



# 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, Division of Ohio Homeland Security, Bureau of Motor Vehicles](#)

Rule Contact Name and Contact Information:

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

[Outdated modes of communication cleanup.](#)

Rule Number(s): [4501-45-02, 4501-45-03, 4501:1-8-11, 4501:5-3-02](#)

Date of Submission for CSI Review: [7/16/2021](#)

Public Comment Period End Date: [7/30/2021](#)

**Rule Type/Number of Rules:**

New/ \_\_\_ rules

No Change/ \_\_\_ rules (FYR? \_\_\_)

Amended/ 4 rules (FYR? 0)

Rescinded/ \_\_\_ rules (FYR?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.*

*Rule 4501-45-02 deals with the certification requirements for immobilizing or disabling devices other than ignition interlock devices. Reference to certified mail requirements for non due process items have been removed.*

*Rule 4501-45-03 deals with licensing requirements for manufacturers of ignition interlock devices. Reference to a certified mail requirements for non due process item has been removed.*

*Rule 4501:1-8-11 deals with temporary authority and permits to operate apportioned vehicles under the International Registration Plan. Reference to a “telegraphic” temporary authority has been removed, as the process has changed.*

*Rule 4501:5-3-02 deals with certificates of registration for scrap metal dealers. References to sending official certificates via certified mail have been removed.*

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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.

*4501-45-02 – 4510.43 ORC*

*4501-45-03 – 4510.43 ORC*

*4501:1-8-11 – 4503.66 ORC*

*4501:5-3-02 – 4737.045 ORC*

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.

*4501-45-02 – No.*

*4501-45-03 – No.*

*4501:1-8-11 – No*

*4501:5-3-02 – No.*

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)?

*4501-45-02 and 4501-45-03 – The purposes of these regulations is to fulfill the statutory obligation under Section 4501.43 ORC to license manufacturers of ignition interlock devices prior to their engaging in business in Ohio and ensure that all devices for use in Ohio meet minimum acceptable performance standards as published by NHTSA.*

*4501:1-8-11 – The state of Ohio participates in the International Registration Plan which is a registration reciprocity agreement between the contiguous United State and the Canadian provinces, which provides apportioned payment of registration fees, based on the total distance operated in participating jurisdiction, to them.*

*4501:5-3-02 – The Ohio Department of Public Safety is required to adopt rules under sections 4737.012, 4737.04, and 4737.045 of the Revised Code. The rules govern registration, reporting and recordkeeping processes in order to achieve a balance between regulatory necessity and adverse impact. The rules establish a standardized process for registering and reporting, consistent for all scrap dealers in Ohio.*

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

*4501-45-02 and 4501-45-06 -- The Department will continue to review applications for licensure and certification to ensure compliance. Evaluation of these documents will check for completeness and accuracy. Each model type must be tested by an independent testing laboratory and these results will be assessed to ensure all devices meet minimum standards.*

*4501:1-8-11 -- The agency may measure success of the regulation of this chapter by the outcome of the variety of rules that regulate the International Registration Plan and apportioned vehicles. Owner/operators of buses used in the transportation of chartered parties will become operator members of the International Registration Plan. Reducing the number of cab cards from two to one as well as obsoleting the supplemental application will decrease the number of transactions with the BMV.*

*4501:5-3-02 -- The Department measures success by: monitoring the obstacles that prevent dealers from effectively and efficiently registering and renewing or reporting transactions; reviewing daily transaction reports for compliance; and resolving reported issues with the SMBC website.*

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.*

*Not applicable.*

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

*Not applicable.*

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**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?**

*Not applicable.*

**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?**

*4501-45-02 and 4501-45-03 – The statute does not provide for alternatives as they apply to manufacturer licensing. In regards to device certification, it has been previously agreed that NHTSA is the recognized and accepted standard for the industry, and therefore, no other alternatives for performance standards were considered.*

