



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Joe Kirk, Ohio Department of Public Safety

FROM: Caleb White, Business Advocate

DATE: November 29, 2023

RE: **CSI Review – Commercial Driver Training Schools (OAC 4765-7-01, 4765-7-04, 4765-7-05, 4765-7-10, 4765-7-13, 4765-7-28, 4765-7-37, and 4765-7-39)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of eight amended rules proposed by the Ohio Department of Public Safety (DPS). This rule package was submitted to the CSI Office on October 26, 2023, and the public comment period was held open through November 9, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on October 26, 2023.

The rules contained in this package establish the requirements for the licensing, education, and training of new drivers and commercial drivers. Ohio Administrative Code (OAC) 4501-7-01 sets forth the definitions to be used in this chapter and is amended to add and integrate definitions for "asynchronous," "synchronous," and "private certification," as well as to update and streamline the rule language. OAC 4501-7-04 sets forth the process and requirements for the application and renewal of a driver training school license. This rule is amended to clarify that the renewal fee is an annual fee, allow flexibility in the manner in which documents are to be submitted to DPS, update a web address, allow for a driver training school to use a scheduled program review instead of the renewal requirements for the renewal of their license, and update, streamline, and clarify rule

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language.

OAC 4501-7-05 outlines the process for instructors and training managers to apply for and renew licenses. This rule is amended to add a probationary training manager endorsement and to differentiate between training managers and probationary training managers, eliminate the requirement for a photo to be included in initial and renewal applications, adopt out-of-state licensing reciprocity as outlined in ORC Chapter 4796, bring the requirements for previously licensed driving instructors in line with the out-of-state reciprocity requirements, reduce the time required for the assessments of probationary instructors, and allow for professional micro credentials be an acceptable document to satisfy the credential required to be submitted with a license application for a certified driver rehabilitation specialist. This rule is also amended to split the licenses for Class D instructors into three types based on what they teach which will reduce the number of training hours required to obtain this certification and make it easier for schools to license Class D instructors, outline what must be included in an application for a probationary training manager endorsement, reduce the renewal requirements for instructors by only requiring the applicant's driving record abstract to be submitted biennially rather than annually, as well as update language and references.

OAC 4501-7-10 outlines the training requirements for Class D drivers. This rule is amended to clarify the requirement for an instructor to maintain a proof of identity when teaching and clarify the requirements for situations where an instructor does not have a photo on their instructor license. OAC 4501-7-28-13 establishes what records are required to be maintained by a licensed driver training school including how long they are to be kept. This rule is amended to allow for the annual assessment for disability instructor to be performed by a certified rehabilitation specialist as well as to update and clarify language. OAC 4501-7-28 establishes the training requirements for Commercial Driver License (CDL) drivers in training. This rule is amended to clarify the requirement for an instructor to maintain a proof of identity when teaching and clarify the requirements for situations where an instructor does not have a photo on their instructor license.

OAC 4501-7-37 outlines the disqualifying offenses for licenses issued under ORC 4508.04. This rule is amended to further detail disqualifying fraud offences and include drug-related offences as disqualifying offences. OAC 4501-7-39 lists materials in this chapter that have been incorporated by reference. This rule is amended to update the list of incorporated materials.

During early stakeholder outreach, DPS held three round tables and shared the draft rules with stakeholders. The first roundtable was held on September 12, 2023, and included the representatives of twenty-three Class D stakeholders. The second roundtable was held on September 14, 2023, and included the representatives of four stakeholders involved in training individuals in the disability

community. The final roundtable took place on September 19, 2023, and included representatives of eleven stakeholders involved in commercial CDL training. During this period, DPS received comments from stakeholders in the disability community asking for the burden of licensing individuals to be reduced and for certified driver rehabilitation specialist to be permitted to administer the annual assessment of a disability instructor. DPS also received a comment from a representative of the Ohio State University Driving Rehab Services which asked for clarification on probationary training managers that apply to medically based hospitals and rehabilitation centers as they only provide behind-the-wheel instruction and could be considered a restricted Class D instructor under these rules. In response to this feedback, DPS made the changes requested by the disability community and clarified the portion of the rules related to probationary training managers applying to medically based hospitals and rehabilitation centers. During the CSI public comment period, DPS received two comments.

The first comment came from Northridge Local Schools (NLS), which offers drivers education to their students. NLS requested the timeline for a new driver to complete the driver's education course be extended from six months to nine months to better accommodate the school semester structure. DPS elected not to make this change as extending this timeline can lead to an increase in knowledge lost and the potential need for remedial education as well as to ensure that Ohio drivers are licensed in a timely manner.

The second comment came from Coshocton Driver training. This commenter raised concerns with disqualifying offenses such as DUIs or driving offenses preventing individuals from becoming a driving instructor and with the limited timeframe in which driver training must be completed. DPS elected not to make changes in response to these comments as the rules do allow for instructors with either traffic violations and/or criminal convictions to obtain a license to teach driver's education. Individuals with traffic convictions resulting in fewer than four points or a two or fewer moving convictions are eligible, and a person's criminal background is also taken into consideration. DPS reported that the rules provide discretion to evaluate applicants based on the severity and nature of the disqualifying offense as well as any rehabilitation or treatment received when determining if the individual should be disqualified from having a license. DPS also stated that the limited timeframe rules are written to allow for mitigating circumstances, such as medical or health and family issues, but alternative options are also available as appropriate.

The business community impacted by the rules includes 220 licensed enterprises with 440 satellite training locations and 1850 licensed instructors who are licensed through DPS. The adverse impacts created by the rules include the application and renewal fees, the time associated with submitting the application along with the required documents, and the costs associated with training instructors. DPS estimates the total cost of a license for driver training schools can range from \$280-\$330 for

the initial application and \$50 for renewal. An online driving schools' initial application is estimated to cost \$885-\$930 due to an additional requirement to have a review of a security assessment. Finally, online driver education program licenses cost \$600 for an initial license, with a renewal cost of \$50. DPS estimates the time associated with obtaining a license is approximately one day. DPS estimates that the total cost for a license for an instructor can range from \$418.50 to \$781.50 and with renewals costing \$18.50, as well as \$25-50 for continuing education every three years. DPS estimates that the costs for training managers are \$600 for an initial training course and \$90 every three years for continuing education. DPS estimates that the costs for disability instructors are \$350 for an initial training course and \$50 every three years for continuing education. DPS estimates it will take driving schools approximately a day to complete the license application along with all the requirements and also estimates it will take instructors four to five hours for driving instructors to complete their application requirements. DPS states that these adverse impacts are necessary to ensure the protection of the public by setting the requirements for proper instructor training and driver training courses and that instructors maintain an environment that is conducive to learning.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that DPS should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.