



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Public Safety, Ohio State Highway Patrol, Driver Training.

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):  
Commercial Driver Training Schools.

Rule Number(s): Chapter 4501-7, OAC.

Date of Submission for CSI Review: 2/22/2021 Amended 09/15/2021

Public Comment Period End Date: 3/09/2021 09/29/2021

**Rule Type/Number of Rules:**

New/ **2** rules

No Change/ **1** rules (FYR? **1**)

Amended/ **24** rules (FYR? **24**)

Rescinded/ **14** rules (FYR? **14**)

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 for the education and training of beginning drivers and commercial drivers.

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.

Section 4508. of the Revised Code.

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. However, the Federal Motor Carrier Safety Association implements new Entry-Level Driver Training requirements for Commercial drivers. The rules pertaining to the CDL driver training schools are being modified to meet the curriculum, instructor, and location requirements as set forth in the new 49 CFR 383, effective February 7, 2022.

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

Not applicable.

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)?**

Section 4508.02 of the Revised Code required the Department to adopt and prescribe rules for administration and enforcement of Chapter 4508 of the Revised Code. The regulation protects 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. With the onset of the Covid-19 pandemic, the Department has made various changes to rules to allow for continued instruction through the pandemic while keeping requirements in place to ensure public safety.

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 reduced number of complaints and investigations resulting in administrative action being imposed on licensees. The agency will measure the success of the rules and regulation pertaining to Class “B” training through the number of schools providing the training and the number of students electing to take the training; this is tracked through the issuance of certificates of completion.

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.*

Not applicable.

### **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.*

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The Driver Training Rule Committee met twice in person to discuss the five year review process and proposed rule changes:

In-person committee meetings were held in 2018 and 2019. Virtual meetings were hosted for additional stakeholder feedback on the rules in 2020 and hosted virtual meetings.

Below are different dates that meetings (both in person and virtual) were held, and who participated. Feedback received was considered, and the rule amended to address concerns.

Class D - 2019 Committee - Karen Blumhorst (Capabilities), Mark Arnold & Robin Arnold (American Driving School), Richard Brodman (St. Christopher Driving Academy), Ari Klarfeld & Robert Swinton (New Direction Driving School), MaryKaye Speckhart (Pro & Professional Driving Schools), Ester Oyundo (1st ABC Driving School), Colleen Butch (John Butch Driving School), Sharon Fife (D&D Driving School), Greg Anderson (Andco Inc.), John Sawyer (Auto Club Driving Schools)

CDL - 2018 Committee - Ian Wilson (Cuyahoga CC), James Rushworth (Action in Motion), Michael Lattavo (Big Rig), Jim Rosen (Vantage), Scott Marx, Liz Gardner, Mike Nease (Great Lakes), JT Smith (Southern State CC), Roger Bond (American Professional), Brandon Lewis and Dave Evans (Capital Transportation), Tim Reynolds (Butler Tech), Micah French (Apollo), Brain Beckett (Eastern Gateway CC), Kevin Sonntag and Dan Schweitzer (Stark State)

Online - was hosted through the town hall meetings - June 19, 2020 - Michael Belcoure (AAA), Paul Zalatoris (Top Driver), Kristine Deveza (Aceable), Justin Pruskowski (igottadriver), Andrea Hekimian (2 Cool Traffic School), Shalana Satterwhite (Public Safety Driving School)

Virtual town hall meetings to allow additional insight into the current regulations.

Class D - June 18, 2020 - Jason Ward and Jeff Caldwell (Professional Driving Systems), Dana Goodwin (Advantage Driver Training), Lisa Harris (Superior Driver Training), Michael Belcuore (AAA), Jim McDowell (Northridge Local Schools), Dan Cox (Heights Driving School), Ruth Deihl (Ruth's Driving Academy), Melissa Riedhl (911 Driving School), Ari Klarfeld (New Direction Driving School), Ester Onyundo (1st ABC Driving School), Sharon Fife (D & D Driving School)

