

VIA EMAIL

July 09, 2024

Kevin Kolbus
Contracts Attorney
Indiana Bureau of Motor Vehicles
100 N Senate Avenue, Room N435
Indianapolis, IN 46204

Re: LSA Document #24-215/Regulatory Analysis-Small Business Economic Impact Statement

Dear Mr. Kolbus,

Pursuant to Indiana Code 4-22-2.1-5(c)(2), as the Small Business Ombudsman for the state of Indiana, I have reviewed the proposed rule and regulatory economic impact analysis associated with the rule changes contained in LSA Document #24-215 (proposed rule) submitted to the Indiana Small Business Ombudsman by the Indiana Bureau of Motor Vehicles (BMV). I have found the following to be true.

Proposed rule LSA #24-215 establishes 140 IAC 7-3-4.5 as a new section of Indiana Administrative Code, establishing the process for querying the Federal Motor Carrier Safety Administration's (FMCSA) Drug and Alcohol Clearinghouse (DACH). This process allows for the denial of issuance, renewal, amendment, upgrade, or application of an applicant's Commercial Learner's Permit (CLP) or Commercial Driver's License (CDL) privileges on the basis of drug and alcohol policy violation reports provided to FMCSA by regulated employers, medical review officers, substance abuse professionals, third-party administrators, and other service agents. Additionally, the proposed rule amends 140 IAC 7-3-10 by requiring CDL holders applying for endorsement or renewal to pass all record checks imposed by 49 CFR 383.73. This would be accomplished by the BMV querying the DACH prior to issuing an endorsement or renewal of a CDL. These establishments and amendments are required by BMV to maintain compliance with federal code, specifically, 49 CFR Part 382, subpart G and 49 CFR Part 383. The proposed rule does not appear to impose any added fees, fines, or penalties and is specifically geared toward the process of checking on drug and alcohol violations for individual CLP and CDL holders, not small businesses. As such, there do not appear to be any undue burdens placed on small businesses.

The BMV's provided analysis displays a proper due diligence and understanding of how implementation must be carried out to ensure compliance while minimizing the potential impact to small businesses and individuals. Based upon this statement and review, the Indiana Small Business Ombudsman supports the proposed rule related to the economic impact on small business if the BMV's conclusion reflects the actual result after promulgation. If there are any questions about these comments, please contact me at ombudsman@iedc.in.gov.

Sincerely,
Matt Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation