



# Common Sense Initiative

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## Business Impact Analysis

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

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

Commercial Driver Training Schools, OAC 4501-7

Rule Number(s): 4501-7-01, 4501-7-04, 4501-7-05, 4501-7-10, 4501-7-13, 4501-7-28, 4501-7-37, 4501-7-39

Date of Submission for CSI Review: October 26, 2023

Public Comment Period End Date: November 9, 2023

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended 8 rules (FYR? \_\_\_)

Rescinded/\_\_\_ rules (FYR? \_\_\_)

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

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### **Reason for Submission**

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

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

The rule(s):

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

### **Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

*The rules in this package set forth the requirements for the licensing, education, and training of beginning drivers and commercial drivers. This package is being filed to address new initiatives to assist in alleviating some barriers for driver education schools for teen driving programs, and to address new legislative changes. The key provisions include removing the requirement for a photo for driving instructors, adding in reciprocity for other state, governmental, or private certifications within the same field, adding in a probationary training manager endorsement, split instructor licenses, changing processes for renewal of licenses, and added disqualifying offenses.*

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.

*Chapter 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.*

5. If the regulation implements a federal requirement, but 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.*

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

*The agency will measure the success of the regulations through the number of new schools opening, the number of instructors licensed under the reciprocity and split licensing, and the number of endorsements for probationary managers. Additionally, the department will continue discussions on the business impact of the regulatory changes with the process changes to determine the success.*

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.*

*Roundtables were held for each affected group, Class D, Disability, and CDL. There was little to no interest from the online community to participate in a roundtable. The department released the drafted rules to the stakeholders through the Bulletin Board on \*\*\*\*\*.*

*September 12, 2023 Class D roundtable – participants included: Sara Kisseberth (Drive Time Driving Instruction), Danielle Spino (Toledo Driving School), Vernon Goodwin (AAAA International of Milford), Kenny Koch (Coshocton Driver Training) Melissa Riedl (911 Driving School), Stacy Sanders (East Central Ohio Educational Service Center), Caitlyn Theado, Marge Schaim (AAAA International Driving School), Carla Fleece & Holly Brown (Licking Valley Driving School/Schwartz Driving School), Mary Kaye Speckhart (Pro*

*Driving School/Professional Driving School), Barb Funk (Mid-East Career & Tech Center), Tom Kircher (Driving Schools of Ohio/Suburban Driving Schools), Ann Cunningham (Hocking College/Tri-County Driver's Ed), Tina Simon & Sheila Rader (Cardinal Driving School), Joe Paul (BTW Driver's Ed), Lisa Bolin (Superior Driving Academy), Robin Gibson (2<sup>nd</sup> Nature Driving Academy), Shalana Satterwhite & Shari Armstrong (Public Safety Driving School), Dionne & Kevin Smith (Inspired Driving Academy), Ray Karbowiak (Capabilities, Inc.), Rob Swinton (Safe Pass), Darnell Davis (Learn the Right Way Driving Academy), Aimee Hickey (Apollo Career Center), and Greg Anderson (ANDCO dba All Star Driver Education)*

*September 14, 2023 Disability roundtable –participants included: Tina Paff (Bick's Driving School of Western Hills), Ari Klarfeld (New Direction Driving School), Sharon Fife (D&D Driving School), Kate Lopez (Mercy Health West Hospital)*

*September 19, 2023 CDL roundtable – participants included: Micah French (Apollo Truck Driving Academy), Jeff Whittington (Roadmaster), John Smith (Southern State), Krystal Ranowsky and Ryan Hawk (Stark State), Paul Castle, John Enlow, & Christopher Ard (160 DA), Carl Smith & Mariea Stone (Valley College), Desmond Wilson (CMV Pros), Gene Bartlett (The Career Center), Scott Marx (The Marx Brothers Consulting), Melissa Warner (Ohio Business College), and Brad Maroon (Hamrick School)*

