



## Common Sense Initiative

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

**Sean McCullough**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Public Safety, Ohio Traffic Safety Office, Driver Training

Rule Contact Name and Contact Information:

Joseph A. Kirk, Rules Coordinator, 614-466-5605,  
jakirk@dps.ohio.gov

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

Abbreviated Adult Driver Training Course

Rule Number(s): Chapter 4501-8, OAC

Date of Submission for CSI Review: 4/21/2022

Public Comment Period End Date: 5/6/2022

Rule Type/Number of Rules:

New/ 2 rules

No Change/ 6 rules (FYR? 6)

Amended/ 13 (2 R&N) rules (FYR? 13)

Rescinded/      rules (FYR?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 for the education and training of beginning drivers, age 18 years and older, who fail the first attempt at the driving test.**

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 4508.02 of the Ohio 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.**

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

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There is no federal regulation over this type of program.

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 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 success in the regulation is measured by the number of course providers and the number of students successfully completing the course.

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.*

On March 7, 2022 the proposed rules were published to the Bulletin Board to all Abbreviated Adult providers (brick-and-mortar and online) for comment and identification of business impact. The Bulletin Board is generated through the Driver Education Training System that houses all components regulated by the department for each business enterprise and instructor. Every enterprise has access to DETS and use of the bulletin board ensures delivery of a publication to every affected enterprise.

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The same publication was published to the public-facing website at [ODT News & Information \(ohio.gov\)](https://www.odtnewsandinformation.com). No response by an abbreviated adult provider was received.

Previously, the department held a town hall meeting with abbreviated adult providers on July 28, 2020. The following abbreviated adult providers participated in the town hall: Mary Kaye Speckhart (Professional Driving School), Karen and Bill Blumhorst (Capabilities, Inc.), Julie Bernie (Costech Technologies), Paul Zalatoris (Top Driver), Rick Van Pelt (All Star Driver Education), and Eli Riadi (24/7 Traffic Education Corporation).

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

The town hall meeting discussed the possibility of students receiving credit for any approved driver education program taken within 6 months to one year prior to turning 18 years and failing their first attempt at the driving test. The department pushed for legislation to allow for an exemption of the abbreviated adult program if the person took an approved program one year prior to taking the test and failing. Legislation was passed.

The group also discussed changing the 24 hour requirement between final exams of the program to calendar days. The rules were updated to modify this.

The group requested the ability to send certificates of completion electronically. The department modified the rules to allow for this.

**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?**

Not applicable.

**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?**

No alternatives were considered during this review. The stakeholders of this course were not communicative with the concerns or issues with the regulations, therefore; we were unable to identify concerns that may require a determination of appropriateness.

**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 adult coordinators indicating performance

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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?

Section 4508.02 give the Department of Public Safety the responsibility to provide regulation for abbreviated adult driver training. Additionally a search was conducted using RegExplorer to make sure there was no duplication of regulations.

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 and provide an updated course online to provide ample opportunity for all new prospective instructors. The Department provides continuing education courses and a 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

There are 97 enterprises with 165 satellite locations and 359 instructors.

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

- 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.*

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The following are the changes being proposed in this package:

4501-8-01 Definitions (amended)

- Minor updates to current terms and new terms added.

4501-8-02 (amended)

- 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. In addition, if the school is already offering other types of driver training, these costs are shared with those courses. 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.

4501-8-03 (amended)

- 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. If the instructor is also licensed as a Class D (teen) instructor, they may use the same physical required for that program to comply with this regulation.

4501-8-04 (amended)

- 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 applications are submitted electronically.

Driver Training Enterprise application - \$250 per location application fee  
Background check - \$30 - \$80 per authorizing official and owner

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**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 or virtual training offered for providers. The estimated costs of compliance include the time to attend the virtual and online options. There is no fee or cost for the class itself.