September 24, 2020 - Mark Arnold (American Driving School), Ruth Deihl (Ruth's Driving Academy), Angie Luti (A&J Driving Academy), Danielle Spino (Toledo Driving School), Stacy Sanders (East Central Ohio Educational Service Center), Randy Simmons (Rightway Driving School), Mike Belcuore (AAA), Tom Kircher (Driving Schools of Ohio), Jeff Caldwell (Professional Driving Systems), Fran Tomba (Advanced Driving School), Kay Ruen (Always Right Driving School), Donna Golec (Your Choice Driving School), Lisa Harris (Superior Driving Academy)

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Disability - March 5, 2020 - Shawn Layne (Right Layne Driving School), Bill and Karen Blumhorst (Capabilities), Christine Rinella (Ohio Health), Mark Allison (Northwest Ohio Driving School), Debbie Sams (Hillside rehabilitation), Samantha Stephenson (OSU Driver Rehab), Emily Haffner (Kettering Health Network), Rick Headley (Marietta Memorial Health), James Kesler (University of Toledo), Julie Dominik (Mercy Medical Center), Meredith Sweeny (OSU Driver Rehab), Donna Guigas-Siegmán (Cleveland Clinic), Tina Paff (Bick's Driving School of Western Hills), Daniel Cox (Heights Driving School), Sharon Fife (D & D Driving School), Alex Bull (MetroHealth Medical), Michael Flis (MetroHealth Medical), Kate Lopez (Mercy Health-West Hospital)

CDL -

February 27, 2020 - Scott Marx (The Marx Brothers Consulting), Aimee Napier (Napier Truck Driver Training), Jim Rosen (Vantage Career Center), Michael Lattavo (Big Rig Truck Driving), Ian Wilson (Cuyahoga Community College), Dan Schweitzer (Stark State CC), Steve Gold (160 Driving Academy)

June 25, 2020 - Jeff Huth (Hamrick School), Mike Moscinski (Trainco), Jeff Whittington (Roadmaster), Tony Huffman (The Career Center), Brian Beckett (Eastern Gateway CC), Brian Watkins (Swift Driving Academy), Micah French (Apollo), Kimberly Klohe (Drivers Edge), JT Smith (Southern State CC)

Additionally, all online, class “D,” disability, and CDL driver training schools, were contacted through an e-mail bulletin blast from the Department on November 4, 2020.

The Department sent out three surveys to the schools on August 20, 2021 and met virtually with schools on August 26, 2021 to discuss the feedback regarding the current usage of the virtual driving assessment (VDA). The meeting participants included: Felice Moretti – OTSO, Emily Davidson – OTSO, Valerie Wald – OTSO, Paul Polinski – Jack’s Driving School, Sara Kisseberth – DriveTime Driving Instruction, Robin Arnold – American Driving School, Dana Goodwin – Advantage Driver Training School, Rob Swinton – Safe Pass, Melissa Riedl – 911, Stacy Saunders – East Central Ohio Driver Training, Jason Ward – Professional Driving Systems, Kenny Koch – Coshocton Driver Training, Sharon Fife – D&D Driving School, Dennis Bowman – 1<sup>st</sup> Choice Driving Academy, and Debbie Lamb – Debbie’s Driving Academy.

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

Commercial Driver’s License (CDL):

- Training Managers: remove the CDL requirement

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*The focus of a driver training program is to educate and train safe drivers for our roadways. In order to accomplish this, the educational program needs to be sound and the instructors and training managers need to be knowledgeable and capable of providing the best education and training. Training managers are responsible for training instructors. Having the ability and knowledge of each type of training program provided by the school, gives them the ability to better train and assess instructors in each classification of training. The rule requiring a CDL training manager to hold a Class A license and fully endorsed is not proposed for changes.*

- Vehicle Inspections: allow garages to do the inspections instead of MVI, allow DOT inspections to be used

*The Highway Patrol and the Driver Training Program Office will continue working on providing certified inspections for the CDL vehicles. DOT inspections and other certified mechanics do not have the background to inspect for the additional requirements for the driver training vehicles.*

- 4507-7-28(B): adding technology in the classroom to allow for virtual training

*The proposed rules package will allow for virtual classroom as a continual viable option for training.*

- Training Instructors: probationary period should include instructor training, the time it takes to train an instructor is too long and too costly

*To ensure we are producing safe drivers, we need to ensure the product we provide as instructors is solid. The key to a solid product is the instructor. Reducing hours of training of instructors would diminish the solid value of the driver education and training program. The department will be looking into modifying the training programs for instructors in the near future.*

- Physicals: change from every year to every two years to align with DOT, allow NP and CAN to sign off on the forms

*The proposed rules package changes the annual physical requirement to a two-year requirement and provides for certified medical personnel to sign the physical.*

#### Disability:

- Renewals and reviews done on an every other year basis

*Annual renewals are in the Ohio Revised Code. Program reviews are already performed on a biennial basis.*

- make it so that pictures aren't required every year

*No changes are proposed to change this.*

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- Make it so that physicals aren't required every year. Allow NP and PA to complete physicals.

