

Economic Impact Statement

LSA Document #08-215

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Article I. Safety and Responsibility Div.

Rule 1. Hearings process. The changes were almost entirely housekeeping. Rule 1 in large part is covered by Indiana Code Title 4 AOPA, which addresses the rules and procedures for administrative hearings. Thus, the BMV would repeal the majority of this rule. The remaining parts are rewritten for clarity. The changes are to make the process outlined in the regulations much more easily understood. The BMV anticipates no additional costs to businesses or government entities. Instead, legal practitioners could realize some time related savings by improving their ease of understanding the rules.

Rule 2. Proof of financial responsibility. This rule is primarily housekeeping, although two substantive changes are made.

1. An existing regulation required insurance policies to be issued for a minimum of 90 days. However, due to the pending creation of the "uninsured motorists registry" this regulation is not needed and could cause confusion for motorists in light of the new statutes. The BMV does not anticipate this regulatory change having any economic impact on government entities nor businesses.

2. Current statutes require insurance companies to notify the BMV when someone who has an insurance policy that they must keep for three years cancels their coverage. An example of someone who must have this type of coverage is a person who is convicted of operating a vehicle while intoxicated. This type of coverage is deemed to be for "high-risk" drivers and is called "SR22" coverage due to the title of the form that the carries must submit when someone obtains this type of coverage. Because the statutes that require this coverage and mandate this procedure are found in various articles, some attorneys and insurance agents have contacted the BMV asking for the statutory citations. The regulation pertaining to the SR22 requirement simply condenses the existing statutes to increase the ease of ascertaining the authority to for this coverage, which will save legal practitioners' and insurance agents' time. The BMV does not anticipate this change having any economic impact on government entities nor businesses.

3. Places a two year limitation on the length of time after an accident that the BMV will require proof of insurance. Indiana law requires the BMV to send notices to people requiring them to send proof that the person had financial responsibility in place when an accident or traffic violation occurred. Primarily the Indiana State Police and courts, and to a lesser number individuals, notify the BMV about such incidents. If the person is not able to provide proof that the person had financial responsibility coverage in place then the BMV must suspend the person's driving privileges. Instances arise where the BMV is first notified about an accident or traffic violation years after the accident occurred or the traffic violation's judgment is entered. Many times people who receive the BMV's notice are unable, solely due to the length of time that passed, to locate records that would serve as proof that they had coverage for an incident that happened years before the BMV learned about them. This two year limitation would serve to allow people, and possibly their insurance agents or self-insured organization's administrator, to avoid having to keep documents for an unknown number of years after an accident or traffic violation judgment is entered. The BMV does not foresee any costs to government organizations or businesses. Instead, businesses and people would receive a benefit from this new regulation.

Rule 4.5. Point study committee. This committee will review the points assessed for each statutory traffic offense or violation to determine if points should be changed. Also, the committee will determine how many points should be assessed for new violations that were statutorily created after the last points study committee. Changes in this rule are primarily just housekeeping by making the language more understandable.

Two substantive changes:

1. Change so that the commissioner or his designee can serve as the committee chairman. This change would enable the commissioner to assign another person should the need arise. This change would not impose any additional costs on any government entities or businesses.

2. Repeal requirement to have an administrative hearing for a person who accumulates 12 points in 12 months. In practice, the BMV had not been conducting these hearings for over 10 years due to the costs to the BMV for conducting those hearings balanced with the minimal impact on driver behavior.

3. Indiana statute changed the dollar amount pertaining to the requirement of a mandatory license suspension for someone who leaves the scene of an accident that results in property damage. Previously, the amount of \$750 was increased to \$1,000. A change is needed in the pertinent regulation to increase the presumption of the dollar amount of an accident to \$1,000 absent court documentation showing a lesser amount.

The BMV does not foresee any added costs to any government entities or businesses due to the changes.

Rule 7. Self-insurance. No major substantive changes, all changes are housekeeping to increase ease of understanding.

Rule 8. Ignition Interlock Device (IID). The BMV is statutorily required to have regulations for these devices. The proposed new regulations comport with IID industry standards. The BMV's existing regulations in one part merely mirrored statutory language and the second part had incorrect standards. By law, courts have the authority to order the devices, which must comply with the BMV's standards. Because the standards are memorializing the IID's industry standards, these regulations will not impose any additional costs on businesses nor on any government entities.

Article 2. Excise tax and registration.

