

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Highway Patrol

Regulation/Package Title: Reflectorized Window Materials

Rule Number(s): 4501-41-01 thru 4501-41-05 Ohio Administrative Code

Date: 6/18/2014

Rule Type:

New

5-Year Review

Amended

Rescinded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.

The rules govern the use of transparent, nontransparent, translucent and reflectorized materials in or on motor vehicle windshields, side windows, side wings and rear windows. In response to a completed R.C. 119.032 five-year rule review, rules 4501-41-01 and 4501-41-02 are being proposed without change, and rules 4501-41-03 to 4501-41-05 are proposed for amendment to update the URL address for accessing the Code of Federal Regulations.

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

4513.241

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.

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)? *This rule provides safety for law enforcement personnel and first responders to be able to see into motor vehicles while conducting business. The rule sets the standard for the allowable amount of reflectorized materials that can be placed on or in motor vehicle windshields, side windows, side wings and rear windows. Reflectorized material is an option for motor vehicles, not a requirement.*

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes? *The only measurable factor for this rule would be the number of traffic citations issued for people who violate the rule.*

Development of the Regulation

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

A2Z Window Tinting, Above and Beyond Window Tinting, Mid Ohio Tint, Professional Eclipse, Quality Window Tint, Armorcoat, Pro Tint, Safelite, SGO, Solar Solutions, Solar Tex, Suntrol, SunTek, Solar Gard, Hanita Coatings, V-Kool, Madico, Llummar Window Film, Protect Gard, Johnson Window Films, Huper Optik and Autozone. Stakeholders were telephoned and e-mailed and asked for comments and/or suggestions on the rule.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Some of these small business owners did provide costs of materials and labor to install after-market window tint, but these costs are not relevant to the scope of these regulations.

- 8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency? *A proposal was received by Lynwood Butner, International Window Film Association (IWFA), to reduce the minimum level of light transmittance from 50% plus or minus 3% to 35% plus or minus 7%, remove the requirement for window labeling, and to provide that evidence of a physician directed exemption be retained by an Ohio registered vehicle owner. Discussions regarding this proposal are ongoing, but further review and research are needed. The Department called Mr. Butner on June 23, 2014, to explain that the rules are being filed without implementing his proposed amendments, but that the rules could be amended at any time as continued discussions warranted. Mr. Butner was satisfied with this option. The Department intends to work with stakeholders from the Fraternal Order of Police, Ohio Association of Chiefs of Police, and the Buckeye State Sheriff's Association to discuss any impact on safety if the proposals are implemented, and will invite additional small business owners, in addition to Mr. Butner, to comment regarding IWFA's proposal. No other comments were received from the public. This rule has no effect on the cost associated with their material and service.***
- 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? *None.***
- 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? *There are exemptions within the rule and the rule is a voluntary option for motor vehicles, not a requirement. The exemptions are persons with a signed affidavit by a licensed physician or optometrist which states the person has a physical condition that makes it necessary to equip such motor vehicle with reflectorized material in violation of this rule are exempt. Also, the windows to the rear of the driver for chauffeured limousines and vehicles designed to transport corpses are exempt. This rule does not apply to the manufacturer's reflectorized material that is otherwise compliant with Federal Motor Vehicle Safety Standard Number 205 in effect at the time of the manufacture of the motor vehicle, which can be accessed at www.access.gpo.gov.***
- 11. Did the Agency specifically consider a performance-based regulation? Please explain. *No.***
- 12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation? *A review of 4513.24, 4513.241 and 4513.242 of the Revised Code was conducted and no duplication was found.***

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. *Law enforcement personnel will enforce section 4513.241 of the Revised Code for violations of this rule. The community can go to the State Patrol website, www.statepatrol.ohio.gov, to view the requirements or telephone their local Patrol Post.*

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:
- Identify the scope of the impacted business community; **Businesses that apply window tinting.***
 - Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); **These rules govern the after-market use of tinted and reflectorized materials on motor vehicle windshields and windows by establishing the maximum level of tinting allowed while ensuring public safety and the safety of law enforcement and emergency responders. Small businesses may be adversely impacted by the restriction to purchase and install only those materials that comply with the standards set forth in this rule.***
 - Quantify the expected adverse impact from the regulation. **It is not expected that purchasing and installing materials that comply with the standards set forth in this rule would be substantially different from the typical time and material production costs for small businesses that install window tinting. Therefore, no measurable time or monetary adverse impact is anticipated.***
15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community? *These rules are not expected to result in measurable time or monetary adverse impact; however, they do restrict allowable materials to those that meet maximum levels of tinting. The agency determined that these restrictions are justified to ensure public safety and the safety of law enforcement and emergency responders.*

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain. *Yes, persons with a signed affidavit by a licensed physician or optometrist which states the person has a physical condition that makes it necessary to equip such motor vehicle with reflectorized material in violation of this rule are exempt. Also, the windows to the rear of the driver for chauffeured limousines and vehicles designed to transport corpses are exempt. This rule does not apply to the manufacturer's reflectorized material that is otherwise compliant with Federal Motor Vehicle Safety Standard Number 205 in effect at the time of the manufacture of the motor*

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

vehicle, which can be accessed at www.access.gpo.gov.

- 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? *First-time offenders may be warned or ticketed for a violation of this rule.***
- 18. What resources are available to assist small businesses with compliance of the regulation? *The requirements for this rule can be found in the Ohio Administrative Code, which is located at www.statepatrol.ohio.gov or www.publicsafety.ohio.gov. Small businesses may also call their local law enforcement agency for assistance with this rule.***