**\*It is important to note that if the business is already licensed under Chapter 4501-7 of the Ohio Administrative Code and they are adding the abbreviated adult course to an already existing license, no costs for the license or requirement of the orientation is required. Most of our abbreviated adult providers already fall under the licensing jurisdiction of Chapter 4501-7 of the Ohio Administrative Code.**

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

**Total cost for enterprise renewal - \$50 per location**

**\*The renewal fee is not applied to this program if the abbreviated adult course is included on a license already issued under Chapter 4501-7 of the Administrative Code. Most of our abbreviated adult providers already fall under the licensing jurisdiction of Chapter 4501-7 of the Ohio Administrative Code.**

**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**

**\*It is important to note that if the business is already licensed under Chapter 4501-7 of the Ohio Administrative Code and they are adding the abbreviated adult course to an already existing license, no costs for the license or requirement of the orientation is required. Most of our abbreviated adult providers already fall under the licensing jurisdiction of Chapter 4501-7 of the Ohio Administrative Code.**

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

**Total cost for enterprise renewal - \$50 per location**

**\*The renewal fee is not applied to this program if the abbreviated adult course is included on a license already issued under Chapter 4501-7 of the Administrative Code. Most of our abbreviated adult providers already fall under the licensing jurisdiction of Chapter 4501-7 of the Ohio Administrative Code.**

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\*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.

**4501-8-05(amended)**

- 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

**Costs for training cannot be determined due to lack of response from stakeholders.**

\*Note – if the instructor is already licensed as a Class D instructor, there are no application fees or requirements for the background checks, abstract or physical to add the abbreviated adult course to the existing license.

**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**

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

\*Note – if the instructor is already licensed as a Class D instructor, there is only one renewal fee for the license as a whole.

**Adult Coordinator – the adult coordinators currently licensed by the department are also Class D training managers, therefore; they were only required to take the 2-hour**

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course to add the adult coordinator endorsement to the license. No additional fees or training is required. The 2-hour course is offered online and at no cost to the stakeholder.

**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. 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. \*Note – the department grants credit for courses taken for other licenses and applies it towards this portion of the license. Therefore, the costs are shared with the other programs this instructor is licensed for.

#### **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.

The majority of the abbreviated adult instructors hold a Class D instructor or disability license. The department does not require duplicity of requirements for the

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instructors, including providing double the documents (physicals, abstracts, photos,) or fees. Credit is applied for continuing education across all of the programs held on one license. Therefore, the costs are shared with other programs.

**4501-8-06(amended)**

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

**4501-8-07 (rescind and new)**

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 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.

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

Additionally, if the school operates other programs under Chapter 4501-7 of the Administrative Code, they are able to use the same bond or escrow account and only increase the amount of coverage based upon the total number of students enrolled for the abbreviated adult program.

**4501-8-08 (amended)**

**No Change rule-** 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

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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.

**4501-8-09 (amended)**

- 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.” Most of our online providers also offer the Class D course utilizing the same link, therefore; the costs to implement and maintain the security measures are negligible.

**4501-8-10 (amended)**

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 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.

**4501-8-11(amended)**

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.

**4501-8-12 (rescind and new)**

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

**4501-8-13 (amended)**

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

\*Note – the vehicles used for the abbreviated adult training are also used for Class D training. There are no abbreviated adult only driver training schools. The requirements of this chapter are already employed under the provisions in Chapter 4501-7 of the Administrative Code. The department does not require a duplicate inspection of the vehicles if they are used for other programs.

**4501-8-14 (no change)**

Deals with safe operation of vehicles, no adverse impact.

**4501-8-15 (no change)**

Deals with driver examination test routes; no adverse impact.

**4501-8-16 (no change)**

Deals with advertising and soliciting business; no adverse impact.

**4501-8-17 (no change)**

Deals with prohibition of guarantees; no adverse impact.

**4501-8-18 (amended)**

Rule modified to include virtual classroom instruction.

**4501-8-19 (no change)**

Deals with administrative actions by the department; Adverse impact is required by chapter 4508.08 and 119.01 to 119.13 of the Revised code dealing with administrative hearings.

**4501-8-20 (no change)**

Deals with process for armed forces applications; no adverse impact.

**4501-8-21 (amended)**

Incorporated materials, dates/forms updated; no adverse impact.

These reviews are wrapped up in the same review with the other training programs. The department does not require duplicity of reviews since most regulations are the same as Chapter 4501-7 of the Administrative Code.

**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.**

The rules in this package have simplified the instructor and adult coordinator requirements if the same instructor or coordinator is licensed under the Chapter 4501-7.

The businesses' vehicles do not require another inspection if those same vehicles are used and inspected pursuant to rule 4501-7-14 of the Administrative Code.

Additionally, the biennial program reviews performed by the department are scheduled at the same time as a program review for any of the other regulated driver training course reviews. This lessens duplicity of reviewing records and reduces time for both the department and the business enterprise.

**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?**

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

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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 and the curriculum 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 Abbreviated Adult Course 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.