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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Virginia Department of Motor Vehicles
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24VAC20-40
<b>VAC Chapter title(s)</b>	Rules and Regulations on Accident Prevention Courses for Older Drivers
<b>Date this document prepared</b>	December 9, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

### Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

There are no acronyms in the report or technical terms that are used in the document that are not also defined in the "Definition" section of 24VAC20-40

### Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

Sections 38.2-2217 and 46.2-206 of the *Code of Virginia (Code)* provides the Department of Motor Vehicles (DMV) with specific and general authority to promulgate regulations necessary to (i) enforce the

provisions of Chapter 22 of Title 38 of the Code which governs reduction in rates for certain persons who attend mature driver motor vehicle crash prevention courses and driver improvement clinics and Chapter 2 of Title 46.2 of the Code which governs regulations; violations; forms for applications, certificates, licenses, etc., (ii) provide adequate training for older drivers, (iii) protect older drivers and public safety, and (iv) carry out the other provisions of Chapter 22 of Title 38 of the Code and Chapter 2 of Title 46.2 of the Code.

**Alternatives to Regulation**

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

There is no viable alternative to the regulation of Accident Prevention Courses for Older Drivers.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

Committer	Comment	Agency response
Joseph Haugh, Instructor, AARP Smart Driver Course	In my honest opinion, I believe that shortening the class to a more reasonable six or even four hours would make the course more appealing and more accessible to older drivers. Many people don't want to spend 8 hours for a course and by reducing the time it would become more appealing, attract more people to the classes, and therefore bring more people up to date. The class could very reasonably be shortened by reducing the repetition, the time spent on the "joys" of aging, and much other minutia of which we are already aware. The section on "Driver Retirement" is a subject that we will all need to eventually address (if we live long enough) but we don't need to spend an hour discussing it in class. We need to concentrate the time on the important issues that affect driving for senior citizens. That	See agency response below.

	concentration could easily be done in six hours.	
Garrett Nolen, Instructor, AARP Smart Driver Course	I concur that an eight-hour course allows for much more interaction but if the goal for this regulation is to improve overall senior driving safety at the state level then the additional allotted time does not enhance this goal. I personally believe that the review of Courses for Older Drivers (24VAC20-10-40) should consider the reduction of course instructions hours, whether it be an initial eight-hour course and remittal three-year courses being four or six hours in duration (which could result in an administration nightmare) or reducing the training to either four or six-hour classes would not distort the States safety concepts.	See agency response below.
Vernon L. Wildy, AARP	As an AARP Driver Safety Instructor, I would like to see the classes reduced from eight (8) hours to four (4) hours. Many persons taking the course are retired, however; there are many other persons who are working and/or have other responsibilities and find it difficult to attend the class for two days. Most of our instructors are elderly and would find it difficult to teach the class for eight (8) consecutive hours or for one day.	See agency response below.
David Young, Jr., Instructor, AARP Smart Driver Course	With a reservation, I support the 8-hr version of the Smart Driver™ Course for older Virginia drivers. My reservation is that the 8-hr version be required only once; the first time the older driver sits the current version of the DSP Course. Every three years is the current course attendance requirement to keep the automobile insurance discount continuous; without a break in the discount. At the 3-yr anniversary, the older driver knows it is time to renew the insurance discount by sitting the current AARP DSP Course. As the course content is NOT radically update frequently, the older driver will very likely be sitting the same course he/she sat	See agency response below.

	<p>3 years ago. The biggest difference between the two sitting with be the instructor and the other participants in the class. The current Version 8, Smart Driver™, was rolled out January 2014. I believe previous DSP Course version had a run of some 10 years or so; that was before I joined the AARP DSP.</p>	
<p>Bettie Bennett, AARP instructor</p>	<p>Recommend reviewing other states programs, (requiring fewer hours for refreshing participants after initial course completion) and compare with VA requirements for training certification. The only thing, this will take more than the current five day deadline.</p>	<p>See agency response below.</p>
<p>Joseph A Beaudoin, AARP DSP District 8 Coordinator</p>	<p>I took my first “55 Alive” (now “Smart Driver Safety Program”) class in 1986 and soon thereafter, I became an Instructor. During the past 3+/- decades that I have been involved in this program, I have had the opportunity to speak to hundreds (if not thousands) of participants and potential participants. Most of the participants that took the class was because of the reduction in insurance. AARP Instructors teach classes to facilitate the reduction of accidents to seniors and to encourage some seniors to STOP driving (mostly elderly 80+-100-year-old seniors). In almost all of the classes that I have been involved in, the participants have stated that they have ‘learned’ something that they will practice in the future. If we can teach (or remind) those over 50 that take the class various safety issues, then the class is worth it and everyone benefits (State, Ins. Companies and participants). The biggest draw back to the classes (in my opinion) is the length of the classes. Either the participants have to come for a 2-day period 4-hour class or they have to sit through an 8-hour class --- both of which are not that desirable (especially when we have inclement weather on one of the</p>	<p>See agency response below.</p>

