



COMMONWEALTH of VIRGINIA
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Mr. Nicholas Megibow, Senior Policy Analyst
Virginia Department of Motor Vehicles
2300 West Broad Street
Richmond Virginia 23269

Re: Accident Prevention Courses for Older Drivers

Dear Mr. Megibow:

At your request, I have reviewed the Department of Motor Vehicles' posting for amendment of the Regulations concerning Accident Prevention for Older Drivers (24 VAC 20-40-40). This memorandum addresses legal matters only and is not intended as a comment for or against the merits of the proposed regulations.

With regard to DMV's action, it is my legal opinion that DMV has both the statutory authority and implied authority to enact, amend, revise, repeal, and review the existing regulations governing accident prevention for older drivers.

Virginia Code §§ 38.2-2217 provides that drivers aged 55 and older may qualify for reduced insurance rates if the driver has completed a "mature driver motor vehicle crash prevention course approved by the Department of Motor Vehicles" and that DMV may promulgate regulations to assist in carrying out the provisions of this section. In addition, Va. Code § 46.2-203 provides general statutory authority for DMV to promulgate regulations "necessary to carry out the laws administered by the Department." Such authority, by implication, includes the authority to modify, amend, repeal, and review such regulations as have been promulgated thereunder as is necessary to carry out DMV's duties. Moreover, Virginia Code § 2.2-4012.1 provides that an agency may amend or repeal regulations through a "fast-track" process if the changes are considered to be "noncontroversial."

I have reviewed the proposed regulations and confirm that the proposed regulations pose no current conflict to existing laws and appear to be non-controversial in nature.

Sincerely,

Janet W. Baugh

Janet W. Baugh
Senior Assistant Attorney General