

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of public Safety, Bureau of Motor Vehicles (BMV)

Regulation/Package Title: Deputy Registrar (DR) Rules

Rule Number(s): Ohio Administrative Code Chapter 4501:1-6 (Sections 4501:1-6-01, 4501:1-6-02, and 4501:1-6-03

Date: August 28, 2013

Rule Type:

☐ 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☐ Rescinded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.

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

The Registrar of Motor Vehicles issues driver licenses and motor vehicle registrations and provides other services to Ohio residents. R.C. 4501.02, R.C. 4503.03, and R.C. 4507.01 authorize and require the Registrar to provide those services throughout Ohio by appointing and contracting with deputy registrars (DRs) who are independent

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contractors (and small businesses). These rules govern the selection and appointment of DRs and the contract terms and conditions applying to them.

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

R.C. 4501.02, R.C. 4503.03, R.C. 4507.01, and other sections of the Revised Code.

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?

If yes, please briefly explain the source and substance of the federal requirement.

No.

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

N/A

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 referenced statutes require the Registrar to adopt rules to implement the statutory provisions.

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

The BMV conducts periodic evaluations to assure that the rules are effective.

Development of the Regulation

7. 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.

A group of 10 representative DR stakeholders were selected to attend a rule review meeting on August 20, 2013. Two DRs from each of the five Ohio districts were selected. Five members of the Ohio Deputy Registrar Association (ODRA) and five non-ODRA members were provided advance notification of the meeting by email on August 14, 2013. The email invitations included background information regarding the Common Sense Initiative process, Business Impact Analysis, and the proposed Ohio Administrative Code (OAC) rule amendment language for review prior to the meeting.

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Representative DR Stakeholder invitees:

District 1 (northeast Ohio) – Aldo Filippelli & Mahmoud Aboumerhi; District 2 (southeast Ohio) – Tina Jeffers & Steven Oliver; District 3 (southwest Ohio) – Doris Tranter & Janis Craig; District 4 (northwest Ohio) – Joseph Bowsher & Tiffany Small; and District 5 (central Ohio) – Darlene Smith & Susan Grove.

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

The DR stakeholders offered the following input with regard to the proposed OAC rule amendments:

The stakeholders expressed their preference for two-year contract extensions based on positive performance evaluations. BMV noted that the statute provides for only one-year extensions and that BMV has no authority to offer longer extensions.

The DRs expressed that the following comments regarding periodic performance evaluations: that the evaluations be conducted objectively; that assessments be applied equally, that the evaluation scores be averaged over the course of the year to yield a fair rating of license agency performance; that the BMV consider the use of “mystery shoppers” to evaluate customer service; that each individual deputy be given advance notice of the evaluations; and that the deputy registrar should be present during the performance evaluations. The BMV responded that the existing rules and the proposed amendments do not address the details of the periodic performance evaluations. However, the BMV also responded that it intends to use fair and unbiased performance evaluations to assist in determining which DRs will be awarded contracts and offered one-year contract extensions. The stakeholders’ suggestions will be considered in establishing performance evaluation criteria.

The DRs inquired if there would be a limit as to how many license agency contracts any one DR could be awarded. The BMV advised that the proposed rules do not include limitations at this time, but it is the BMV’s intent initially to award multiple contracts based only on an operational need to fill vacancies. This includes awards to individual deputy registrars and nonprofit corporations serving as deputy registrars.

The deputy registrar stakeholders further offered that stability is very important to them as business operators and that having the ability to achieve a level of stability is appreciated. The DRs generally favor the proposed rule amendments and did not suggest any specific changes to the proposed amendments.

- 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?**

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There is no known scientific data or source for scientific data applicable to these rules.

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?

The rules follow the statutory provisions, which do not provide any alternative possibilities.

11. 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.

Amended language was added to OAC rule 4501:1-6-01(BB)(4) to permit the Registrar to award a one-year contract extension to any DR who has provided exemplary service based upon objective performance evaluations. Under the provisions of this language, there is no limit to the number of consecutive one-year contract extensions that may be offered.

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

The Registrar and the Bureau of Motor Vehicles (BMV) are the sole regulators of DRs. The BMV has determined that none of its regulations are duplicative.

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 BMV has consistently and predictably applied the existing rules to the regulated community (DRs) for many years. These amendments will be consistently and predictably applied in the same manner.

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;

The impacted business community consists only of the DRs appointed by the Registrar.

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

There is no adverse impact (no license fees, fines, or additional employer/employee time for compliance). In fact, the amendments are beneficial to the DRs.

- 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.

Again, there is no adverse impact.

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

N/A

Regulatory Flexibility

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

OAC rule 4501:1-6-01(BB)(4) permits the Registrar to award a one-year contract extension to any DR who has provided exemplary service based upon objective performance evaluations. Under the provisions of this language, there is no limit to the number of consecutive one-year performance-based contract extensions that may be offered. DRs that are offered one-year performance-based contract extensions will not be subjected to the competitive proposal selection process for the year(s) in which the contract extension(s) is/are offered.

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?

R.C. 119.14 is not applicable because there are no fines or penalties.

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

The BMV maintains a Field Services Office and a comprehensive web-based system to assist and support DR operations.

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