Rule 1. Administration of excise tax

1. Indiana law prescribes staggered registration dates for specified commercial motor vehicles, and those dates must be established by regulation. This regulation satisfies that statutory requirement. This will not impose any new costs.
2. A new regulation to provide the BMV with the authority to issue 30-day temporary registrations and license plates on an emergency basis due to unforeseeable nonmaterials problems such as if a computer problem occurs at a branch when someone comes in to register their vehicle or renew their registration. The BMV would later mail the more permanent items to the registrants. This regulation memorializes current practice. This regulation would save money for registrants because they would not have to return to a branch to complete their transactions.
3. The remaining changes are: 1. housekeeping to add clarity to existing requirements; 2. memorializes our current practice of using Prime Digest reports for vehicle valuation instead of the Red Book; 3. repealing [140 IAC 2-1-8](#) memorializes the fact that the BMV no longer requires people to turn-in their existing registrations when renewing the registrations; 4. a new regulation [140 IAC 2-1-13](#) memorializes the current practice of allowing people to "swap" their license plate for a different design and the cost is tied to the cost for a replacement plate because the internal cost for completing the transaction is essentially the same.

In summary, the changes should not impose any additional costs on any government entities nor businesses.

Rule 2. Semitrailers

1. Repeals parts of the section for permanent registrations due to repeal of [IC 9-29-5-6\(3\)\(B\)](#).

Rule 3. 90 day temp registration—this is for legal aliens who buy vehicles in IN and take them back to their country. They may decide to travel in the US prior to returning to their country of origin. These registrations primarily are used for Recreational Vehicles purchased in the Elkhart area. The purchasers need a temporary reg. to be able to drive in the US. No major changes except to the plates' appearance. The existing regulation was inaccurate because the plate is actually a metal plate and the branches put a sticker on each one.

No substantive changes that would impose any additional costs to any government entity or business.

Rule 4. Special Group Recognition plates

1. Clarity added pertaining to the lists of applicants that are on a group's petition, and pertaining to how bonds are handled.
2. Lengthens the amount of time that the BMV has to consider applications from one month to two months. The change will not result in any additional costs for any applicants, whether or not they are approved.
3. Requires applicants to submit the list of 500 people, who committed to buying a plate that would support the group, if the application were approved. Any group that is approved had to submit the list after the approval. Thus, this change simply makes the date when the list must be provided to one that is earlier in the process. For those groups that would not be approved, they now would have the requirement to provide those names with their application. However, ultimately requiring them to provide the names would save the group money if their application were approved. Each approved group must post a bond and would have to pay \$12 per plate for each plate sold less than 500 in the first year. By having the list of 500 people, the group will know beforehand that they will be able to satisfy their obligation and have no out-of-pocket expenses after the first year due to a lack of sales. Additionally, this requirement will save the BMV time and expense by potentially reviewing applications only from groups that are serious applicants and that could succeed in their desire to have their plates sold.
4. The other changes are housekeeping to make the regulations easier to understand and to comport with statutes.

Rule 5. Personalized license plates (PLP)

Indiana law provides very general and undefined standards for what an applicant for a PLP may use for their plate. The law leaves open questions pertaining to copyright, trademark, and rights of publicity laws for e.g. An extensive review of other states' standards and case law reveals that courts prefer more ascertainable standards that reviewing committees must follow when considering proposed PLPs and to give fair and adequate notice to the public and what is allowed. The new regulations could actually permit more proposed PLPs than were allowed when trying to interpret the existing statute.

Article 3. Special Sales Division

Rule 3. Salvage motor vehicles-we drafted major changes to these regulations in case the BMV retains control of this process. However, with recent legislation the Secretary of State (SOS) will have responsibility for this area. The BMV communicated to the SOS office that the BMV we would send our proposed regulations to the SOS for their consideration in case they want to use them or review them. Thus, the BMV is not proposing any changes to these regulations in this promulgation process.

Rule 4. Transport Plates-these plates are for entities that transport other vehicles. Two of the regulations are covered by statutes, thus the regulations should be repealed. The remaining regulation, section 3, remains the same and just dealt with notifying the BMV of an address change.

Rule 5. Training car plates-this regulation would be repealed. It restricted the operation of schools' vehicles that have a municipally owned driver-training-car plate. This regulation is not needed because existing statutes pertaining to license plates for municipally owned vehicles already addresses this topic. Thus, this regulation is unnecessary and it will permit the school corporations to use those vehicles for more uses than this regulation permitted.

Article 3.5. Dealer plates and licensing. The BMV left this article alone because the SOS now has this responsibility.

Article 4. Driver Examiner Division

Rule 1. Commercial Driver Training schools and instructors-recent legislation transfers this responsibility to the Indiana Criminal Justice Agency [*Institute*].

