

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Education

Regulation/Package Title: Pupil Transportation Operation and Safety Rules

Rule Number(s): 3301-83-06 (Amendment); 3301-83-07 (Rescind/New); 3301-83-12 (Rescind/New); 3301-83-13 (Rescind/New); 3301-83-14 (Amendment); 3301-83-19 (Amendment); 3301-83-23 (Rescind/New)

Date: _____

Rule Type: Mixed across the package:

☒ New

☒ Amended

☒ 5-Year Review

☒ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

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

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How these rules trigger CSI: The rule actions to which this BIA response pertain impact schools, including districts, nonpublic schools, charter schools, and other educational institutions in Ohio that provide transportation, which are not considered a “business” with regard to CSI requirements. However, the regulations contained in these rules are also applicable to private carriers (e.g. taxi cabs, private bus companies, private van services), which represent about five percent of pupil transportation activity. It is important to note that schools and school districts are responsible for ensuring that the private carriers transporting its students comply with the requirements of this chapter and that enforcement of these requirements does not rest with the department.

- **3301-83-06 - Personnel qualifications**

INTENT: This rule establishes the minimum standards for various different staff positions in pupil transportation.

CHANGES PROPOSED:

Transportation Director/Supervisor:

- Requires transportation director/supervisor to complete the classroom portion of the Ohio pre-service driver training program at least once each six year.
- Newly assigned administrators -need to seek assistance within 30 days and complete the class within one year.

School bus driver

- Minimum age specified as 21
- Railroad crossing violations may be substantiated by conviction, video evidence, or report by railroad official

Maintenance Personnel

- Mechanics who may be required to operate a bus with pupils on board must meet all school bus driver requirements

On Board Instructor

- Must be currently employed in a role that includes school bus driving duties, and be registered with ODE.
- Must pass a driving and pre-trip skills test each six years with their pre-service instructor

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-Must be sponsored by a school transportation provider or pre-service instructor

School Van Driver

-Minimum age specified as 21

-Railroad crossing violations may be substantiated by conviction, video evidence, or report by railroad official

- **3301-83-07 - School transportation physical qualifications**

INTENT: This rule establishes the minimum standards for physical qualifications for school bus and school van drivers.

CHANGES PROPOSED:

Missing Limb and or impaired use of limb

-Missing limb waiver expanded to include impaired use of limb.

-Missing/Impaired limb waiver must be repeated with each driver recertification

TB test

-Removed language requiring screening tuberculosis test as per ODH.

Insulin Dependent waiver

-Moved to new section (F)

-New eligibility requirements that applicant may not have had a previous waiver revoked or lapsed

-Reworded maintenance requirements of driver to keep their waiver valid

-Waiver recipients must report to employer and ODE a citation for a moving violation of any vehicle, the judicial/administrative disposition of any citation for a moving violation in any -vehicle, and involvement in any accident while operating any vehicle.

-Added language clarifying ODE's authority to revoke a waiver for failure to comply with any of the requirements in the rule.

- **3301-83-12 - Safety Procedures**

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INTENT: This rule establishes safety procedures that must be observed at Railroad crossings, school zone areas, and general procedures.

CHANGES PROPOSED:

General reorganization of rule into (A) School bus stops, (B) Railroad crossings, (C) Turnaround, (D) School zone loading, (E) General operations

Railroad Grade crossings

-Shortened section in administrative code, and now mandates that drivers follow procedures as documented in Pre-service Driver Training Manual

School Zone loading/unloading

-Specifies that warning flasher lights shall be deactivated when school bus is stopped in a school zone curbside on the roadway

General Procedures

-Adds a specification that drivers must follow post-trip inspection procedures as detailed in the Ohio Pre-service Driver Training manual.

- **3301-83-13 - School bus routes and stops**

INTENT: This rule establishes the process for designating school bus routes and school bus stops, and includes specific safety procedures that must be followed by school bus drivers.

CHANGES PROPOSED:

Designation of school bus stops

-Language adjusted to match Ohio Revised Code, a sentence added to clarify that boards can approve routes up to 30 days prior to school and up to 10 days after school starts.

-Designated place of safety further defined as relative to the roadway the vehicle is scheduled to stop on.

School bus stop procedures

-Section shortened in OAC and requires drivers to follow pre-service instructions.

-Parking brake required to be set at all student stops

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Route sheet details

-Route sheet details moved to paragraph (D)

- **3301-83-14 - Records and reports**

INTENT: This rule establishes the reporting requirements for school transportation vehicle incidents and accidents.

CHANGES PROPOSED:

School Vehicle Accident reporting

-Condensed language

-Changed reporting threshold to \$1,000.00.

- **3301-83-19 Authorized Vehicles for transportation of pupils**

INTENT: This rule establishes which vehicles may be used for the transportation of pupils.