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

*The disability community requested some changes to reduce the burden of licensing individuals and allowing the annual assessments to be completed by a certified driver rehabilitation specialist. These requests were updated in the rule as they make sense and reduce duplicative work and training in the community.*

*Emily Haffner (OSU Driving Rehab Services) requested clarification on probationary training managers applying to the medically based hospitals and rehabilitation centers since they only provide behind-the-wheel training thereby being a restricted Class D instructor. The portion of the rule pertaining to probationary training managers requiring a non-restricted license to except these types of instructors for medically based hospitals and rehabilitation clinics was clarified.*

**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?**

*N/A*

**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? Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.**

*No. Chapter 4508. of the Revised Code spells out how the rules are to be promulgated and does not allow for alternative regulation.*

**13. 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 refer to driver training, but Section 4508.02 of the Revised Code tasks the Ohio Department of Public Safety with creating standards for driver training.*

**14. 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, public facing website updates, weekly electronic newsletters). The electronic application systems (DETS) will be updated to accommodate all the changes, and the forms addressing the changes will be published on the website. The Department will provide the basic instructor courses multiple times throughout the year to provide ample opportunity for all new prospective instructors. All online courses hosted by the department will be updated and ready for release upon effective date of the rules. 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**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

**a. Identify the scope of the impacted business community, and**

*There are 220 licensed enterprises with 440 satellite training locations with approximately 1850 licensed instructors.*

**b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

*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 majority of the proposed changes do not provide additional adverse impact but rather reduce the compliance hours with the renewal process changes and reduced hours of training for the split licenses.*

*Rules were posted to all affected stakeholders for over two weeks for review and estimated costs and time impact. No responses received provided or identified the nature of the impact, including costs or time.*

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

4501-7-01 Definitions

*Minor updates to include new terms and update other definitions*

- *Minor updates on Added paragraph (C) to define asynchronous learning*
- *Updated paragraph (M) to clarify non-commercial vehicles as passenger vehicles*
- *Update paragraph (Z)(2) to further clarify online businesses as offering asynchronous programs*
- *Updated paragraph (JJ) to further clarify online programs as asynchronous*
- *Added paragraph (SS) to define synchronous learning*
- *Updated paragraph (SS) to further clarify virtual classroom as synchronous*
- *Added paragraph (YY) to define private certification per the new law*

4501-7-04 Application for a renewal of driver training school licenses

*The proposed new language changes the frequency requirement for full renewals annually, thereby reducing time and costs associated with the requirement.*

- *Clarified paragraph (B) to the correct format as prescribed for applying*
- *Updated paragraph (E) to the correct the website reference*
- *Changed the process in paragraph (L) to reduce the time and impact of providing a full renewal annually.*
- *Updated language in paragraphs (M) and (N)*
- *Updated rule citations in paragraph (O)(1)*

Costs

*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. This will be reduced to every other year.*

*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  
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 Applications and renewal of licenses for instructors and training managers.*

*The proposed changes include splitting licenses for Class D instructors. This will provide flexibility with the schools in getting instructors licensed and will reduce the hours of training. Hours of training are not indicated in the rules but published through the approved training programs on the driver training website. The proposals include introducing a probationary training manager. For those applying to become a probationary training manager, it will require additional time with the driver training office to go over records to ensure they are fully compliant with the rules as they are learning to run a driver training school. It is estimated the additional time to be two (2) hours once or twice a year for a normal review. Those probationary training managers requesting additional support from the office will incur more time. Nothing will be charged for the support. The proposed changes include providing an option to include a photo for initial and renewal applications but removes the requirement to include it. Additionally, the changes include reciprocity from other states licensing, governmental agencies certification or private certifications in lieu of going through Ohio's training. This would reduce the time it takes to train an instructor and expedite the licensing process to get them out training students. The rules reduce the time for assessments from a full session or two hours to one hour for Class D, CDL, and disability instructors*