*The proposed rules changes the annual physical requirement to a two-year requirement. The proposed rules will allow for a certified medical professional to sign off.*

#### Class D:

- More behind the wheel hours for training instructors.

*A rule change is not required for this. However, the department is looking to modify the training program for instructors.*

- Splitting licenses.

*The proposed rules will not allow for split licensing for schools. This was removed based upon stakeholder feedback indicating the intention is for instructor licenses to be split not the schools. In order for the agency to do this, there will need to be a more intensive review of all components affected before we proceed with splitting them. Additionally, changes to the licensing system would need to occur.*

- Virtual Classrooms: should be an option, but not mandatory

*The proposed rules will allow for virtual classroom as a continual viable option for training.*

- Students should have to complete more than just 2 hours before starting behind the wheel: full 24 preferred

*The department is proposing a legislative change to require a student, who is enrolled in an online program, to complete the full 24 hour program before beginning the behind-the-wheel training. If the legislation is passed, the rule for both online and classroom students will be changed at that time.*

- Would like to see probationary instructor requirement go away, or at least make it optional for which assessment is completed.

*The probationary instructor requirement is in the law and not proposed for changes. However, the currently proposed rules are modifying the assessment requirement to only require one assessment instead of one assessment per type of training (e.g. classroom, range, or road) in the program.*

- Certificates: electronic transmission to the BMV

*The currently proposed rules include removing the restriction of sending the certificates electronically to students. The BMV system is not currently set up to receive electronic certificates for driver training. We are researching this possibility for the near future.*

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Online:

- Certificates: cut down to only one certificate, electronic transmission either straight to the BMV or emailed to the customer

*The currently proposed rules include removing the restriction of sending the certificates electronically to students. The BMV system is not currently set up to receive electronic certificates for driver training. We are researching this possibility for the near future.*

- Change the 24 hour rule to a calendar day

*The proposed rules update the 24-hour rule to a calendar day.*

**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?**

A pilot project with the Children's Hospital of Philadelphia, Diagnostic Driving Inc., and the Ohio Traffic Safety Office was performed from 2015 and on with the use of virtual driving assessments. The data collected from the assessments and BMV testing information provided our office with a look into the validity of performing assessments to determine a person's ability to pass the on-road exam. The project predicted that those who did poorly on the virtual driving assessment were 84% likely to fail the on-road exam. Based upon the high predictive outcomes, we developed a project to place the virtual driving assessments in the driver training schools to gain further understanding of the predictive behaviors of the youthful drivers. The project would allow for further understanding of how to continually improve driver's education and the behaviors of novice drivers.

The project will result in a predictive model based on a data analysis of assessment performance with crash data. Assessment performance will provide predictive risk identifiers giving the new driver their probability of being involved in a crash within two months and six months following licensure. The assessment will identify specific driving behaviors contributing to the risk; allowing for targeted training and awareness.

**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 agency originally intended to split licenses for the schools, allowing only classroom or behind-the-wheel training. This was removed based upon stakeholder feedback that they preferred splitting the instructor licenses. Additionally, by splitting the school licenses and not instructor licenses initially, would create difficulties for training of instructors. Instructors are

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required to have training in both the classroom and on the road. If a school is not licensed to provide one or the other, they would be unable to train instructors.

- 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 agency already employs performance-based regulations. The passing of probationary instructors is based upon their training managers indicating performance sufficient to perform the duties without additional oversight. Additionally, the agency has taken the measures to provide resources and support prior to taking any administrative action for violations. Recently, the agency implemented pre-legal consultations, which allow the department and the stakeholder to discuss concerning violations and create remedies that allow the business to handle its affairs and violations without initial administrative action.