*4501:1-8-11 – The ability to develop alternative means of compliance to meet requirements is limited by the provisions as set forth in the International Registration Plan, and sections 4503.61 and 4503.66 of the Revised Code.*

*4501:5-3-02 – No alternative regulations were considered as the rule are stipulated by Chapter 4737. Of the Revised Code and were promulgated solely to support the process outline in statute.*

**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 performance-based regulations were considered for this rule package, as the package is specifically designed to remove outdated modes of communication.*

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

*Any duplication is restatement of Chapter 119 regulations regarding due process. No other duplication of intended regulation for the package was found when using Reg Explorer.*

**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.**

*Implementation of the rules has already taken place. This rule package is simply removing outdated modes of communication.*

### **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**

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*4501-45-02 and 4501-45-03 -- License ignition interlock manufacturers in Ohio, as well as potential applicants.*

*4501:1-8-11 – Those participating in the IRP program.*

*4501:5-3-02 – Anyone in Ohio that meets the definition of a “scrap metal dealer” according Section 4737.04 of the Revised Code.*

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

*4501-45-02 and 4501-45-03 -- In accordance with R.C. 4510.43 each immobilization and disabling device for application has an application fee and R.C. 4510.45 requires manufacturers of ignition interlock devices to apply for licensure and file an annual report, which both have applicable fees. It is expected that a manufacturer may have an adverse impact in the form of application fees, background checks, laboratory analyses, assessment and potential penalties associated with annual report. Manufacturers may also be subject to penalties for failure to timely and accurately file annual reports and/or pay annual fees. Additionally, failure to timely and accurately file and/or pay annual fees shall be reasons for denial, suspension, or revocation of a license or certification.*

*4501:1-8-11 – the estimated costs of compliance for stakeholders will depend on the other jurisdictions in which stakeholders operate.*

*If the other jurisdictions’ registration fees are higher than Ohio’s, the stakeholders will pay more. If the other jurisdictions’ registration fees are lower than Ohio’s, stakeholders will pay less.*

*In general, it is estimated that the costs will not change significantly*

*4501:5-3-02 – The adverse impact occurs with the time that it takes scrap metal dealers to collect, organize and report information required by the rules. Additionally, a violation of the Revised Code or Administrative Code could lead to discipline up to and including denial or revocation of a registration. Revised Code Section 4737.045 requires dealers to pay an initial registration fee of \$200 and annual renewal fee of \$150.*

- 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.*

*4501-45-02 and 4501-45-03 -- Annual application fees are \$100 for licensure and \$100 for each device to be certified. The annual report fee is 5% of net profit the manufacturer earned during the 12 months their license was valid. The time reported to compile this paperwork was several hours over the course of two days. To meet compliance with the updated standards, two of the responding manufacturers reported it could cost them anywhere from several thousand dollars up to \$50,000 and take 6 weeks to 7 months to update their devices to the updated standards. This would be a one-time cost unless the*

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*manufacturer changes the devices and requires them to be tested by an independent laboratory. Many manufacturers have already completed the new standards testing as other states have already adopted the new standards. Failure to timely file an annual report and/or pay the annual fee shall result in a penalty amount not exceeding the greater of \$50 or 10% of the annual report fee. Failure to file annual report or pay total annual report fee, may result in manufacturer being assessed \$50 per day up \$3,000 after 60 days of not filing/paying total annual report fee. The background check cost is approximately \$60 for state and federal, price varies depending on the agency that performs the check.*

*4501:1-8-11 – costs of compliance for stakeholders will depend on the other jurisdictions in which stakeholders operate. If the other jurisdictions’ registration fees are higher than Ohio’s, the stakeholders will pay more. If the other jurisdictions’ registration fees are lower than Ohio’s, stakeholders will pay less. In general, it is estimated that the costs will not change significantly.*