Rule 2. Operator or Chauffeur licensing and waivers

1. The process allows someone to get a hardship waiver of the age or experience requirements for operator and chauffeur licenses. The regulations are edited such that standards that are more definite are established for what qualifies someone to get a hardship waiver. Broadens the scope to allow people to qualify when needed to help a household member obtain medical care. The existing qualifier was to assist the family by having a job and bringing in more income, which remains. This regulation would serve to help the public and not impose a burden on any government entity nor business.

Rule 4. Driver Education Classes

1. Instead of requiring schools to give grades, the edited regulation requires pass/fail and establishes what percentage of correct answers to the tests are needed for a passing score. This change will provide standardization among the schools. That standardization will help ensure that students are testing equally between the schools and one school cannot gain an unfair advantage by promoting itself as having a higher pass rate, which could otherwise simply be due to having easier standards for obtaining a passing grade. Thus, the new grading standards add standardization and objective measurements. The only new regulation making a substantive change memorializes the current practice of requiring these schools to keep records for two years. The majority of the edits are housekeeping to make the regulations more understandable and useable.

Rule 5. Examinations required for expired driver's license

1. Regulation edited to memorialize the long-standing practice pertaining to the process someone must follow to renew their license that was expired. The longer that a driver's license is expired, then the more that is required to get a renewed driver's license in terms of eye exam, written exam, and drive test.

Title 5. Abandoned Vehicles-repeal the title because with recent statutory changes the existing regs are moot or already covered by statutes. Therefore, these changes will not affect businesses or any government entity.

Title 6. Titles

Rule 1. Application procedures.

1. Regulations added to consolidate and clarify the existing requirement that vehicles must meet federal and state safety standards. The BMV receives many requests from individuals to title and register "kit" cars or "home-made" vehicles so they can drive those vehicles on public roads. The BMV defers to those statutes as the standards that people must meet to be able to have their vehicles titled and registered. This regulation simply adds clarity to emphasize the fact that the vehicles must comply with those laws. The BMV does not foresee this regulation adding any costs to governmental entities nor to businesses because the BMV is not establishing any new standards.
2. Deleted the provision that effectively permitted attorneys to put a stop on a title for 20 days. This raises due process concerns because the BMV would put a stop on a title and delay a transfer without any verifiable and substantiated allegations. This change does not preclude attorneys from obtaining the same result by pursuing a claim in a small claims court, which provides the protections to the other party by having input into the decision being made by a neutral judicial officer. Attorneys typically send in their letters and then pursue small claims court cases to resolve the ownership issue of vehicles. Thus, this change would not impose any new costs.
3. The majority of the edits are housekeeping to repeal regulations that simply restated existing law without adding clarity or consolidating laws to make them more understandable. A full accounting for such regulations is contained in the spreadsheet.
4. The Attorney General's (AG) consumer protection division requested that the BMV increase the value limit on vehicles from \$2,500 to \$5,000 as the determining amount for a person to be able to use an "Affidavit of Ownership" state form when the seller does not provide title. According to the AG's office, the common scenarios involve car dealership selling cars, promising to deliver titles and then going out of business. The consumers who buy cars valued at less than \$5,000 usually do not have the financial resources to pursue a case in small claims court. Thus, allowing them to use the Affidavit of Ownership saves the consumers time and money, and promotes the transfer of ownership and commerce. Another typical situation involves a car seller who does not have a valid Social Security number. When such a person bought the car, the BMV is required to put a hold on the title because Indiana law, which requires people to provide a valid Social Security number when titling a car, precludes the BMV from titling the car in the seller's name. This change permits the car buyers to obtain title to the vehicles. The existing \$2,500 limit on using the form was established so many years ago that its intent is outdated due to the normal price increases for vehicles. Therefore, the change in the dollar amount does not change the original regulatory intent.
5. Corrects the verbiage pertaining to courts' involvement in determining vehicles' ownership and titling. The statutes give the courts authority to determine ownership of vehicles. Indiana law is clear that titles to vehicles does not establish ownership, but is merely evidence of ownership, i.e., Indiana law holds that Indiana's vehicles' titles laws are title/registration laws meaning a person needs a title to obtain a registration. Other states, such as Ohio, require a person to have a title before ownership vests in that person. Those states' laws are referred to as "title ownership" laws. After an Indiana court determines ownership, then the prevailing party provides the court order to the BMV along with the title application.
6. Change of name. This section is edited to reflect the documents that individuals and entities may use to prove they changed their name when they want to change their name in their BMV records. These changes/edits are done to comply with the Federal REAL ID Act's requirements. More information about that Act is provided below in Article 7, Rule 1.1, sections 2 and 3. These changes will not impose any additional costs on any businesses nor government entities.