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

Using RegExplorer, it was noted that other agencies make reference to driver training, but Section 4508.02 of the Revised Code tasks the Ohio Department of Public Safety with creating standards for driver training. The Ohio Department of Education does have requirements for school bus driver training outside of the requirements discussed in this package.

- 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 plans on communicating through multiple means (i.e. e-mail, open forum, weekly newsletters). The Department will provide the basic instructor courses multiple times throughout the year to provide ample opportunity for all new prospective instructors. The Department provides continuing education courses and a training manager course that will provide opportunities for the stakeholders to be informed of the recent changes. Additionally, the Department will choose an effective date in concert with driver training entities to make sure implementation is as smooth as possible.

### **Adverse Impact to Business**

- 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**

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There are 264 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 all adverse impact (e.g., fees, fines, employer time for compliance,); and**

The adverse impact includes increased hours of training with a new prospective employee, the reporting of an additional assessment to the agency, meeting requirements to allow for virtual assessment/online instruction if so chosen due to Covid-19 precautions.

Many of the comments received dealt with the impact of the virtual driving assessment for students, and the costs associated. The Department is trying to meet and balance the challenges that the COVID-19 environment has created with training and testing while being mindful of the challenges faced by driver training entities as well. This is an additional reason that a research-based, independent assessment is critical. Providing parents and new drivers feedback on deficient skills that have a high probability of leading to a crash is valuable at any time; more so when training and testing is compromised. To address the concerns voiced by the stakeholders, the Department is reducing the number of times a student is required to take the assessment and at what point. Additionally, the Department is providing additional opportunities to allow for convenience centers to proctor the assessments, thereby, alleviating those schools who are unable to provide the location or other components needed to proctor the assessment.

The cost to the schools are minimal and I suspect the implementation date can be established at a point in the future when there is a reasonable expectation COVID is under control. In addition, the Department is providing some of the required equipment for schools to perform the assessments, including Diagnostics Driving providing the assessment software at no cost for the schools.

**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.*

The following are the changes being proposed in this package:

4501-7-01 Definitions

- Minor updates to current terms and new terms added.

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- Paragraph (W) fixes a reference: “as defined by paragraph (X)” has been changed to paragraph (Y).

#### 4501-7-02

- Incorporates CDL into the rule
- Sets out the place of business requirements dependent upon type of training provided – The implementation of the virtual classroom will allow a school to reduce costs for leases of current classrooms from \$800-\$1,000 per location. Schools with multiple locations can cut those locations and only use the office. Additionally, this will save \$50 per location that is no longer being used as a physical classroom during the renewal season. It is dependent upon whether the school elects to host virtual or continue with a physical classroom.
- Sets out the range requirements for a CDL school offering range – The costs implemented with range requirements is no actual increase to the schools. The range has been part of the training as required by rule. However, to meet the new Federal regulations, the range dimensions and requirements have been added to the rule to allow for the ability for students to operate the vehicles safely.

The estimated cost of compliance for stakeholders includes lease agreements for the school, office and range locations, which averages about \$1,281.50 per location with multi-year or month-to-month terms. With the virtual classroom option, only an office is required. This reduces the cost for multiple locations in different areas. The virtual would be hosted from one location and service multiple counties.

During COVID-19 restrictions, the Department was able to pilot a program to allow students to contract with one school to complete classroom theory session, and a separate school to complete behind the wheel training; this was then proposed in the rule for five year review. Driving programs were able to provide classroom training in person or virtually, and then release them to another school. This caused a backlog of students needing behind-the-wheel training, and caused many smaller schools with limited instructors to fall behind. The Department received several complaints from parents about the extended length of time it was taking for their student to complete all requirements. Typically, a driving school has six months to complete both the classroom and behind-the-wheel training which allowed for a continual flow of students. However, with students completing each portion at a different school, there are now two separate six month periods, leading to instances where a school becomes backlogged with students, and doesn’t start additional students for several months after contracting with them. The Department is removing these provisions from the rule and planning to revisit the concept with the idea of splitting licenses. Removing the proposed changes will allow for schools to work through their backlogs, hire back enough instructors to handle the large influx of students needing the training.

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#### 4501-7-03

- Modifies the physical requirement to a two-year physical – In modifying to a two-year physical, the approximate cost is cut \$80 per instructor on the off year. Schools may elect to pay the cost or pass it off to the instructor.