*4501:5-3-02 – The Department of Public Safety continues to believe the adverse impact of the rules is minimal. The main impact is the time required to collect, organize and submit information in accordance with the rules, but the amount of time is dependent on the business operations chosen by individual dealers. If registered dealers choose to take advantage of enhanced functionality of the Search Electronic List “swipe” feature, there is a one-time software cost of approximately \$60, but this is not required; though usage of the software may cut down on the time needed to complete the required tasks. Failure to meet requirements in Chapter 4737. of the Revised Code and Chapter 4501:5-3 of the Administrative Code can result in disciplinary action up to and including revocation of the dealer’s business registration.*

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

*4501-45-02 and 4501-45-03 -- Participating stakeholders shared that the regulations pose only minimal impact and do not pose undue hardship. Therefore the Department determined that the adverse impact is justified to ensure a standard level of service and performance to those who must ultimately use an immobilizing or disabling device in their vehicles.*

*4501:1-8-11 – The IRP allows apportioned vehicles to travel in Ohio on an as needed per mile basis.*

*4501:5-3-02 -- The time required to collect, organize, and report information as set forth in OAC Chapter 4501:5-3 is justified as the regulations create processes that allow scrap metal dealers to effectively comply with the statutory requirements to register with ODPS, pay registration fees, submit daily transaction reports, and maintain records, as well as build a*

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*repository of information related to known scrap metal thieves to serve as a useful tool to the dealer and law enforcement communities*

### **Regulatory Flexibility**

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

*4501-45-02 and 4501-45-03 – The authorizing statutes for manufacture license and device certification do not provide any exemptions or alternative means of compliance.*

*4501:1-8-11 – The rules of the International Registration plan do not allow for exemptions or alternative means of compliance due to their nature.*

*4501:5-3-02 – The rules contain no exemptions for any members or the regulated community as there is nothing statute that provides the Department of Public Safety with the authority to provide an exemption.*

**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?**

*4501-45-02 and 4501-45-03 – The Department enforces all rules under 4510.43 and 4510.45. For licensees who may have incomplete or erroneous information in applications, they will be reviewed and advised of potential errors and procedure to correct errors. Failure to timely and/or seemingly accurately file annual report may be subject to fines as well as denial, suspension, or revocation of license or certification.*

*4501:1-8-11 – Not applicable.*

*4501:5-3-02 – Chapter 4737. of the Revised Code does not provide for any waivers of fines or penalties, so there are no such provisions spelled out in administrative rule. Disciplinary actions are at the Director's discretion, regarding denial, suspension or revocation of a registration certificate and are handled on a case-by-case basis on the merits of the violation*

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

*4501-45-02 and 4501-45-03 – Notices of rule adoption will be sent to listed contacts for each manufacturer. A link to the Ohio Administrative Code will be added to the list of certified devices that is on the Department of Public Safety homepage:*

*[http://www.publicsafety.ohio.gov/links/Approved\\_Interlock\\_Devices.pdf](http://www.publicsafety.ohio.gov/links/Approved_Interlock_Devices.pdf). Manufactures will continue to be licensed and certified according to these specifications of the rules.*

*4501:1-8-11 – Registrants or carriers with apportioned vehicles may call the BMV or visit one of the four (4) IRP offices located throughout the state. They may also view*



*information on the BMV website or the Ohio Commercial Online Registration System (OHCORS) website.*

*4501:5-3-02 – The Department’s full time employee dedicated to this program is a standing asset available to all scrap dealers. This individual can offer information and insight on the program, provide technical solutions or recommendations for consideration regarding issues that the business may experience, and provide training to both small businesses and the law enforcement personnel serving the community in which these dealers are based.*

*Scrap metal program resources and additional information can be found on the Scrap Metal Bulk Merchandise Container website at*

*<https://services.dps.ohio.gov/ScrapDealer/Pages/Public/Login.aspx> Items contained on the site include Scrap Dealer Training Videos, Technical Specifications for the required Daily Transaction Upload, and Do Not Buy List search capabilities*