



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Sean McCullough**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Public Safety, Motorcycle Ohio

Rule Contact Name and Contact Information:

Joseph A. Kirk, Rules Coordinator, 614-466-5605, jakirk@dps.ohio.gov

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

4501-53 Motorcycle Safety and Education

Rule Number(s): Rules 4501-53-01 to 4501-53-16

Date of Submission for CSI Review: 2/14/2022

Public Comment Period End Date: 2/28/2022

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/2 rules (FYR?2)

Amended/ 14 rules (FYR? 14)

Rescinded/\_\_\_ rules (FYR?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.  
*The Chapter regulates motorcycle training and instruction in Ohio.*
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 4508.08 of the Ohio 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.*  
*Not applicable.*
5. If the regulation 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)?

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The regulations ensure instructors and providers provide uniform motorcycle training across Ohio and ensure public safety.

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

Motorcycle Ohio conducts on-site audits of providers and real time audits of instructors.

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.*

The rules were provided to the following stakeholders:

Mike Stock	Abate
Kolman Fuzy	Abate - Legislative Director
Heather Wilson	AMA
Andy McVey	BRP
Lorrie Laing	Cambridge Systematics
Mary Gilbert	CMA - Ohio State Coordinators
Rex Gilbert	CMA - Ohio State Coordinators
Robert Williams	GWRAA
Steffen Smith	Harley-Davidson Riding Academy
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Ben Kimmel	DPS Legislative Liaison
Art Hill	Motorcycle Ohio - Chief Instructor
Heather Wilson	Motorcycle Ohio - Chief Instructor
Rick Smith	Motorcycle Ohio - Chief Instructor
Susan Rzepka	Motorcycle Ohio - Chief Instructor
John LaRicca	Motorcycle Ohio - Training Specialist
Carl "4-Wars" Carter	NABSTMC - Cleveland President
Alan "Stampede" Carter	NABSTMC - Columbus President
Terry "Crown Royal" Sims	NABSTMC - Dayton President
Sanford Washington	NABSTMC - National Buffalo Soldiers & Troopers
Earl "Tabono" Mack	NABSTMC - Toledo President

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Michelle May	ODOT
Patrick Vessels	OSHP
Robert Wakefield	OTSO
Bill Bish	Ridin' On Magazine
Annet Hix	SW4 US Army NG
Leon Winfrey	Total Control
Lee Parks	Total Control
MSG Gregory Jones	USArmy NG

Additionally, the rules were sent to all instructors and site coordinators.

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

Two comments were received.

Ken Gillissie stated that he believes that instructors should be required to actually ride the demo motorcycles on the course. Mr. Gillissie admits he knows this would be an increased burden on Motorcycle Ohio, but believes that if an instructor cannot ride the demos, they should not be teaching.

Motorcycle Ohio does not plan to implement this change as it would place an undue burden on both the Department and the instructors. Instructors must already currently take yearly training to keep up with current knowledge and best practices.

Susan Rzepka, TK Trainer, LLC, state that rules 4501-53-12 and 4501-53-14 should be aligned rule 4501-53-02 without specifying particular sections of the NHSTA Model National Standards for Entry Level Motorcycle Rider Training.

Motorcycle Ohio has updated rules 4501-53-12 and 4501-53-14 to remove references to particular sections of the National Standards. The National Standards are still incorporated by reference.

**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?**

Trained riders are reported in the Ohio fatality reports at a disproportionately lower rate. Motorcycle Ohio reviews all crashes in Ohio on a weekly basis to determine the causes of the fatalities. The data is used to revise the course curriculum to help reduce the fatality rates in Ohio. The revisions made in 2019-2020 BRS and BRS-RR curriculum shows a decrease in serious injury for those that participate in training classes. Trained riders are 5% of the at-fault fatalities and 11.5% of the fatalities overall.

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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 alternative regulations are available.

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

NHSTA Model National Standards for Entry Level Motorcycle Rider Training is the template for state motorcycle training and testing.

*Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

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

RegExplorer was used to review the Ohio Revised Code and the Ohio Administrative code. This ensured that the Department of Public Safety was the only agency that had the statutory authority to regulate a motorcycle safety and education program.

- 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.**

Updates are regularly published through the Motorcycle Ohio website.

