



# Common Sense Initiative

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

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## Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Public Safety, Bureau of Motor Vehicles.

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

Registrars and Deputy Registrars.

Rule Number(s): 4501:1-6-01 (amend), 4501:1-6-02 (amend), 4501:1-6-03 (NC), 4501:1-6-04 (amend), 4501:1-6-05 (NC), 4501:1-6-12 (New), 4501:1-3-34 (Rescind)

Date of Submission for CSI Review: August 19, 2020

Public Comment Period End Date: September 3, 2020

**Rule Type/Number of Rules:**

New/ **1** rules

No Change/**2** rules (FYR? **2**)

Amended/ **3** rules (FYR? **3**)

Rescinded/ **1** rule (FYR? **N/A**)

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.*

Ohio Revised Code 4501.02, 4503.03, , and 4503.036 authorize or require the Registrar of Motor Vehicles to select, appoint, and contract with certain persons to serve as deputy registrars and provide drive license services, vehicle registration services, and other services to the Citizens of Ohio. The rules set forth contract terms and conditions between the Registrar and Deputy Registrars (4501:1-6-01), the process for selecting and appointing Deputy Registrars (4501:1-6-02), the location of Deputy Registrar agencies (4501:1-6-03), the provisions for Limited Authority Deputy Registrars (4501:1-6-04), and Deputy Registrars' authority to collect reinstatement fees (4501:1-6-05); new rule 4501:1-6-12 proposes to allow motor vehicle dealers to charge a convenience fee up to \$50 to customers for providing services such as collecting and delivering documents to a deputy registrar, retrieving license plates, documents, etc., and delivery of license plates, documents, etc. to customers. Rule 4501:1-3-34 is being rescinded to remove restrictions and meet the requirements of Ohio Revised Code Section 121.95.

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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.

Ohio Revised Code 4501.02, 4503.03, and 4503.036.

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.

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)?

The regulations are necessary for the Registrar to perform statutory duties with respect to the issuance of driver licenses and motor vehicle registrations (license plates), as well as many other duties. New rule 4501:1-6-12 is proposed to allow motor vehicle dealers to charge a convenience fee up to \$50 to customers for providing services related to dealing with Deputy Registrars.

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

The Bureau of Motor Vehicles continuously monitor Deputy Registrars for compliance with contract terms and conditions through communication from the Central Office of the BMV, and through BMV field representatives that visit the Deputy Registrars on a regular basis. The selection and appointment process is conducted each year and is evaluated for effectiveness by BMV and Ohio Department of Public Safety management. Changes are made as necessary to improve all processes.

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.

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*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

The stakeholders are the 196 Deputy Registrars, most of whom are independent contractors who qualify as small businesses, though some County Auditors and Clerks of Court also serve as Deputy Registrars. On March 27, 2020, an email regarding rules 4501:1-6-01 through 4501:1-6-05 was sent to all Deputy Registrars and the Ohio Deputy Registrar Association, along with the proposed amended and proposed no change rules. Additionally, on July 10, 2020, an email regarding proposed new rule 4501:1-6-12 was sent to the Deputy Registrars, the Ohio Deputy Registrar Association, the Ohio Independent Automobile Dealers Association, and the Ohio Automobile Dealers Association.

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

The Ohio Automobile Dealers Association submitted a letter on July 24, 2020 in support of the rule, with the request that “Notwithstanding any other provision of Ohio law...” be added to the beginning of paragraph (A).

The Ohio Independent Automobile Dealers Association submitted a letter on July 24, 2020 in support of the rule, with the request that “Notwithstanding any other provisions of Ohio law...” be added to the beginning of paragraph (A).

“Notwithstanding any other provision of Ohio Law...” was added to the beginning of paragraph (A).

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.

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?

For proposed rule 4501:1-6-12, there was discussion between the BMV and the Ohio Automobile Dealers Association about the maximum amount of the convenience fee. After that discussion, \$50.00 was chosen, while lower amounts were considered.

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

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

The BMV monitors Deputy Registrar performance through frequent compliance audits and customer service quality evaluations independent of the rule.

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

RegExplorer was used to do a comparative analysis of any other convenience fees that may be in the Ohio Revised and Ohio Administrative Codes. Additionally, Ohio Revised Code Chapter 1317. was reviewed to ensure no contractual conflicts would occur as a result of proposed rule 4501:1-6-12.

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.

Most of the regulations are already implemented, but will be monitored and consistently applied by BMV staff. The BMV publishes a Deputy Registrar operations manual and sends electronic broadcasts to all Deputy Registrars regularly. For rule 4501:1-6-12, motor vehicle dealers will be able to charge the convenience fee once the rule goes into effect. The BMV will keep interested parties aware of the implementation date.

#### 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 the deputy registrars and their employees operating under contract with the BMV for over-the-counter driver license and vehicle registration services.

Additionally, some businesses may incur increased fees when buying or leasing vehicles through the proposed, allowable convenience fee charge that would be implemented in rule 4501:1-6-12.

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

The rules set forth reasonable standards for the operation of a successful business. There are no licensee fees or fines. Most requirements for Deputy Registrars are implemented by statute. Provisions in these rules have been in place for many years, and only slight changes have been made to rules -01, -02 and -05 to incorporate best practices in the Deputy Registrar bid process.

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Some business may incur additional expenses in the form of convenience fees charged by motor vehicle dealers for vehicles purchased or leased by the business.

- 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.*

There is no adverse impact beyond reasonable regulations and requirements needed to assure compliance with reasonable business practices.

Any business that goes to buy or lease a vehicle may be subject to and additional charge of \$50 per vehicle under proposed rule 4501:1-6-12.

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

Not applicable for rules 4501:1-6-01 through 4501:1-6-05.

Proposed rule 4501:1-6-12 will help to offset costs for automobile dealers in providing services mentioned in the rule.

### **Regulatory Flexibility**

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

For rules 4501:1-6-01 through 4501:1-6-05, all Deputy Registrars are expected to perform to the minimum standards set forth in these rules to assure consistent and equal treatment of all BMV customers.

Rule 4501:1-6-12 says motor vehicle dealers “may” charge a convenience fee for services listed in the rule, but does not require dealers to charge the fee.

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?

There are no fines or penalties associated with the proposed rules. Deputy Registrars and their staff works with customers to ensure paperwork is complete and accurate. In addition to BMV-provided deputy registrar employee training, BMV field staff serve as oversight for all deputy registrar agencies.

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

**BMV Field Operations and BMV Field Services assist deputy registrar agencies in all facets of operations. Oversight procedures are already in place to include regulatory compliance.**