#### 4501-7-04

- Incorporates CDL into the rule
- Update to include electronic payment option – this allows for additional convenience but there is a convenience fee charged for credit cards that is just over 1% of the total cost of the balance. The schools have the option of using electronic check, which allows for no additional cost beyond the cost of the school fee.

Original school license application for Class “D” and CDL - Applications are submitted electronically.

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

Background check - \$30 - \$80 per authorizing official and owner

Total cost for enterprise application - \$280 - \$330

- The costs for the new school orientation depends upon the type taken by the provider. There is online offered for Class “d” and online driver education providers, in-person training for CDL, and virtual class. The estimated costs of compliance include the time and costs associated with traveling to Columbus, Ohio, when the class is offered in-person. The time and costs estimated depends upon the location from which the attendees are traveling from. The costs associated with the virtual and online options are time. There is no fee or cost for the class itself.

Enterprise renewal - \$50 per location application fee

Total cost for enterprise renewal - \$50 per location

The estimated time to complete the renewal requirements may take four to five hours depending upon the number of locations a driver training school may have.

Enterprise Fees for online providers

Driver Training Enterprise application - \$250

Review of security assessment and online driver education program - \$600

Background check - \$30 - \$80 per authorizing official and owner

Total cost for enterprise application - \$885 - \$930

Enterprise renewal - \$50 per location application fee

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Total cost for enterprise renewal - \$50 per location

\*The postage is difficult to determine since the online providers are required to submit a written version of the online driver education program. The actual cost incurred by the applicant depends on the curriculum. The Department does allow for CDs to be mailed in lieu of the full printed version. 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.

#### 4501-7-05

- Separates out the licenses for CDL pursuant to ELDT
- CDL training managers shall be Class A licensed and fully endorsed
- Update to include electronic payment option - this allows for additional convenience but there is a convenience fee charged for credit cards that is just over 1% of the total cost of the balance.
- Modifies to only accept jpegs for the photo – Driver Education and Training System requirement
- Modifies to only require one assessment for a probationary instructor to pass probation – whichever type of training is primarily taught by the instructor – This will save the business approximately two to three hours per instructor, with an approximate cost savings of up to \$105 per assessment.

Initial Instructor application - \$25 – applications are submitted electronically

Background checks – \$105

- state level \$25

- federal level \$80

- Driver Abstract - \$8.50

- Physical - \$80

- Instructor's initial training - \$200 - \$500

Total cost for initial licensing of instructor - \$418.50 to \$781.50

Note: 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.

The estimated time to put together an instructor application is two to three hours.

Instructor Renewal Fees

Renewal application - \$10

Driver abstract - \$8.50

Total cost to renew instructor's license - \$18.50

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The estimated time to complete the renewal requirements is four to five hours depending upon the number of instructors employed through the school.

#### Training Manager Fees

Training manager certification initial training course - \$600

Continuing education course required every three years - \$90

Note: Although the rules do not require schools to pay for costs for wages, travel, and lodging, the school may choose to pay the cost to initially certify a training manager which may be as much as \$1500. Likewise, the costs for continuing education may increase, as well, to an estimated total of \$700 to \$1000. If the continuing education course is one hosted by the department, there are no fees for the actual course.

#### Disability Instructor Fees

Disability certification initial training course - \$350

Continuing education course required every three years - \$50

Note: Disability instructors working for a medically based hospital or rehabilitation facility are required to have a professional license. Additionally, the training required for such professional licenses require continuing education annually. Those courses are approved by the agency for credit.

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 to initially certify a disability instructor which may be as much as \$800. Likewise, the costs for continuing education may increase to an estimated total of \$550.

#### Instructor Continuing Education Fees

Continuing Education course required every three years - \$25 - \$50

Note: The agency will provide credit for the continuing education course if the instructor can provide proof of attendance at a professional conference or if the enterprise requires an in-service for all employees. The agency intends to hold continuing education courses throughout Ohio to assist in reducing the costs incurred by the businesses and individuals. Although the rules do not require schools to pay for amenities, such as meals or lodging, the schools may choose to pay or pass the costs onto the individual.

