in a call. The participants confirmed via email and were sent a link through Teams to attend the virtual meeting. The virtual meeting was hosted on August 20, 2021.

The following stakeholders attended the June 26, 2020 meeting: Larry Kingston (Kingston Driver Training, National Safety Council), Lori Cook (AAA East Central), Mark Bloom (Better Ohio Teen Drivers), Drew Salyer (DriveTeam Inc.), Terri Silone (Lima/Allen County Chamber of Commerce), Mark Arnold (American Driving School), Kristy Duritsch (Safety Council of SW Ohio), and Angela Luti (A&J Driving Academy).

The following stakeholders participated in the August 20, 2021 Teams meeting: Eric Schaim (AAAA International Driving School), Caitlyn Theado (AAAA International Driving School), Fran Tomba (Advanced Driving School), Elizabeth Kalo (Robert Taylor Everyday Remedial Driving School), Ruth Diehl (Ruth's Driving School), Mike Belcuore (AAA Allied Group Driving School), Sara Kisseberth (Drive Time Driving School), Dan Cox (Heights Driving School), and Larry Kingston (Kingston Driver Training).

The following stakeholders reached out to the department and were given opportunity to provide comments on the proposed rules. The group was emailed a copy of the rules on June 11, 2021: Chris Sinagra and Jim Trakas (Online Two Point Driving Class).

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

Stakeholders requested moving from three final tests to two. The department did not change this because students should have different tests. The rules do not require them to use all three but have a variety should a student fail the first time. A variety of tests allows the course to determine the effectiveness of the training and course content and the effectiveness of the instructor delivering the education.

Stakeholders would like to send certificates electronically. Ideally, the certificates would be transferred to the BMV electronically (which is in place) but the BMV still requires them to bring in a certificate. The department did remove the restriction of sending the certificates electronically, while we are working on electronic transmission to the BMV without a physical copy being required. However, if the student needs a copy for an agency other than the BMV, they would require a physical copy which can be printed from their emails.

The online stakeholder suggested that every online adult remedial school shall maintain all student records in the State of Ohio and require them to have a location within Ohio. This would be too restrictive to allow many businesses the opportunity to do business in Ohio. The rules are drafted to require all student data to be maintained and stored in the office or data-center within the United States.

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- 11. 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?**

No scientific data was used to develop the amended rules.

- 12. 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 Department considered using a national juvenile curriculum but stakeholders prefer the department created one. The requested easier access to update the curriculum as it contains statistics.

- 13. 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 Department determined the curriculum providers of the adult remedial and of the advanced juvenile driver improvement program would determine the successful completion of each instructor based upon their established requirements.

The juvenile driver improvement course provides for a final assessment of the students, but does not require a test for the student to complete the course. Therefore, the juvenile driver improvement program provider would determine the student's successful completion through participation in the course.

Additionally, in the advanced juvenile driver improvement program, the successful completion of the program is determined by the student's progress in the behind-the-wheel skills assessment.

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

The agency reviewed the rules in RegExplorer. A review of 4510.311, 4510.037, 4510.038, which gives sole authority to the Department for the adoption of rules dealing with remedial driving courses

- 15. 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 Department intends to hold a virtual forum for all remedial driving courses and remedial curriculum providers to discuss the changes in the rules and address any additional questions pertaining to the changes. The date and time for the open forum has not yet been established. The agency will continue to follow standard policies for approving curriculum providers and the remedial driving course providers. If there are problems arising from complaints, discrepancies or violations from biennial program reviews, curriculum or applications, agency staff will contact the applicant or provider to give time to remedy the problem.

Adverse Impact to Business

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16. 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; and

There are 102 remedial enterprises and 4 curriculum providers. The number of potential adult remedial online companies is unknown.

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

The adverse impact includes the costs associated with curriculum provider training programs, continuing education courses, time for training and compliance, driving abstracts and background checks for authorizing officials, and cost for certificates of completion issued to students.

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.

4501-21-01

Definitions rule. Only one small change.

4501-21-02

Statement of scope.-No change.

4501-21-03

The costs of maintaining an office is dependent upon the type of office being used.

Home office – no additional costs imposed

*Professional office - \$1250-\$3100/ month**

**Some of the remedial programs use their office for other driver education courses offered by the company. The costs are spread throughout the multiple programs and are not specifically the costs for operating just the remedial program. Additionally, the higher costs also incorporate a classroom and office combination facility.*

4501-21-04

The rule requires an authorizing official to report any injury, or physical impairments, and includes any alcohol, drug or medicinal impairment that affects the person’s ability to instruct or manage a program safely. Additionally, a program must notify the Department of any legal action that is filed by or against the remedial driving course because the course failed to perform or operate its courses safely.

4501-21-05

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The electronic application process has allowed for expedited times for placing and approving the applications. To scan and upload documents for an application is estimated at 10-40 minutes. The time is based upon the number of documents needed for the application type.

Background checks:

- *State check - \$37 each*
- *Federal check - \$24*
- *Combination - \$65 - \$90 – total cost is determined by the fingerprinting agency*

Renewals – remedial companies perform a full renewal every other year. On the full renewal year, the time to upload and submit documents is estimated at 10 minutes. The cost is the cost for each background check required.

On the years a full renewal is not required, the time to upload the document required is approximately one to two minutes. No additional costs identified.

