

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

State Police

Bureau name:

Forensic Science Division

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2022-33 SP

Title of proposed rule set:

Drunk Driving Equipment and Training Fund

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no federal rules or standards set by a state or national licensing agency or accreditation association that exist for comparison to this rule set.

A. Are these rules required by state law or federal mandate?

MCL 257.625h(4) requires the department to promulgate rules for the administration of the drunk driving prevention equipment and training fund.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These rules do not exceed a federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

Ohio: has no statutes, administrative codes or rules similar to these rules.

Indiana has no statutes, administrative codes or rules similar to these rules

Illinois has no statutes, administrative codes or rules similar to these rules.

Wisconsin has no statutes, administrative codes or rules similar to these rules.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

Because those states do not have equipment and training fund rules, there are no ways to compare.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

There are no laws, rules, or other legal requirements that overlap, duplicate, or conflict with these rules.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

There are no federal or local laws related to the administration of the drunk driving prevention equipment fund. Pursuant to state law MCL 257.625h(2) these rules have been narrowly tailored to address the management of funds for drunk driving prevention equipment and training. Specifically, for purchasing devices used in drunk driving prevention and training personnel how to use that equipment. The rules were kept separate because the law authorizing the department to promulgate rules for managing the fund is different than the law authorizing the department to promulgate standards and procedures.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(8) does not apply and there is no applicable federal mandate in place.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

There is no applicable federal standard, and MCL 257.625h only requires the department to promulgate rules.

Purpose and Objectives of the Rule(s)

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The drunk driving prevention equipment and training fund is made of funds collected from those paying license reinstatement fees under MCL 257.320e. The rules are not designed to alter any behavior, but rather provide guidance on using the funds.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

There should be no change in frequency.

B. Describe the difference between current behavior/practice and desired behavior/practice.

These rules allow some discretion in the department's decision in supplying certain breath testing devices.

C. What is the desired outcome?

To allow the department to manage the fund and the equipment purchased through it more effectively in addressing the needs of law enforcement agencies across the state.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The department is required to promulgate rules for administering the fund. Without the rules the department would have no guidance, oversight, or parameters to purchase and place equipment or train personnel.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The department has selected and will be providing new devices with upgraded features. As a result, this rule set needed to be amended to account for providing the new devices and training personnel in its use.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The new instrument has advanced technology and additional features. This rule set will give the department the ability to place the new devices in areas where they are most needed and have the greatest impact and in doing so will protect the health, safety, and welfare of Michigan citizens in areas of greatest risk.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

No rules should be rescinded.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

The department will be able to place new devices more freely, and thus be able to position the devices in areas where they will be utilized more efficiently. This will result in possibly placing fewer devices which would result in less reliance on the fund making more funds available for additional instruments.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

An agency appropriation has been made to purchase the new devices.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The rule set is revised to require the department to purchase evidential instruments and provide preliminary instruments only as fund money allows. As a result, local law enforcement agencies may need to purchase the preliminary instruments themselves. This could place a financial burden on these agencies.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The department must rely on these rules to ensure uniformity in the certification, calibration, and use of evidential breath alcohol devices across the state.

Impact on Other State or Local Governmental Units

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

These rules will not impact revenue in state or local government units. There could be a negligible increase in costs to local law enforcement agencies if those agencies need to travel further to an evidential breath device. Conversely, other agencies in the same area may notice decreased cost due to less travel. With these amended rules, the department can relocate evidential breath devices after evaluating usage and travel considerations

Local agencies may have an increase in costs in purchasing preliminary breath alcohol test instruments if the fund is unable to fulfill all requests.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

There is no program, service, duty, or responsibility imposed on any city, county, town, village, or school district, as a result of these rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

The rules do not require any government unit to take any action to be in compliance with these rules.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

The state has appropriated funds for the purchase of evidential breath instruments. These instruments will be provided to local agencies at no cost to the agencies.

Rural Impact

16. In general, what impact will the rules have on rural areas?

The rules are amended to allow the department additional flexibility in the placement of evidential devices. This may have a positive impact in some rural areas as the instrument will be in a more centralized location and require less travel.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

No public or private interests would be affected by the rules.

Environmental Impact

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules have no impact on the environment.

Small Business Impact Statement

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

This rule should not impact any businesses. This rule is to govern the department's conduct in managing funding related to law enforcement, not private business.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

Economic impact on small businesses was not considered or evaluated. There will be no impact on small businesses.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

There should be no small businesses impacted by the proposed rules.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The department did not establish compliance or reporting requirements for small businesses.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

There are no compliance or reporting requirements for small businesses.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

Performance standards are not addressed in these rules.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

There should be no impact on small businesses based on size or geographic location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

The rules do not require any reporting by small businesses.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

The rules do not require any compliance from small businesses.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

The rules will have no impact on consulting, legal, or accounting services for small businesses.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

Small businesses should see no costs or economic harm from implementation of these rules.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The rules do not address standards for small businesses.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The rules do not address standards for small businesses.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The agency did not involve small businesses in the development of the proposed rules. This rule set is for the administration of a specific fund, and will have no impact on small businesses.

A. If small businesses were involved in the development of the rules, please identify the business(es).

No small businesses were involved.

Cost-Benefit Analysis of Rules (independent of statutory impact)

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

There would be no compliance cost impact based on these amendments.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

If funds are not available within this prevention fund, local agencies may have to purchase preliminary devices on their own.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

If funds are not available to adequately and justifiably supply local agencies with preliminary breath alcohol test instruments, those agencies will have to purchase the instruments themselves.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The amended rules will not result in a change of costs to individuals.

A. How many and what category of individuals will be affected by the rules?

No individuals will be impacted by these rules.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The rules will not have a qualitative or quantitative impact on any individuals.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

The amended proposed rules should have no cost reductions to businesses, individuals, groups, or governmental units.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The amended rules will allow the department to consider more options in determining ideal placement of evidential breath test instruments.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The rules will have no impact on business growth or job creation/elimination.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

There are no individuals or business who will be disproportionately affected by these rules.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The department did not rely on any sources or utilize any methodology in completing the regulatory impact statement.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

No estimates have been made.

Alternative to Regulation

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

MCL 257.625h requires the department of state police to administer the fund and create rules to administer the fund. It is the department's statutory responsibility and there is no alternative available.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

No alternative exists.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

To allow each law enforcement agency to purchase and maintain evidential breath testing instruments would create chaos in the enforcement and prosecution of drunk drivers and would severely restrict law enforcement efforts to prevent drunk driving. The state must adopt and manage a uniform standard.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

The department did not consider alternatives, as these rules are required by MCL 257.625h. These rules are necessary because the drunk driving training fund is created by MCL 257.625h; without these rules, there would be no way to manage the funds.

Additional Information

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The rules require the department to take certain actions in the management of the drunk driving prevention fund. As a result, the department will comply with the rules as written.