#### Sexual Harassment Prevention Training\*

The adverse impact for this requirement is only approximately fifteen minutes for an instructor to complete the online training. There will be no costs to take the online training.

#### 4501-7-06

The estimated impact of the rule is \$4 per certificate issued to each student. The actual

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impact depends upon the number of students trained. Rehabilitation hospitals and clinics have historically trained as few as one person in the disability program a year.

#### 4501-7-07

The rule is being rescinded as its provision are covered under ethics statutes.

#### 4501-7-08

The costs of compliance for this rule include the requirements for driver training enterprises to maintain acceptable minimum amounts of vehicle insurance and bond/escrow accounts to cover the cost of reimbursing students for training not supplied. The estimated cost of vehicle insurance is approximately \$250 to \$320 annually per vehicle. The full cost of compliance is based upon the number of vehicles the enterprise uses and the amount of coverage in the policy.

Note: Driver training schools may allow their instructors to use personal vehicles for the purposes of training. Therefore, the insurance is maintained and paid by each instructor. Additionally, for medically-based hospitals and rehabilitation clinics, the costs are paid by the hospitals and included in a fleet policy. Therefore, the cost on the program is negligible. The estimated cost of for the bond ranges from 1% to 30% of the actual cost of the bond. The percentage depends on credit and assets. The amount of coverage required is based upon the number of classroom locations and number of students with whom the school is contractually obligated.

The cost of CDL vehicle insurance ranges from \$5,000 to \$22,000 annually.

Note: The amounts provided are based upon higher vehicle insurance amounts. The CDL schools in Ohio maintain a much higher insurance liability than what is required. Additionally, the annual rates are based upon the number of vehicles covered.

The estimated cost of for the bond ranges from 1% to 30% of the actual cost of the bond. The percentage depends on credit and assets. The amount of coverage required is based upon the number of classroom locations and number of students with whom the school is contractually obligated.

Another option for schools is to place the minimum amount, \$50,000 per location, in an escrow account.

Note: Any CDL schools in Ohio, which are under the authority of the state, are not required to maintain a bond or escrow account.

#### 4501-7-09

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- Includes instructor oversight responsibilities during virtual classroom to ensure attendance
- Modifies the 24-hour time constraint for online students to a calendar day

The estimated costs of compliance include time to implement and maintain the specific security controls required by the state and set forth in the “Online Driver Education Security Assessment.”

Implementation of Security Measures (new for the company) - \$8,000

Time for implementation – 2 – 3 weeks

Note: These security controls are basic measures that should be utilized by any online company.

A few of the online providers already had these measures in place, therefore for some companies the cost and time of implementing the measures was negligible.

During COVID-19 restrictions, the Department was able to pilot a program to allow students to contract with one school to complete classroom theory session, and a separate school to complete behind the wheel training; this was then proposed in the rule for five year review. Driving programs were able to provide classroom training in person or virtually, and then release them to another school. This caused a backlog of students needing behind-the-wheel training, and caused many smaller schools with limited instructors to fall behind. The Department received several complaints from parents about the extended length of time it was taking for their student to complete all requirements. Typically, a driving school has six months to complete both the classroom and behind-the-wheel training which allowed for a continual flow of students. However, with students completing each portion at a different school, there are now two separate six month periods, leading to instances where a school becomes backlogged with students, and doesn’t start additional students for several months after contracting with them. The Department is removing these provisions from the rule and planning to revisit the concept with the idea of splitting licenses. Removing the proposed changes will allow for schools to work through their backlogs, hire back enough instructors to handle the large influx of students needing the training.

A change was also made to clarify that completion of classroom training is required before starting behind-the-wheel training according to changes in House Bill 74 of the 134<sup>th</sup> General Assembly.

#### 4501-7-10

- Requires a student to complete the classroom training prior to starting behind the wheel training– if they contract with two separate schools

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The estimated costs of compliance for driver training schools include the cost for the instructor identification badges. The estimated cost per badge ranges from \$1 to \$3. The cost is determined by materials used and where the badges are produced.

