Virginia
Regulatory
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Fast Track Proposed Regulation
Agency Background Document

Agency name	Department of Motor Vehicles (DMV)
Virginia Administrative Code (VAC) citation	24VAC20-50
Regulation title	Rules and Regulations for Motorcycle Rider Safety Training Center Program
Action title	Repeal of Regulation
Date this document prepared	March 26, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The current motorcycle rider safety training course program regulations outline course and instructor requirements and contractual requirements between DMV and the course providers. Statutory changes (Chapter 734 of the 2004 Acts of Assembly) incorporated key elements of the current regulatory requirements into the Code of Virginia while eliminating the contractual aspects of the program as they related to DMV and the course providers. The 2004 statutory changes also enhanced the overall program by (i) establishing new course licensing requirements, (ii) improving enforcement capabilities, and (iii) expanding the number and type of course providers by allowing for subsidized and nonsubsidized course training. All of the enhancements to the program have made the current regulations redundant, eliminating the need for the regulations and thereby necessitating their repeal. In addition, the specific rulemaking authority associated with this program was deleted from the Code of Virginia § 46.2-1189 as part of the 2004 statutory changes, adding to the rationale for repealing the regulations.

The 2013 General Assembly (Chapter 226 of the 2013 Acts of Assembly) further amended the Code of Virginia to eliminate the appearance of any agency discretion that DPB attributed to DMV.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

In June of 2004 DMV submitted a fast-track request to repeal the current regulations. The Attorney General's office certified DMV's authority to repeal the regulations in a letter dated May 25, 2004. The letter was included in DMV's fast-track submission in 2004. DPB issued an Economic Impact Analysis objecting to the repeal of the regulations. The fast-track submission was then sent to the office of the Secretary of Transportation. DMV has withdrawn the previous fast-track submission and is resubmitting the fast-track request with additional information to address DPB's concerns.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Va. Code § 46.2-203 provides DMV with general statutory authority for promulgating regulations necessary to carry out the laws administered by the Department. Va. Code § 46.2-1189 allows the DMV to "do all things necessary to carry out the purposes of this article." In both cases, the rulemaking authority is discretionary. The Office of the Attorney General has certified that the agency has the statutory authority to repeal these regulations. It should be noted that the specific rulemaking authority DMV previously had in Va. Code § 46.2-1189 was deleted effective January 1, 2005.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The motorcycle rider safety training course is a program of instruction in the operation of motorcycles and the rules of the road. As detailed above, statutory changes (Chapter 734 of the 2004 Acts of Assembly) enhanced the overall program and made the current regulations redundant, eliminating the need for these regulations and thereby necessitating their

repeal. Repealing these regulations allows DMV to better protect the health, safety and welfare of the citizens of the Commonwealth, in general, and motorcyclists in particular. Through the use of the statutory requirements for licensing and providing course training, DMV can more easily administer the purpose and applicability of the statutes governing these courses. Likewise, the statutory licensing requirements provide a more appropriate vehicle for overseeing the courses and course providers. The flexibility and effectiveness of this approach means better course oversight and training. Better course oversight and training translates into safer motorcyclists on the highways of the Commonwealth, which is good for motorcyclists and good for drivers of other types of vehicles. No specific issues should need to be addressed since the repeal of these regulations and the use of the statutory enhancements to the program was endorsed by most, if not all, of course providers.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The fast track process is being used due to the noncontroversial nature of the proposed repeal action. The regulatory requirements have been incorporated into the Code of Virginia, and recent legislation eliminated language that would remove agency discretion.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.

There are no new substantive provisions or substantive changes to the regulations because they are being repealed in their entirety.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
2) the primary advantages and disadvantages to the agency or the Commonwealth; and
3) other pertinent matters of interest to the regulated community, government officials, and the public.

If there are no disadvantages to the public or the Commonwealth, please indicate.