Mandatory instructor updates, Motorcycle Ohio staff support and provider updates. Updates for instructors will be provided at the mandated annual instructor workshop and through communication through Motorcycle Ohio and ODPS training campus. Updates for providers will be provided at the mandated semi-annual meetings and through communication through Motorcycle Ohio and ODPS training campus in addition to the Motorcycle Ohio quality assurance site visits.

### **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**  
The impacted business community includes instructors, private providers and grantees.
- b. **Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**

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The adverse impact is in the cost of fees, as instructors are required to pay a \$100 fee for the instructor preparation class. An Ohio BCI and FBI background check run approximately \$45-60.

**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.*

4501-53-01 Definitions

Definition rule, no adverse impact on business. Definitions updated.

4501-53-02 Basic riding skills.

Describes requirements for basic riding skills for new riders. Curriculum must be approved by Motorcycle Ohio. Establishes instruction ratios of one instructor for twenty four students in the classroom, and one instructor for six students on the range,

4501-53-03 Instructor qualification or certification to teach.

Requires completion of the “Instructor Candidate Questionnaire” as well as a criminal background check. Additionally requires a current first aid card and current adult CPR card.

4501-53-04 Instructor professional standards.

Requires reporting to motorcycle Ohio within fourteen days, an occurrence in a moving violation. Additionally requires a current first aid card and current adult CPR card.

4501-53-05 Renewal of certification to teach.

Requires completion of the “Motorcycle Ohio Instructor Renewal Application” as well as a criminal background check upon request.

4501-53-06 Private provider qualification or certification of approval.

Requires course providers to use a instructor certified by Motorcycle Ohio. Requires completes of the “Motor Cycle Ohio Private Provider Application” as well as a criminal background check. Establishes requires for offices, classrooms and ranges and curriculum standards for the effective operation of a motorcycle training course.

4501-53-07 Public provider qualification for certification of approval.

Requires course providers to use a instructor certified by Motorcycle Ohio. Requires completes of the “Motor Cycle Ohio Public Provider Application” as well as a criminal background check. Establishes requires for offices, classrooms and ranges and curriculum standards for the effective operation of a motorcycle training course.

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4501-53-08 Provider inspections.

States that providers facilities may be inspected as reasonable times, and that records must be made accessible to the Department of Public safety.

4501-53-09 Renewal of private provider certification of approval.

Requires completion of the “Motorcycle Ohio Private Provider Application” renewal and possibly a criminal background check.

4501-53-10 Administrative actions

Specifies the manner in which the Department may adjudicate discipline for violations of Chapter 4508. of the Revised Code, or Chapter 4501-53 of the Administrative Code.

4501-53-11 Provider professional standards.

States professional standards that instructors and course providers must maintain; adverse impact realized only if a provider has a violation of Chapter 4508. of the Revised Code, or Chapter 4501-53 of the Administrative Code.

4501-53-12 Basic riding skills two.

Describes requirements for basic riding skills 2 for riders. Curriculum must be approved by Motorcycle Ohio. Establishes instruction ratio of one instructor for 6 students on the range,

4501-53-13 Private provider insurance

States insurance levels that private providers must call for motorcycles provided for instruction. No-change.

4501-53-14 Basic riding skills for returning rider.

Establishes requirement for a course for riders returning to the motorcycle operation after time away. Establishes instructor to student ratio of one instructor to twenty-four students.

4501-53-15 Advanced riding skills.

Establishes requirements for a course for advanced riding skills. The majority of this courses requirements are incorporated by reference in the Motorcycle Ohio Policy and Procedure Manual.

4501-53-16 Materials incorporated by reference.

Provides the availability of materials incorporated by reference. No adverse impact on business.

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

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The rule chapter allows Motorcycle Ohio to meet its mandate of public protections with minimal business impact and helps to reduce the cost of crash burden in Ohio. Graduates of Motorcycle Ohio safety programs are statistically shown to be safer riders.

### **Regulatory Flexibility**

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

The nature of the business does not provide exemptions or alternative means of compliance.

**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?**

ORC Section 119.14 does not apply as there are no penalties for paperwork violations, and Motorcycle Ohio does not have the ability fine.

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

The Motorcycle Ohio staff is available to assist providers, instructors and students upon request. The Motorcycle Ohio website is also regularly updated with relevant information.