



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Public Safety, Ohio State Highway Patrol

Rule Contact Name and Contact Information:

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

Funeral Escort Vehicles-Flashing Lights

Rule Number(s): 4501-11-01 through 4501-11-07 OAC.

Date of Submission for CSI Review: August 5, 2020

Public Comment Period End Date: August 19, 2020

Rule Type/Number of Rules:

New/___ rules

No Change/7 rules (FYR? 7)

Amended/___ 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Rescinded/___ rules (FYR?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.

In accordance with Section 4513.181 of the Revised Code, funeral homes are permitted, however not required, to use flashing lights on their funeral escort vehicles. Chapter 4501-11 of the Administrative Code, sets forth the requirements if a funeral home chooses to use lighting.

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 4513.181 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.

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

N/A

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)?

Chapter 4501-11 implements Section 4513.181 of the Revised Code regarding the use of flashing lights on funeral escort vehicles.

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

The Ohio State Highway Patrol will continue to educate and enforce these rules by enforcement/non-enforcement contacts.

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.

No.

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.

Capital City Funeral Police Escorts LLC, Police Motorcycle Escort Inc., Diehl-Whittaker Funeral Services, Ohio Funeral Directors Association, Spence-Miller Funeral Home, Schoedinger Funeral Home, Jerry Spears Funeral Home, Rutherford Funeral Home, Waugh- Halley-Wood Funeral Home, Walker Funeral Home, Chambers Funeral Home, Tomon Funeral Home, Gilligan Funeral home, Cawley & Peoples Funeral Home, Baker-Hazel & Snyder Funeral Home, Parr Public Safety Equipment LLC, Whelen, and 911Signal USA. An email was sent to all stakeholders on April 24, 2020, asking them to respond with comments or changes by May 15, 2020.

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

No input was provided by stakeholders.

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?

There was no scientific data to consider.

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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 are available for this rule. The rules explain the use of a voluntary option for funeral escort vehicles.

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.*

No, the standards are established by Section 4513.181 of the Revised Code.

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

Reg Explorer was used to search for funeral escort vehicles to make sure there no conflicts or duplication of regarding this chapter of rules.

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.

Law enforcement personnel enforce Section 4513.181 of the Revised Code for violations. The public may go to the Patrol website www.statepatrol.ohio.gov to view the requirements or contact their local Patrol post.

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 over 1100 licensed funeral establishments in Ohio. The regulations impact any establishment that chooses to utilize flashing lights on their funeral escort vehicles.

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

4513.181 of the Revised Code permits, but does not require the use of flashing lights on funeral escort vehicles. In turn, Chapter 4501-11 of the Administrative Code does not require the use of flashing lights, but establishes the requirements for lighting if a funeral home chooses to utilize flashing lights on escort vehicles. The adverse impact would come for the cost for equipment and installation.

- c. Quantify the expected adverse impact from the regulation.

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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.

In accordance with section 4513.181 of the Revised Code, funeral establishments are permitted, but are not required, to use flashing lights on their funeral escort vehicles. Chapter 4501-11 does not require the use of flashing lights, but sets forth the requirements for such lighting if a funeral establishment chooses to use it. If the funeral establishment chooses to use flashing lights, they may expect to pay between \$300 and \$400 for the equipment and installation. Multiple online searches show lights can be purchased for as little as \$10/light, and installation is estimated at \$50-100/hour.

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

These rules are expected to result in negligible time or monetary adverse impact; however, they do restrict allowable flashing lights to those that meet the maximum number of lights. The agency determined that these restrictions are justified to ensure the safety of the “funeral procession” and the safety of the motoring public.

Regulatory Flexibility

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

No. Section 4513.181 of the Ohio Revised Code and these regulations permit, but do not require the use of flashing lights. An exemption is not possible as there is no requirement for the lights themselves to be used.

18. 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 Ohio State Highway Patrol will enforce all rules under 4513.181 ORC. Offenders are subject to a warning or citation 4513.99 ORC.

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

Employees of the State Highway Patrol are readily available as a resource to answer questions, concerns and Ohio Administrative and Revised Codes are available through the State Library and found on the internet.

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