	<p>days). In closing, I would like to recommend that Virginia adopt the 6/4 AARP Driver Safety Program for all future classes. I believe (based on my conversations with hundreds of participants) that more participants would take the course if it was reduced to a 6/4 program without any lost in insurance benefits. We all are interested in expanding the program and if we can increase the number of participants by 10%, 20%, 30%, 40%, 50% or more, isn't that our goal and objective?</p>	
<p>Eddie Carr, AARP Volunteer Course Instructor in Portsmouth Virginia</p>	<p>I would like to request a reduction in hours for the AARP Smart Driver Course. I believe the course could be reduced from the current 8-hour course to a 4-hour course and still be just as effective. There is a lot of fluff, in the AARP DVD and in the 8 hour AARP Driver Manual used for this course. The material about medication, and exercise could be eliminated. Also, some of the information about taking care of your car is repeated a second time in the AARP Manual. I believe a new, well written, AARP Manual and a New well scripted DVD for a 4-hour class would be just as effective as the current 8-hour class if all the fluff is removed. A Shorter Class would also encourage more people to take this Course.</p>	<p>See agency response below.</p>
<p>Bervin D. Elliott, Virginia State Coordinator, AARP Driver Safety</p>	<p>Request DMV reduce the Mature Driver course hours.</p>	<p>See agency response below.</p>
<p>Wanda L. Casey</p>	<p>I agree that the class to be changed to a four-hour class or a 6-hour class. There are some Sr. Living places that would like for me to come and teach the class but it is too long.</p>	<p>See agency response below.</p>
<p>Dave Hall</p>	<p>1. When looking at the classic medical documents about dealing with older drivers it is apparent that the biggest driving change that aging causes is the decline of essential Functional Abilities:</p>	<p>See agency response below.</p>

	<p>Vision, Cognitive, Motor (seeing well, thinking clearly, moving easily). These abilities are fundamental assumptions in the design of roadway infrastructure and automobiles. These Functional Abilities inevitably decline with age. This decline in Functional Abilities and the inherent dangerous driving situations for seniors; failure to yield the right of way, intersections, and left turns, are the most significant factors in making senior fatality rates per mile comparable to teenagers. These "senior specific" shortcomings can be addressed easily in less than several hours of classroom instruction and have a pronounced impact on the attendee's behavior.</p> <p>2. The current 8-hour requirement for Older Driver classes, by necessity to fill the 8 hours, drifts far wide of a senior driver focus and includes observations and advice for drivers of all ages - all valid, but not especially relevant, or new news, to drivers who have successfully driven for decades. Most of the usual causes of crashes do not fit the senior driver profile. The result is that an 8-hour class inevitably dilutes the significant senior citizen driving message. Some of these "best practices" should be included in an older driver class, but only as an adjunct to the key message, which is: Driving competence declines with aging and many people will have to limit, or cease, driving years before they pass away - know what to look for and when to take action. This message and relevant "best practices" can be delivered effectively in a 4-hour class.</p> <p>3. A 4-hour class length is rapidly becoming the de-facto standard: 38 jurisdictions (states &amp; territories) specify a 4-hour class; 10 require 6-hours; and 5 require an 8-hour class - some of the</p>	
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	<p>jurisdictions require a longer class prior to settling in on a 4- hour class. I have seen no data that shows a 4-hour class is less effective than an 8-hour class.</p> <p>4. Virginia senior population coverage: In rough numbers there are ~6 million licensed drivers in Virginia, ~25% are 55 and older (~1,5 million). With the AARP 2019 goal of having 3710 classroom participants that is only ~.25% of the target population (1 in 400.) Not very significant when the desired goal is to improve overall senior driving safety at the state level. The number of classes is limited by the number of instructors, time each instructor has to devote, and the host sites availability. A 4-hour class would immediately double the resources for more classes &amp; more attendees, and would be an attraction for new instructors, and having old ones return.</p> <p>5. Empirical data confirms that most seniors will have to limit, or cease, driving at some point. About 93% of seniors age 65-79 are licensed, while at the Continuing Care Retirement Community (CCRC) where I live the average age is 85.4 years and only ~50% of the residents are active drivers. Seniors want to know what is happening to them, what to expect, and to prepare to deal with it. The focus of Older Driver education should be on how to drive safely longer, but also understanding what is likely to happen, be prepared to retire from driving on their terms and timing, and get on with living. A succinct 4-hour class is adequate to do this focused, limited, message delivery.</p>	
<p>Suzanne Franklin, AARP Driver Safety</p>	<p>I am an AARP driver safety instructor, in Virginia. I would like to see the course reduced to 4 hours. AARP will work, diligently, to provide the best and most pertinent information in the course to create a safe and</p>	<p>See agency response below.</p>