4501-21-06

There are no direct monetary costs associated with this rule, but there may be time associated with creating and submitting a proposed curriculum to obtain approval by the Department to become a remedial curriculum provider. The time associated with developing the curriculum may take four to six months; the time associated with obtaining approval may take two months.

4501-21-07

The amount of bond needed for a company is based upon two factors:

- *If the company takes money prior to the day of class: and*
- *The number of students attending a class.*

The bond or escrow account is not required if money is accepted only the day of class. The annual cost can range from 1% - 25% of the value of the bond. The cost of a bond is based on the face value of the bond, the person's assets and credit.

4501-21-09

The process for inspections/program reviews have changed. The department provides a list of documents needed for the program review prior to the inspection date. Stakeholders agreed this simplified the process and allowed them to prepare for the department's visit. The time spent with the representative can range from 15 – 30 minutes every other year. The amount of time spent is dependent upon the number of students enrolled and completed by the company.

4501-21-11

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The costs associated with providing an enrollment contract depends upon the companies' preference for electronic or paper. If students prefer electronic transmission, there are no costs associated. If the contract needs printed, the cost can include the printing at \$.10 per page.

4501-21-12

Certificates of completion - \$4 per certificate

The total cost impact on a school depends upon the number of students and certificates issued. Additionally, the department proposed to allow for electronic transmission of the certificates. This will reduce the costs for mailing certificates.

4501-21-13

Classroom costs were identified in rule 4501-21-03 since most providers pay for an office/classroom combination facility.

\$1250-\$3100/ month – one provider uses a church facility and pays \$50 per use for the remedial program

4501-21-15

The estimated cost for the equipment necessary to comply with the range would include a vehicle for the spin-and-skid car, equipment for the vehicle, and insurance. The cost for vehicles may be reduced for those programs using the students' vehicles.

Equipment

Vehicle for spin-and-skid control - \$10,000

The estimates cost provided above depends upon the manufacturer's cost if the devices required to simulate loss of grip and maintain all four of the vehicle's tire contact patches.

The estimated insurance costs were determined as negligible. A company using their vehicles or the students' vehicles can be covered under the business' general liability insurance so long as the vehicle is not used on the public roads. Therefore those costs associated are already covered in the business general liability.

4501-21-16

Instructor training:

Adult remedial initial training (including the teaching materials) - \$330 - \$1200

Juvenile remedial program initial training (including the curriculum) - \$180

Advanced JDIP The cost for the original two-day training course and curriculum is estimated to be \$400.

Continuing Education workshops:

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Adult remedial - \$125-\$200 for the course

Juvenile remedial – no cost

Advanced JDIP – estimated to be \$100 per person

The costs associated for continuing education workshops include 6-8 hours for the course, travel, pay, and per diems. It is estimated that a company pays a total of \$200-\$225 per person attending a continuing education.

The rule allows the department to require attendance of any department-sponsored workshops for all the remedial driving course instructors. It is the intention of the department, at this time, to not charge for those workshops.

Report of Information

The authorizing official, course manager, chief instructor, instructor, or advanced instructor is required to report any criminal convictions or traffic convictions that would result in the person's inability to instruct in a remedial driving course.

17. 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 standards for the training requirements for personnel and students receiving remedial driving course instruction. The agency, along with the stakeholder group, determined the regulations were balanced between the needs of the community regarding the quality of the program, student safety during programs and the mandates of the legislation.

Regulatory Flexibility

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

The regulations in rule 4501-21-15 allow for consideration of alternative range dimensions in lieu of the department's standards established by the stakeholder group and the agency. The regulations in rule 4501-21-15 also provide for the use of two different vehicles for the exercises. The advanced provider may use their own vehicles or they may use the students' vehicles for the exercises. In addition, the regulations in rule 4501-21-16 allow for consideration of eligibility of a person for a chief instructor based on background and experience in instructing an advanced driver training program.

Additionally, the agency allows for the alternate home office for those remedial programs that operate in one-day facilities, such as hotel conference rooms, or operate a virtual classroom. The instructors only meet the students the day of class at the training location.

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The administrative tasks, including phone calls, creating certificates of completion and scheduling, may be accomplished at home. No student would be permitted to visit the home office; however, this would allow for reduced costs for offices where students would not be seen.

19. 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?

Agency policy directs staff to work with the schools and instructors to allow them time and consideration to correct paperwork violations. The department established a tiered method of assisting the schools to come into compliance should repeat violations be found during program reviews. The staff identifies the issue and communicates with the school. The agency may also issue a warning letter, in lieu of notice of disciplinary action, should a minor violation be identified that may be corrected.

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

To assist small businesses with compliance of the regulation, the agency created the Advanced Juvenile Driver Improvement Program Dimension Guide, the Adult Remedial Approval Criteria, the Minimum Standards for Online Adult Remedial Course, and the Advanced Juvenile Driver Improvement Program Resource Guide. The dimension guide provides a resource on setting up the range dimensions as required by rule 4501-21-15. The adult remedial approval criteria establish all standards required for creating an adult remedial curriculum. The advanced juvenile driver improvement program resource guide provides the established criteria for becoming approved as a curriculum provider. The minimum standards was developed to provide the guidelines and expectations for online companies to employ to obtain a certification. The agency has also provided forms of all required documentation on the agency's website. These forms are available for use at no cost to the advanced provider.