Article 7. Driver's license division

Rule 1.1 Although this is a new rule number, the content was formerly in Rule 4. The content is moved here because it impacts identification cards, and all of the licenses and permits. Therefore, logically the information should be the initial information for the Article.

Sec. 1. Definitions. These definitions are edited to add clarity, link the definitions for the appropriate terms to statutory definitions, and encompass Article 7. No costs will be incurred by any businesses or government entities.

Sec. 2. License, permit and identification card qualifications.

Sec. 3. Documentation list. These two sections provide the lists of required and acceptable documents for obtaining a new, duplicate, renewed or amended permit, driver's license or identification card (ID). The list of documents must comply with state law and the Federal REAL ID Act's requirements.

A critical responsibility of the BMV is maintaining accurate, updated and secure personal records for citizens of the state. Individuals must be accurately identified before they are placed in our record and issued credentials. This helps to reduce identity fraud and enhances state and national security. Although originally intended to demonstrate a state's authorization for an individual to drive a vehicle, credentials issued by motor vehicle agencies have become the de facto identity document. As such, they are now used to identify individuals wanting access to state and federally controlled areas such as courthouses, military bases and air travel. As fraudulent documents become more sophisticated, and thus more difficult to identify by front line

associates issuing credentials, it becomes critical to limit the acceptable documents to those which provide a high level of confidence or those whose authenticity that can be verified by the issuing entity. The potential benefits incurred from proposed revisions to the document rule include:

- Helps prevent identity theft
- Reduces underage drinking
- Helps to reduce the number of drunk drivers on the road
- Reduces welfare and Medicare theft

A more secure credential addresses various other needs of individuals, states and the nation.

Evaluation of Benefits and Costs

The citizens of Indiana truly benefit from this regulation. Accurate records and identity documents are vital to the security and financial well being of our citizens. Minimal revision of our documentation practice yields significant returns.

The BMV estimates that the proposed rule will have minimal fiscal impact on state and local government.

Revising the acceptable documents will require the BMV to:

- Revise code tables in our system
- Revise online policy manuals
- Revise online training materials
- Revise the documentation pages on the BMV website

It is difficult to quantify the fiscal impact of these potential revisions on the BMV, as they are minimal.

Examination of Alternatives

Although in many cases federal and state laws prescribe specific documents as "acceptable," the BMV has examined and made allowances in our rule, where possible and practical, without affecting our goal of a more secure and accurate record.

This rule does not affect revenue, appropriations, distributions or expenditures.

The BMV estimates that the proposed rule will not have a significant fiscal or economic impact on businesses or state and local government.

Because the exclusive purpose of the rule is to establish documentation requirements in accordance with federal and state law, the Bureau has not conducted a regulatory flexibility analysis of alternative methods. Therefore, because formulating alternative methods is not appropriate for this rule, the Bureau did not rely upon data, studies or analyses in its determination.

Rule 1.2. Interim permits, address changes.

1. One section addresses situations where people present information that might qualify them for licenses or permits, but a condition exists that needs to be addressed prior to issuance of the license or permit. Extensions to existing licenses or permits would be granted to provide time to address the condition such that the license or permit may be issued. For example, if a person is out of state and unable to return in time to renew their license. Prior to its expiration, the person could contact the BMV to request a temporary extension.

This section would not impose any additional costs on any businesses or government entities.

2. Clarifies and memorializes current practice of what documents individuals or companies must present to the BMV to change the address on their BMV records. Indiana statutes require people to change their address immediately when they move. Thus, the regulation simply establishes what they have to show to prove that they actually have the new address. This regulation does not impose any additional costs on any businesses or government entities.

Rule 2. Motorcycles

1. Pursuant to statute, the BMV has approved certain entities, such as ABATE, which represents motorcycle dealers and enthusiasts, to administer the motorcycle skills test. ABATE only charges \$10 per test, \$5 of which goes to the examiner and \$5 is for administrative costs. Conversely, if a state examiner gave the test then the applicant pays \$5 to the state. By contracting these services with entities such as ABATE, the BMV saves the money that would be spent on administering the exams, which is more than \$5 per test. The regulation is changed to memorialize the current practice of ABATE, and similar entities, charging \$10. The change will not impose any new costs, rather it memorializes the current practice.