CHANGES PROPOSED:

Public Transit vehicles

-New section added to ban the use of 10-15 passenger non-commercial vehicles

Vehicles other than school buses (Van rule)

-New language to clearly exclude parental transportation from requirements

-Moves vehicle requirements inside this section

Commercial carriers

-Excludes 10-15 passenger noncommercial vehicles

Taxicabs

-Moves taxicab section ahead of final paragraph banning all other vehicles.

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- **3301-83-23 - Employment of school bus and school van drivers with criminal convictions**

INTENT: This rule implements requirements set by the general assembly to identify criminal and traffic offenses that would disqualify an individual from operating a school transportation vehicle, as well as the process a district may follow to hire individuals with certain offenses.

CHANGES PROPOSED: This rule is a new rule, following the rescission of the previous rule.

-Preamble: establishes that this rule establishes specific offenses that are barriers to driving a school bus or van. Drivers who are arrested, summoned, or indicted for a specific violation must be suspended from duties that require the care, custody, or control of a child.

-Drivers convicted of these specific crimes are permanently excluded for certain offenses, and for others may be considered for rehabilitation based upon the date of the offense and other factors.

-Content is based upon the current rule used for consideration of nonlicensed school employees (3301-20-03), but has several new sections dealing with motor vehicle offenses.

-Vehicular manslaughter and assault are added as permanent non-rehabilitative offenses.

-Major motor vehicle offenses are identified including OMVI, reckless operation, driving under suspension, physical control of a vehicle while under the influence. Drivers convicted of these offenses may only be considered for employment after 6 years from the offense.

-Other motor vehicle offenses are identified including violation of school bus warning lights, school zone speed limit, or railroad crossing violation. Drivers convicted of these offenses may only be considered for employment after 1 year from the offense.

-Rehabilitation procedures are clarified such that in the event the driver is a contractor, if the driver is reemployed by the contractor they are required to notify a contracting agency of the driver's conviction. The school is not required to accept the employer's rehabilitation of the driver.

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2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

3301.07, 4511.76, 3327.10, 3319.39, 3319.391, 3319.40

3. 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?

No; however, in Rule 3301-83-19, federal guidance is used to help define vehicles that are prohibited from use in pupil transportation in concert with the Revised Code.

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

Federal regulations are not in place to regulate school transportation at the state level. States have been managing this successfully for many years. States adopt and manage their own pupil transportation regulations according to each state's particular needs. National conferences are routinely held with state directors to review best practices as employed across the country and to consider recommendations that are subsequently recommended to states, which may craft the recommendations to fit their particular needs.

5. 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)?

The rules, which are promulgated pursuant to the requirements of the Revised Code, establish guidance for operations of safe pupil transportation services, including operating procedures and staff requirements.

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

The department's pupil transportation staff meets with stakeholders on a continuing basis to review issues pertaining to all pupil transportation regulations. Stakeholder input is used to determine the efficacy of rules as they are implemented across the state. The department also monitors accident reports, driver training records, and district data that are reported to the department for operational and fiscal elements on a regular basis. When such data indicate that an issue may be rule-related, the department works with stakeholders on potential revisions to the Administrative Code in order to sufficiently address the issue. This process is ongoing.

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Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

Alan Osler	Tuslaw
Barb Shaner	OASBO
Fred Fries	Southeast Local
George Sontag	Centerville City
Jim Degen	ODE
Joe Dietrich	Allen Co ESC
Sgt Kelly	
Weakley	Dept. of Public Safety
Mike Miller	Petermann
Paul Chenderlin	Franklin Co Bd. of DD
Paul Stoneking	Norton City
Steve Simmons	Columbus City
Ken Taylor	ODE
Terry Thomas	Community Bus
	Montgomery County
Tim Barrett	ESC
Tim Cox	South-Western City
Van Keating	OSBA
Fred Davis	Edwin L Davis Bus

Proposed drafts of the rule changes were reviewed (in person) with a state-wide stakeholder group on November 1, 2011. Following that session, reviewed via teleconference with other stakeholders on November 18, 2012. Additional stakeholder sessions were held in regional stakeholders meetings on 11/18 (Bowling Green), 11/22 (Boardman), 11/29 (Columbus), and 11/30 (Jackson).

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

Stakeholders asked questions about certain elements, resulting in minor adjustments in the rules for the purpose of clarification. In several cases, stakeholders recommended additional refinements, which were incorporated in the text. Examples: Stakeholders asked for a higher reporting limit for accidents, which was incorporated in the rule package. Stakeholders asked for additional disqualifying offenses in traffic code, which were incorporated. Stakeholders also asked that one offense be limited to those received in a school vehicle, which was incorporated in the package.

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9. 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?

The age limits on driving staff were incorporated to adopt limits currently imposed by insurers. Motor vehicle convictions in addition to existing convictions were added as a result of district experience with drivers who received reduced sentences. Changes in the diabetic waiver requirements were included to address issues that have occurred over the last three years with the existing regulations.

10. 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?

Pupil transportation in Ohio is regulated through Revised Code and Administrative Code. The Revised Code mandates that the agency adopt rules regarding operating procedures.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

The rules are not performance based, but are regulatory in nature and are required by provisions in the Revised Code. The rules are the product of thorough industry review and best practice analysis and are intended to optimize the safety of school students being transported.