There are no real issues associated with the repeal of these regulations because this action will help clarify the statutory changes that become effective on January 1, 2005. The key elements of these regulations were incorporated into statute in 2004 making the regulations unnecessary. It is advantageous to repeal unnecessary regulations to eliminate any possible confusion between the statutes and regulations. There are no disadvantages to the public or the Commonwealth. DMV is requesting that the Secretary and Governor approve the DMV request to repeal the regulations. DMV is seeking the repeal for the following reasons:

- The 2004 legislation, HB 532 removed the language in Va. Code § 46.2-1189 that authorized DMV to promulgate regulations to control the rider safety program.
- DMV sought to repeal the regulations because the General Assembly transitioned the motorcycle rider training program from one in which DMV entered into contracts with training centers to one in which DMV issued licenses to operate training centers.
- Much of the substance of the regulations was codified, now at Va. Code §§ 46.2-1190, 1190.1, 1190.2, 1190.3, and 1190.4, leaving the regulations duplicative and sometimes inconsistent with statute. For instance, the regulations require a training center to provide a motorcycle for beginner riders that displaces no more than 350 cubic centimeters, while the statute institutes a 500 cubic centimeters maximum.
- DPB's original analysis objecting to the repeal of these regulations expressed concern about licensee uncertainty but did not provide any analysis showing that the repeal of the regulations affects such uncertainty. DPB's analysis was more a critique of the legislation rather than a basis for declining to repeal the regulations.
- DPB's original analysis expressed concern that the Code leaves many requirements for licensure and certification to be set by DMV. DPB speculated that if complete requirements are not established in statute or regulation, the public would be uncertain as to the requirements and DMV could change the requirements on a day-to-day basis. However, since the legislation went into effect on January 1, 2005, DMV and the training centers have referred only to the statutory provisions.
- DPB's original analysis expressed concern that lack of complete requirements in either the Code or in regulations increased risk for those considering whether to offer state-approved motorcycle rider safety-training courses. DPB went on to say that if the potential training centers are uncertain about the process to obtain and maintain licensure, they cannot accurately estimate costs. DPB speculated that this uncertainty significantly raises expected costs for potential training centers and will likely discourage the establishment of some motorcycle rider safety-training courses that otherwise would have come into being, thus reducing the availability of safety training for motorcyclists. DPB's concerns have been unsubstantiated. Since 2005 the number of training centers has increased from 18 to 36. DMV currently oversees the 36 training centers that train about 16,000 students.
- Since DMV and the training centers have referred only to the statutory provisions, as part of the Governor's regulatory reform imitative, DMV proposed removing language that would alleviate DPB's concern that the Code leaves many requirements for licensure and certification to be set by DMV. The 2013 General Assembly (Chapter 226 of the 2013 Acts of Assembly) enacted the legislation proposed by DMV and will become effective July 1, 2013.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

This section does not apply because the regulations are being repealed.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities that would be particularly affected.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This section does not apply because the regulations are being repealed.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

The regulations are being repealed. There is no economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including	

(a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	
Projected cost of the *new regulations or changes to existing regulations* on localities.	
Description of the individuals, businesses or other entities likely to be affected by the *new regulations or changes to existing regulations*.	
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million.	
All projected costs of the *new regulations or changes to existing regulations* for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	
Beneficial impact the regulation is designed to produce.	

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There is no viable alternative to repealing the regulations. The reason these regulations are being repealed is because they have been incorporated into the revised statutes governing the program, as explained above. This makes the regulations both redundant and unnecessary. Improved monitoring of the courses and the course providers, their techniques and effectiveness through the application of the statutory requirements are one of the primary

reasons for the change. Given the nature of the statutory oversight, repeal of the regulations provides for a more consistent, efficient and effective method of ensuring Virginia's motorcyclists are safe and well trained.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The repeal of the regulations is not anticipated to have an impact on the institution of the family and family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the **pre**-emergency regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements

If a new regulation is being promulgated, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements

This section does not apply because the regulations are being repealed.