Rule 3. Commercial Driver's licenses

1. CDL application requirement changed to include REAL ID requirements pertaining to proof of identity.

2. Physical exams- The Dept. of Revenue administers the examination programs for receiving or renewing a CDL. Indiana and Federal law require the BMV in conjunction with the Dept. of Revenue to have regulations for how often physicals must be taken, the timing of physical examinations in relation to applying for or

renewing a CDL, and the medical standards that must be met to receive certain CDL classes. The new regulations memorialize the DOR's practices.

Fed law allows states to give CDLs to people to drive intrastate even though they have physical problems that preclude them from being allowed to driver a commercial motor vehicle interstate. Drivers who are medically unqualified to drive a commercial motor vehicle interstate under the federal regulations may drive solely intrastate (this is noted as a "K" restriction on the CDLs) under certain circumstances. These intrastate K CDL holders may be insulin dependent, have vision problems, seizure conditions, or have other medical conditions. Those drivers require a Skills Performance Evaluation (S.P.E.) Certificate that may prevent them from holding an interstate CDL. However, they may be licensed to drive intrastate only if they are able to meet the stated physical requirements.

The proposed changes in section 6 will not impose any new costs or have additional financial impact on CDL drivers because the section memorializes the current practice and requirements that the Department of Revenue has been using for the past several years.

3. Added a regulation pertaining to public passenger chauffeurs. Currently, to obtain a new license an applicant must have a physical within 30 days of their application date. Current law requires people who renew their public passenger chauffeurs license to have a physical. However, no such time requirement exists for how soon before the application date the person must have that physical. Logically, the BMV should have the most relatively current physical examinations results. This regulation essentially closes that gap by requiring people, who want to renew their license, to take the physical no more than 30 days prior to the renewal application date. Because people already have to have a physical before renewing this type of license, the new regulation will not impose any new financial costs on any government entity or businesses.

Rule 4. Identity documents

This Rule would be repealed and its content put into Rule 1.1.

Article 8. License branches.

Rule 1. Personnel-Indiana Code permits the BMV Commission (BMVC) to have personnel policies separate from the state's personnel policies. The changes simplify the language and note the BMVC's decision to have a separate policy. This regulation will not impose any financial burdens on any government entities or businesses.

Rule 2. Procurement-the existing regulations were antiquated and the BMVC had been using more up-to-date procedures for a number of years. Thus, we had to repeal them. Indiana Code permits the BMV to have flexibility in its procurement practices if it so chooses. The changes simplify the language and note the BMVC's decision to have a separate policy. This regulation will not impose any financial burdens on any government entities or businesses.

Rule 3. Service charges

1. Consolidates service charges that were listed in other articles by moving them into this rule.
2. Repeal of regulations of actions that we do not do: the BMV no longer imposes the \$5 credit card fee; branches no longer sell nuts and bolts and license plate holders.
3. Indiana Code section 9-29-3-21 serves as the legal basis for a \$1 charge for various transactions. However, two versions of that statute exist. This new regulation would memorialize the procedure that has been in place for approximately eight years of collecting the dollar charge, and would serve to avoid potential problems should one of those two statutory versions be repealed or amended. This new regulation would not impose any new or additional costs on any government entity or businesses.
4. Indiana Code requires the BMV to have regulations addressing how the BMV will handle customers' returned checks and rejected payments. The regulations memorialize the current procedures.

Rule 4. Crossroads 2000 Fund-no changes

Article 9. Watercraft

Rule 1. Definitions-major changes to the format and terms

Rule 2. Watercraft titles-main changes to this rule consist of many sections being repealed because the regulations were duplicative of statutes.

Rule 3. Boat Dealers-SOS effectively has responsibility for this area, and pending legislation will formally turn this over to them, thus only a minimal number of sections were changed because the information is covered by statutes.

Rule 4. Registration

1. Edited a section to permit the BMV to cancel a registration when a registrant subsequently registers their boat out of state.

2. A change in language would require only motorboat owners to register their watercraft. "Watercraft" is a general term with subcategories, of which "motorboats" is one. Indiana Code chapter 9-31-3 specifies that motorboats must be registered. By definition the other watercraft are exempted. The practice has complied with the statutory requirements of registering motorboats, however the regulations used the wrong term of "watercraft." Thus, changes are needed to replace the terms used, but no changes in practice are needed. Because the long time practice has been consistent with the statutory requirement that only motorboats be registered, no financial impact will occur to any government unit or business.

To date, the BMV has met with and submitted applicable portions of the proposed regulations to representatives from ABATE, the insurance industry, the banking industry, commercial truck driving industry, the Indiana Department of Natural Resources, the Indiana Department of Revenue, the Attorney General's office and representatives from the legal community. The BMV discussed the proposed regulations with each group, and invited each group to review the proposed changes and provide comments and/or suggestions.

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