During COVID-19 restrictions, the Department was able to pilot a program to allow students to contract with one school to complete classroom theory session, and a separate school to complete behind the wheel training; this was then proposed in the rule for five year review. Driving programs were able to provide classroom training in person or virtually, and then release them to another school. This caused a backlog of students needing behind-the-wheel training, and caused many smaller schools with limited instructors to fall behind. The Department received several complaints from parents about the extended length of time it was taking for their student to complete all requirements. Typically, a driving school has six months to complete both the classroom and behind-the-wheel training which allowed for a continual flow of students. However, with students completing each portion at a different school, there are now two separate six month periods, leading to instances where a school becomes backlogged with students, and doesn't start additional students for several months after contracting with them. The Department is removing these provisions from the rule and planning to revisit the concept with the idea of splitting licenses. Removing the proposed changes will allow for schools to work through their backlogs, hire back enough instructors to handle the large influx of students needing the training.

The virtual driving assessment has been removed from the rule package; based on feedback received from the training programs, the implementation of a mandatory assessment was logistically difficult. The schools are continuing to recover from COVID restrictions and experiencing personnel shortages along with larger than normal backlogs. The costs for implementing the additional time and personnel needed for students to complete the assessment were cost prohibitive for some. The Department decided to move forward with a pilot, working with the schools willing to implement the assessment. In one year, the Department will evaluate the effectiveness of the assessment along with other relative factors of implementation and logistics.

A change was also made to clarify that completion of classroom training is required before starting behind-the-wheel training according to changes in House Bill 74 of the 134<sup>th</sup> General Assembly.

#### 4501-7-11

- Incorporates CDL into the rule

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Allows for electronic transmission of certificates – this is a cost savings of mail for the company and general public. The savings can result in the cost of a stamp up to first overnight mailing costs.

Certificate of enrollment - \$4 per certificate\*

Certificate of completion for an online driver training program - \$4 per certificate\*

Certificate of completion - \$4

\* The adverse impact on the schools is based on the number of students completed by the business enterprise. The stakeholder group indicated these certificate costs are included in the cost of the course and paid by the student.

A change was made to clarify that completion of classroom training is required before starting behind-the-wheel training according to changes in House Bill 74 of the 134<sup>th</sup> General Assembly.

#### 4501-7-12

- Modified to include contracting for separate programs

The estimated costs of compliance for driver training schools include the cost for the developing and printing the training agreements. The estimated cost ranges between \$50 and \$500.

For online providers the cost is negligible since the cost for printing are placed on the customers. The agency provides a template for the required agreement at no charge to the schools. The template is readily available and easily accessible from the department's website. Therefore, if a school uses the agency's agreement, the only cost is printing. If a school opts to create and print its own, it may incur the higher compliance costs. All schools are required to maintain the training agreements for three years from the date of program completion.

During COVID-19 restrictions, the Department was able to pilot a program to allow students to contract with one school to complete classroom theory session, and a separate school to complete behind the wheel training; this was then proposed in the rule for five year review. Driving programs were able to provide classroom training in person or virtually, and then release them to another school. This caused a backlog of students needing behind-the-wheel training, and caused many smaller schools with limited instructors to fall behind. The Department received several complaints from parents about the extended length of time it was taking for their student to complete all requirements. Typically, a driving school has six months to complete both the classroom and behind-the-wheel training which allowed for a continual flow of students. However, with students

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completing each portion at a different school, there are now two separate six month periods, leading to instances where a school becomes backlogged with students, and doesn't start additional students for several months after contracting with them. The Department is removing these provisions from the rule and planning to revisit the concept with the idea of splitting licenses. Removing the proposed changes will allow for schools to work through their backlogs, hire back enough instructors to handle the large influx of students needing the training.

A change was also made to clarify that completion of classroom training is required before starting behind-the-wheel training according to changes in House Bill 74 of the 134<sup>th</sup> General Assembly.

#### 4501-7-13

- Reorganized to distinguish the records for business, instructors, and training.

During COVID-19 restrictions, the Department was able to pilot a program to allow students to contract with one school to complete classroom theory session, and a separate school to complete behind the wheel training; this was then proposed in the rule for five year review. Driving programs were able to provide classroom training in person or virtually, and then release them to another school. This caused a backlog of students needing behind-the-wheel training, and caused many smaller schools with limited instructors to fall behind. The Department received several complaints from parents about the extended length of time it was taking for their student to complete all requirements. Typically, a driving school has six months to complete both the classroom and behind-the-wheel training which allowed for a continual flow of students. However, with students completing each portion at a different school, there are now two separate six month periods, leading to instances where a school becomes backlogged with students, and doesn't start additional students for several months after contracting with them. The Department is removing these provisions from the rule and planning to revisit the concept with the idea of splitting licenses. Removing the proposed changes will allow for schools to work through their backlogs, hire back enough instructors to handle the large influx of students needing the training.