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

The stakeholder's group included staff from the Department of Public Safety, as mandated by statute, to ensure that there was no duplication with Public Safety's rules. The rules are promulgated pursuant to the Revised Code.

13. 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 does not have enforcement authority, but, rather, relies upon local educational agencies to comply with the rule. The department does, however, provide training, in-service support, and consultation to schools so that they have comprehensive knowledge of the rules and an understanding of the rationale for those rules. This process becomes the department's implementation plan. Formal notification of the rules is provided to transportation administrators in a statewide conference held in the spring and are posted on the department's website. The rules will also be published in printed form and mailed to all school superintendents. These steps will be taken in advance of the implementation date, which is projected to be August 1, 2012.

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Adverse Impact to Business

14. 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;**
- b. Identify the nature of the adverse impact (e.g., license 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.**

<i>Rule</i>	<i>Scope of the impacted business community</i>	<i>Nature of Adverse Impact</i>	<i>Quantify the expected adverse impact</i>
<i>3301-83-06 Personnel Qualifications</i>	<i>Private transportation contractors represent approximately 5% of Ohio’s Pupil Transportation.</i> <i>The remainder of the transportation is provided by public school districts.</i>	<i>No impact by age changes. Slight impact by additional training required for administrators, however will result in better safety with lower liability</i>	<i>15 hours of class room time required for administrator.</i>
<i>3301-83-07 Physical Qualifications</i>		<i>Positive impact by allowing waivers for missing limb driver candidates. Impact on diabetic drivers is that they will be required to report more accidents or tickets to ODE. The requirements benefits employers by requiring drivers to report to them in addition to ODE.</i>	<i>Business owners can require the employees to comply with all regulations without assisting, or they can assist with mailing documents to ODE as needed. This may require 1 hour of time each 6 months for affected employees.</i> <i>There is a cost for physicals; however that cost is not regulated by this rule. Responsibility</i>

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			<i>for payment of that cost is assigned to the local education agency (i.e. school district) per the Revised Code.</i>
<i>3301-83-12 Safety Procedures</i>		<i>No adverse impact. Changes represent a simplification of existing rule.</i>	<i>No adverse impact. This rule promotes practices that minimize injury and risk to students.</i>
<i>3301-83-13 School Bus routes and stops</i>		<i>No adverse impact – clarifies and simplifies existing rule.</i>	<i>No adverse impact. This rule promotes practices that minimize injury and risk to students.</i>
<i>3301-83-14 Records and reports</i>		<i>No adverse impact. Relaxes a reporting requirement in existing rule.</i>	<i>No adverse impact; however, agencies will continue to report accidents and injuries as they have in the past. This is required so that the department can monitor safety records and use the collected data to refine personnel training programs as needed.</i>
<i>3301-83-19 Authorized Vehicles</i>		<i>May eliminate certain vehicles for pupil transportation, but brings Ohio regulations into compliance with federal guideline, hence reducing employer liability.</i>	<i>This should not have an impact on pupil transportation as this group of vehicles is currently disallowed by the Revised Code. The risk in using these vehicles is based upon national statistics and data that indicate an above normal rate of injury and death to passengers in this class of vehicle.</i>

			<i>Compliance with the regulation will have a positive impact on transporters by minimizing liability and risk. This requirement already exists in Revised Code – the purpose of this rule is to provide clear definition.</i>
<i>3301-83-23 Employment of individuals with criminal convictions</i>		<i>May eliminate driver candidates from eligibility, but also will reduce employer liability for controversial employees and their interaction with children.</i>	<i>May require the termination of unsuitable drivers, and the subsequent employment and training of a better candidate. Cost to train an individual estimated at approximately \$2,000.00. The cost of training would be offset by reduced liabilities in the event of problems with unsuitable drivers.</i>

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

In working with stakeholders and responding to the direction of the legislature, the agency determined that the increase in student safety by improved regulations and driver qualifications is beneficial to Ohio students and their families. These changes were also supported by a broad base of stakeholders.

Regulatory Flexibility

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

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No. The rules include regulatory controls intended to maximize the safety of school students. The rules are intended to ensure children's safety and, as such, it would not be appropriate to provide waivers. With regard to administrative rules in general, if the Revised Code allows or otherwise requires the agency to establish waiver provisions by rule, it would be incumbent upon that agency, and consistent with the requirements of JCARR, to either seriously consider a waiver or to include provisions for a waiver.

17. 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?

Not applicable

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

The department does not have authority to enforce, but depends upon the local education agency (i.e. school district) to comply with and enforce the rules. To facilitate their ability to do so, the department provides guidance and training for educational administrators with regard to understanding and comprehension of the rules. The department also works closely with the Department of Public Safety in their work to monitor and enforce regulations. The department provides regular communications to all school employers, maintains a dedicated website for pupil transportation information, and also works with industry partners and associations to provide assistance and support to anyone providing school transportation services.