- Adding paragraph (B) to allow to for split licensing for instructors. This paragraph defines specialized restricted instructors versus a full-fledged instructor.*

- Updated paragraph (D) to include the new probationary training manager endorsement. Further clarified the requirements for training managers and probationary training managers.
- Modified paragraph (E)(3) to remove the mandatory submission of a photograph for instructor applications.
- Modified paragraph (E)(7)(a) to clarify type of license for the required training.
- Removed the reciprocity for CDL instructors from paragraph (E)(7)(c). This is addressed more in-depth in paragraph (E)(7)(d) in accordance with the new law. The new paragraph sets out the other state, governmental, and private organization certifications, and requirements to have reciprocity with those other types of licenses or certifications.
- Added paragraph (E)(7)(e) to address in-state previously licensed instructors to somewhat mirror the reciprocity. This reduces the re-training time and associated costs with training an instructor, who was recently licensed but was returning after more than one year after not renewing.
- Modified sections of paragraph (F) to reduce the time required for assessments of probationary instructors.
- Modified paragraph (G)(2)(a) to allow for consideration of a professional microcredential and certification as a Certified driver rehabilitation specialist.
- Updated paragraph (H)(5) to include the requirements to apply for a probationary training manager endorsement.
- Modified paragraph (L) to reduce the renewal requirements for instructors
- Updated paragraph (Q)(5) and (R)(5) to disqualifying offense and reference to the correct rule
- Updated paragraph (W) to correctly list the title of the course.

### Costs

*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 or a license within the previous five years. The reciprocity certifications and/or licenses will greatly reduce the training costs. Application time and costs apply to those under these exceptions.*

*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 time and costs associated with renewals will apply every other year.*

*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 thirty minutes for an instructor to complete the online training. There are no costs to take the department provided online training.*

4501-7-10 Driver Training

*Modified paragraph (A)(4) to clarify the requirement to maintain proof of identity when teaching and what is required if instructors do not have a pictured instructor's license.*

4501-7-13 Records maintained by a licensed driver training enterprise.

*Modified rule (D)(4) to provide an allowance for assessments to be completed by a certified driver rehabilitation specialist for disability instructors. Rehabilitation centers and medically-based hospitals are restricted to those available to perform an assessment and have concerns with HIPAA if they have another training manager from a different school perform the assessments. Additionally, they have comprehensive assessments completed within their organizations that already cover the same requirement making our rule a duplicative effort.*

*Updated the citations in paragraph (D)(6).*

*Modified paragraph (G) to clarify the intention of the rule.*

4501-7-28 Training Required for the operation of commercial motor vehicles.

*Modified paragraph (B) to clarify the requirement to maintain proof of identity when teaching and what is required if instructors do not have a pictured instructor's license.*

4501-7-37 Disqualifying Offenses

*Updated a couple sections to include offenses listed on the department's website but omitted initially in rule. Paragraph (C)(8) was modified for further clarification and inclusion of fraud offenses. Paragraph (C)(10) was added to include drug-related offenses.*

4501-7-39 Incorporated by reference.

*Many of the changes in this rule pertains to updating website references. Removed portions of the Code of Federal Regulations that are addressed in a different incorporated document and no longer specifically listed in the rules. There are no real impacts from these changes.*

*The paragraphs with updated website addresses are paragraphs (5) through (12), (14), and (16) through (20).*

**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.**

*Instructors are required to take continuing education courses once every three years. There are many options that can be used to reduce the costs, travel, and time. The department allows for pre-approved courses offered online or through other professional organizations, or school specific offered courses, or if the individual takes an appropriate course through another job or profession, it is possible to credit them with continuing education. The department also provides credit from one course and applies it to other portions of their license so duplicate courses are not required.*

**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 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 was 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, including information on opening a driving school, and a link to Ohio Means Jobs where prospective instructors may find positions with local driving 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. This is held virtually and is in the process of going online. 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.*