A change was also made to clarify that completion of classroom training is required before starting behind-the-wheel training according to changes in House Bill 74 of the 134<sup>th</sup> General Assembly.

#### 4501-7-14

- Updated to address the “who” for the vehicle inspection policy
- Modifies the decal requirement to inspection number

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The estimated costs of compliance include the “student driver” signs and the equipment costs for an instructor brake.

Signs - \$50 total for both front and back

Instructor brake - \$500 per vehicle.

Note: The costs of the instructor brakes depend upon the costs of the installation of the equipment.

#### 4501-7-20

The rule requires the CDL school to provide specific documentation and/or items related to the training for the purpose of an inspection and/or investigation. The specific documentation may include student records, instructor records, and other items such as vehicles, and facilities used for training.

The time it takes a school to prepare for an inspection is between four and eight hours. This includes the time it requires to pull records from other sites, if they have more than one site and all vehicles and ensure it is available at the main enterprise office.

#### 4501-7-28

- Requires a final exam for the theory portion – While most CDL schools already require a final exam for students to pass the classroom, this will result in an additional mandatory 30 minutes minimum for each class.
- Requires instructors to pass students for behind the wheel training based upon proficiency
- Reduces the instructor-student-truck ratio
- Sets out the curriculum for theory, range, and road training

The majority of the CDL schools are already set up with the appropriate curriculum and final exams. The Federal Motor Carrier Safety Administration has been moving towards the Entry-Level Driver Training requirements for a few years and the schools have been preparing.

IN paragraph (L)(5)(c), the time frame for a second attempt has been updated to “calendar day” instead of “24 hours.”

#### 4501-7-29

Establishes the ability for an enterprise to contract with a student for one type of training or both.

The estimated costs of compliance for driver training schools include the cost for the developing and printing the training agreements. The estimated cost ranges between \$50 and \$500.

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The agency provides a template for the required agreement at no charge to the schools. The template is readily available and easily accessible from the department's website. Therefore, if a school uses the agency's agreement, the only cost is printing. If a school opts to create and print its own, it may incur the higher compliance costs.

#### 4501-7-31

The estimated costs of compliance include the "student driver" signs and the equipment costs for an instructor brake.

Signs - \$50 total for both front and back

Instructor brake - \$500 - \$1000 per vehicle.

Note: The costs of the instructor brakes depend upon the installation of the equipment. CDL schools with a mechanic on staff will pay the lesser amount.

#### 4501-7-37 (New)

New rule that defines disqualifying offenses as it pertains to bars to licensure according to House Bill 263 of the 133<sup>rd</sup> General Assembly.

### **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 Department to ensure the protection of the public by setting requirements for proper instructor training and driver training courses and instructors maintain an environment that is conducive to learning. The Department, 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 including the 2 for 1 restriction requirement of Section 121.95 of the Revised Code.

### **Regulatory Flexibility**

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

As described above, an alternative opportunity is available for a school, who is unable to proctor a virtual driving assessment. They may send their students to a convenience center to take the assessment. A convenience center may be another driving school, or exam station, or another business willing to proctor the assessment.

### **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?**

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The Department 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 Department 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 Department will follow up in an e-mail identifying the discrepancy and allow the school to respond within a given timeframe. Education and correction of infractions is always preferred to administrative action, and the Driver Training Section works with driver training entities as much as possible to avoid penalties.

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

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

The Department provides informational resources for the schools.

The rules require specific records and forms. These forms and templates for records are available on the Department website at no cost to the schools and instructors. The Department provides a copy of the Ohio Driver Training Curriculum to schools at no cost. The Department 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. The Department also provides online options for training required. The Department hosts continuing education courses, Basic Instructor Courses, and other types of training, to schools and instructors at no cost. Recently, the Department has been hosting these programs virtually to allow for instructors and schools to meet the requirements, and stay in compliance with all COVID mandates.