



Virginia Department of Planning and Budget **Economic Impact Analysis**

24 VAC 20-121 Driver Training Schools Regulations
Department of Motor Vehicles
Town Hall Action/Stage: 6469 / 10336
August 16, 2024

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB’s best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

The Department of Motor Vehicles (DMV) proposes to eliminate superfluous language and a provision in the regulation that conflicts with the Code.

Background

The current and proposed regulations both indicate that DMV may refuse to approve any application, including originals or renewals, in which the owner or any principal of the owner, or any of the school's employees or instructors has been convicted of any felony. The current regulation includes several examples of felonies. The agency proposes to remove the examples.

The current regulation states that “To avoid any conflict of interest, the department will not approve any Class A school license for any applicant that is certified by DMV as a Third Party Tester for the commercial driver's license (CDL) skills testing.” DMV proposes to

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

eliminate this language since it conflicts with amendments made to Virginia Code § 46.2-326.1 in 2019 that allows some Class A driver training schools to be third-party testers.²

Estimated Benefits and Costs

The proposed removal of language that gives examples of felonies would not have a substantive impact.

DMV has not enforced the prohibition against Class A (commercial motor vehicle) school licensure for those who are certified by DMV as a third-party tester for CDL skills testing since the legislation creating the conflict went into effect on October 1, 2019.³ Thus, the proposed elimination of the text would not affect the law in effect and what is enforced in practice. To the extent that there are some third-party testers who have been interested in obtaining Class A school licensure, but thought they could not due to the existing language, the proposed elimination of the text may have some positive impact in better informing of available opportunities, possibly leading to the addition of a few more commercial motor vehicle driving schools. Similarly, if there are possessors of Class A school licensure who have had interest in also becoming third-party testers but thought they could not due to the existing language, the proposed amendment may lead to a few additional third-party testers.

Businesses and Other Entities Affected

The proposal potentially affects the 30 Class A licensed driver training schools and third-party testers for CDL skills testing.⁴

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁵ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities

² Chapters 78 and 155 of the 2019 Acts of Assembly amended Code § 46.2-326.1 so that certain Class A driver training schools could be certified as third-party testers. See <https://lis.virginia.gov/cgi-bin/legp604.exe?191+ful+CHAP0078+hil>.

³ Ibid.

⁴ Data source: DMV.

⁵ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

combined.⁶ The proposed amendments neither increase costs nor reduce benefits. Thus, no adverse impact is indicated.

Small Businesses⁷ Affected:⁸

The proposed amendments do not appear to adversely affect small businesses.

Localities⁹ Affected¹⁰

The proposed amendments neither disproportionately affect particular localities nor introduce costs for local governments.

Projected Impact on Employment

There may be a moderate increase in employment at Class A driving schools.

Effects on the Use and Value of Private Property

As described above, the proposal may lead to the formation of a small number of additional commercial motor vehicle driving schools. The proposed amendments do not affect real estate development costs.

⁶ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁷ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “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.”

⁸ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

⁹ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹⁰ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.