	<p>comprehensive class to share with drivers fifty and over. A four-hour course will inspire more individuals to take the course and allow for more courses to be scheduled. Virginia should take this opportunity to shorten the length of the course for the benefit of all citizens on the highways. Safety and education should be a top priority.</p>	
<p>Thomas E. Lee</p>	<p>I have been involved with traffic safety for many years, 30 with the Virginia State Police and 21 years instructing in the AARP driver safety programs.</p> <p>My mission in the classes I teach is to get as much information to my participants as possible. I fear many of my fellow instructors either do not have the passion for sharing this information as I do. I hope all advantages of having the classes remain at the 8-hour level will be considered before rushing into cutting the class time in half. There is so much that the general public is not aware of. Example: every time we have a rain storm I met many vehicles that are using their day time driving lights and not their headlights. Most of these people are not aware that their taillights ARE NOT ON in conjunction with these lights. Many of our instructors and most of the general public do not realize that almost always wrong way drivers will be driving in the right hand lane if they were going in the correct direction for that roadway. Thus this wrong way driver will be in the passing lane or the roadway going in the correct direction. Even many of the Department of Highways workers do not know why they are painting the highway markings different colors. They, and almost all others do not know that if you have a white edge marker to your right you are going in the correct direction or if you have a yellow edge marker you are going the wrong way. Being sure we get this information to as</p>	<p>See agency response below.</p>



	<p>many people as possible is my reasoning for not want to reduce the classes to 4 hour or even six hours.</p>	
<p>Ralph Rosenthal</p>	<p>Sure is a lot of bureaucratic gobbledygook--fact of the matter is that the governor has put stress on his admin to try to reduce the number of fatalities in VA and has a whole bunch of his departments trying to come up with good solutions--the press has picked out some of these and periodically prints some related items. personally, after 16 years in the aarp program trying to reduce the 8-hour mandate, i am convinced that 4 hours in va is insufficient--might just as well have no smart driver program at all---our seniors need more than a quick video (which is the case in our surrounding states) or a 2-hour Florida summary for folks who need it most. My experience is leading me to a 6-hour class based on seniors who really can't remember 3-years ago, who don't all stay up with the latest changes and need to be awakened to their needs other than an insurance discount. my 6-hour guesstimate is based on what i would change in the existing course coupled with what we might add re new vehicle technologies.</p>	<p>See agency response below.</p>
<p>Lester Jackson, Mechanical Engineer/Physicist, retired professional race driver/AARP Smart Driver Class instructor for over 12 years.</p>	<p>The DMV requirement for the mature driver classes for Older Drivers should be reduced to 4 hours. Having taught this course at least 6 times/year I am well acquainted with group dynamics and engagement levels when the course material is essentially read word-for-word over 8 hours. Most attendees tune out after 3-4 hours and cease asking questions or making comments. This is counterproductive. However, when I take sections of the course material and paraphrase it by bringing in real life examples the engagement levels remain constant. Some sections (medications, for</p>	<p>See agency response below.</p>

	<p>instance) should be eliminated and substituted by a simple statement that everyone needs to inform themselves about the side effects of any medications they might be taking.</p> <p>While the course information is extremely valuable, the majority is well known by attendees and simple reminders are adequate. Therefore, instructors can concentrate on the really important issues and recent changes, driver etiquette, traffic issues, modern safety systems, reason for – and timing of – autonomous vehicles, etc.</p> <p>Also, if the course length is advertised to be 4 hours it is very likely that a significantly larger number of people will sign up to take it, thus providing the information to a broader audience. The current 8-hour duration requires a commitment that many simply don't want to make.</p>	
<p>Ronald G. Paterson</p>	<p>I have been an instructor for the AARP senior driver courses for over 20 years. Most of that time (16 years) I lived and taught the course in Delaware. The length of time required for the course there was eight hours (since reduced to six hours) for those taking the class for the first time and four hours when taking the class three years later to renew. I was shocked to learn upon moving to Virginia five years ago that all such classes here were eight hours long whether they be first time or renewal. After teaching hundreds of these classes for thousands of seniors, I can say without qualification that a full eight hours for all classes is not necessary. A six and/or four-hour requirement would be much more reasonable. I hope a change can be made.</p>	<p>See agency response below.</p>
<p>Lincoln C. Cummings, AARP Smart Driver Instructor</p>	<p>I am an experienced AARP Smart Driver course instructor with dozens of classes under my belt. The eight-hour interactive classroom course is widely</p>	<p>See agency response below.</p>

