

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Public Safety, Bureau of Motor Vehicles

Regulation/Package Title: Used Motor Vehicle Dealer Training

Rule Number(s): 4501:1-3-01 and 4501: 1-3-02

Date: March 5, 2014

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Rescinded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.

These rules are being proposed to implement recent changes to O.R.C. section 4517.05 requiring all applicants for a used motor vehicle dealer's license to successfully complete a mandatory training course prior to making application for licensure. Rule 4501:1-3-01 sets forth the statutory requirement for training and requires every applicant to provide evidence

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of its successful completion. Rule 4501:1-3-02 sets forth the requirements for becoming an authorized course provider, the curriculum and instructional content for the training courses, and the requirements for course administration.

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

Ohio Revised Code sections 4501.02 and 4517.05.

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)?

R.C. 4517.05 requires used motor vehicle dealers to complete training prior to licensure. The public purpose for rules 4501:1-3-01 and 4501:1-3-02 is to ensure applicants for used motor vehicle dealer's licenses receive training by qualified providers in the applicable federal and state laws governing the used motor vehicle industry including, but not limited to, consumer protection practices, sales tax and retail agreements, titling and registration of motor vehicles, and acts and omissions that may result in license suspension and revocation.

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

The Motor Vehicle Dealers Board will monitor the number of disciplinary hearings resulting from violations of Chapter 4517. of the Revised Code and 4501:1-3 of the Administrative Code and the number of consumer complaints filed with the Attorney General regarding title, tax, and consumer protection practices following the effective date of these rules. These statistics will be compared to those of previous years to ensure that instructional content and course administration requirements are sufficient. It is expected that these numbers will gradually decrease.

Development of the Regulation

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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.

The Bureau of Motor Vehicles (BMV) met with stakeholder representatives on April 17, 2013, including representatives and attorneys from the dealer associations (Ohio Auto Dealers Association (OADA), Ohio Independent Auto Dealers Association (OIADA), and Greater Cleveland Auto Dealers Association (GCADA)). The group was provided with initial rule drafts and given the opportunity to discuss and provide feedback regarding the drafts. Comments were received from legal counsel for Ohio Independent Automobile Dealer Association (OIADA). The BMV emailed final drafts to the stakeholders on December 3, 2013. Comments were received from legal counsel for OIADA.

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

During the first comment period in April, the Ohio Automotive Dealer Association (OADA) group requested that the rules allow the training course to be delivered via online instructional platforms as well as traditional classroom instruction to increase course availability. This entailed some additional research by the BMV in order to assure all criteria of the ORC and OAC were met by both the classroom and online training options. The rules were subsequently revised to include the online training option. Consequently, the OIADA expressed strong opposition to the offering of an online training course.

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? *N/A*

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?

R.C. 4517.05 mandates training for used motor vehicle dealer's license applicants and does not provide for alternative regulations. However, in response to stakeholder recommendations, and after due consideration, BMV implemented a provision to allow used motor vehicle dealer courses to be delivered via online instructional platforms as well as in the classroom.

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.

Course providers are required to develop curriculum based on instructional content outlined in the rules; however, the instructional media, and method for delivery are flexible and up to the individual providers.

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

Research was completed by reviewing the Ohio Revised Code Chapter 4517. and Ohio Administrative Code Chapter 4501:1-3.

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.

Implementation will include published updates and a list of authorized training course providers through the BMV's dealer licensing website, which is the resource typically used for communications between the dealer's and the BMV dealers licensing section.

Selective BMV staff will be trained to review all submitted curriculum by the provider to ensure that it complies with rule 4501:1-3-02 and verifies all mandatory contents are outlined.

The used motor vehicle dealer license application (BMV 4320) will be updated to include information and instructions pertaining to the required training course. Any changes to the statute, the application, or instructions will be submitted immediately to all providers in order to comply with rule 4501:1-3-02.

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.**

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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.

Rule 4501:1-3-01 of the Administrative Code requires every applicant for a used motor vehicle dealer’s license to provide evidence of successful completion of a used motor vehicle training course pursuant to 4517.05 of the R.C.

Rule 4501:1-3-02 of the Administrative Code sets forth the requirements each authorized course provider must prepare and submit their curriculum, courses schedules and offerings for pre-approval by the motor vehicle dealer board prior to administering the training course. It is estimated that this rule will not require any adverse cost of compliance beyond the time required to develop the curriculum and administration of the used motor vehicle dealer training course as set forth in R.C. 4517.05.

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

The agency justifies regulation of the used motor vehicle dealer training course in order to comply with O.R.C. section 4517.05.

Regulatory Flexibility

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

O.R.C. section 4517.05 mandates training for used motor vehicle dealers and does not provide for exemptions or alternative regulations.

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?

Applicants that fail to comply with the requirement to provide evidence of the used motor vehicle training mandated in R.C.4517.05 may result in an application for a used motor vehicle dealer’s license to be denied or rejected.

A course provider applicant who fails to prepare and submit their curriculum, course schedules and offerings for pre-approval by the motor vehicle dealer board prior to administering the training course shall be denied a certificate of approval.

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

Motor vehicle dealers may call the BMV and speak directly with a dealer licensing customer service assistant and view Ohio Revised Code and Administrative Code requirements via the BMV's dealer licensing website. These small businesses may also contact a branch of the Ohio Auto Dealers Association in their respective regions for information and guidance.