	<p>appreciated and enjoyed by the elders taking this course. Much of the real education and benefit reported by the attendees is the interactive discussion that helps clarify and support the learning points - all of which strives to make the drivers more focused on safety and avoiding an accident. The course videos are excellent. Carefully moderated dialogue with the course attendees enhances their understanding of and helps them internalize the learning points. This takes time – which is universally appreciated. I do not believe the material can reliably be internalized in anything less than six hours.</p>	
<p>Jack Oates</p>	<p>For nearly the past two years I have served as a volunteer instructor of AARP's Smart Driver course in Williamsburg, Virginia. My volunteer ID number is 100420431. I am aware that some other volunteer instructors have for some time been suggesting that the 8-hour Smart Driver class should be shortened. Some recommend that the class be cut by 2 hours. Others would like to cut the class time in half, to 4 hours. I believe that any such shortening of this valuable training would be a major mistake.</p> <p>I am fully aware that the principal - - and often the only -- factor motivating many people to enroll in the training is the insurance premium reduction that many automobile insurance providers offer to their customers. I think it is laudable that so many insurers offer this inducement. But I am also convinced that they do so because they have seen, in the driving records of their customers who have successfully completed the course, that Smart Driver graduates as a whole are less likely to commit traffic violations, become involved in crashes and suffer injuries and deaths. And the insurance providers enjoy the</p>	<p>See agency response below.</p>

	<p>financial benefits these traffic safety improvements generate, namely lower insurance payouts.</p> <p>The present 8-hour course, in my opinion, delivers the knowledge and skills that drivers need to cope effectively with the challenges we all face as we age. But where is the evidence that jettisoning 25 to 50 percent of this learning experience would not eliminate much or even all of the benefits of the present course?</p>	
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**AGENCY RESPONSE:** *Va. Code* § 46.2-490 provides that the Commissioner of DMV “shall, in his discretion, contract with such entities as the Commissioner deems fit, including private or governmental entities, to develop curricula for a statewide driver improvement clinic program.” Currently, driver improvement clinics are required to provide a minimum of eight hours of instruction in topics such as (i) alcohol and drug abuse, (ii) aggressive driving, (iii) distracted driving, (iv) motorcycle awareness, and (v) work zone safety. The statute further provides that the “driver improvement clinic program shall be established for the purpose of instructing persons identified by the Department and the court system as problem drivers in need of driver improvement education and training and for those drivers interested in improved driving safety.” Prior to 2015, *Va. Code* § 46.2-505 provided that any court of the Commonwealth, or any federal court, charged with the duty of hearing traffic cases for offenses for violation of any law regulating the movement or operation of a motor vehicle, may require any person found guilty to attend a driver improvement clinic. Chapter 282 of the 2014 *Virginia Acts of Assembly* amended § 46.2-505 of the *Code* to permit courts to order such persons to attend a driver improvement clinic or a mature driver motor vehicle crash prevention course as provided in *Va. Code* § 38.2-2217. Courts may order successful completion of such courses in lieu of a finding of guilty. The mature driver course specifically focuses on the information needs of drivers aged 55 years and older. The curriculum includes subjects such as (i) vision and other physical problems which tend to accompany increasing age and how these problems may affect driving performance, (ii) both over-the-counter and prescription drugs, alcohol, fatigue, and how their interaction effect driving and precautionary measures, (iii) safety belts and the special needs of older people to use them. To maintain comparability between the driver improvement clinic and the mature driver motor vehicle crash prevention course that courts may order defendants to attend, both courses are required to provide eight hours of instruction.

**Effectiveness**

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

The regulation is necessary for the protection of the public welfare. The regulation is intended to ensure that accident prevention courses for older drivers in Virginia provide adequate training for drivers and the regulation oversees the accident prevention courses curriculum requirements, obligations to participants, qualifications and other requirements for instructors, duration of curriculum, and other requirements.

**Decision**

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

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Comments received centered around the length of the mature driver course. To maintain comparability between the driver improvement clinic and the mature driver motor vehicle crash prevention course that courts may order defendants to attend, both courses are required to provide eight hours of instruction. DMV will retain the regulation as is without making changes to the regulation.

### **Small Business Impact**

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

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DMV received comments during the public comment period indicating a need to amend the regulation. DMV has determined to retain the regulation as is at this time in order to maintain comparability between the driver improvement clinic and the mature driver motor vehicle crash prevention course. DMV has determined that the regulation is not overly complex and conforms to the *Code*. DMV has also determined that the regulation does not overlap, or conflict with federal or state law or regulation. DMV considered the degree to which, technology, economic conditions, or other factors have changed in the area affected by the regulation, and has determined that an amendment to the regulation is not necessary at this time.

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