

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R051-14

1. A clear and concise explanation of the need for the adopted regulation.

The NRS and NAC provide for the authority and responsibility of POST which includes, adopt regulations establishing minimum standards for the certification of peace officers. Nevada POST and law enforcement leaders are making every attempt to increase professionalism amongst law enforcement officers.

NRS Chapter 289 authorizes the Commission to adopt regulations setting the minimum standards for the certification, decertification and selection of peace officers. See, NRS 289.510. The Commission has adopted regulations establishing the grounds for the suspension or revocation of a peace officer's POST certification. See, NAC 289.290. The proposed regulation will add grounds for suspension or revocation when a peace officer has entered a plea of guilty, guilty but mentally ill or nolo contendere to a gross misdemeanor or felony. The proposed regulation will authorize the Commission to suspend or revoke a peace officer's POST certificate upon entry of a plea even if there is no conviction entered for the gross misdemeanor or felony conviction. The proposed regulation also removes the requirement that a peace officer complete six units of credit from an accredited college or university to obtain a Management Certificate. See, NAC 289.260. Finally, the proposed regulation repeals the regulation providing for the issuance of an Instruction Certificate. See, NAC 289.280. The need for the proposed regulation changes is to provide the Commission with another tool to ensure peace officers who commit acts constituting a felony or gross misdemeanor may have their POST certification suspended or revoked. Additionally, through this proposed regulation, the Commission and law enforcement leaders are attempting to increase professionalism amongst law enforcement officers, and provide clarity and consistency in those regulations.

Important Note: The Commission voted the newly adopted grounds for revocation or suspension would not be applied retroactively.

The proposed regulation, referenced as LCB File No. R051-14, contain the following sections:

Section 1. Amending NAC 289.260(6) which contains the requirements for a Management Certificate to remove the requirement for six *units of credit from an accredited college or university*. The Intermediate and Advanced Certificates already have higher education requirements. The removal of this wording is needed to remove a conflict with the new standards. Making this change will properly align the Management Certificate with the Intermediate and Advanced Certificates.

Section 2. Amending NAC 289.290(1)(e) and (1)(g), which identify circumstances which constitute causes for the Commission to revoke, refuse or suspend the certificate of a peace officer.

1. Change subsection (1)(e) to include having been convicted of, *or entry of a plea of guilty, guilty but mentally ill or nolo contendere to*, a gross misdemeanor.
2. Change subsection (1)(g) to include having been convicted of, *or entry of a plea of guilty, guilty but mentally ill or nolo contendere to*, a felony.

Section 3. Repeal NAC 289.280 which establishes the standards for an Instruction Certificate. The Commission is repealing this regulation because an Instruction Certificate has been found to be unnecessary to improve the quality of instruction of peace officers.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Public comment was solicited as follows pursuant to NRS 233B.0603:

Amended Notice of Workshop to Solicit Comment on Proposed Regulations was held 1:00 pm March 5, 2014, at the Carson city Sheriff's Office, Ormsby Room, 911 E. Musser Street, Carson City, Nevada.

Notice Of Intent To Act Upon A Regulation; Public Comment Hearing was held at 1:00 pm, on July 24, 2014 at the Prospector Hotel and Casino, Ghost Train Room, 1501 E. Aultman, Ely, Nevada. In addition to the meeting locations listed below, the Public Comment Hearing was posted at all county library main branches.

Notices were sent to all listed meeting locations, all law enforcement agencies, law enforcement training academies, all county library main branches, and posted on the POST web site, Public Notice web site and the LCB web site.

POST Administrative Office, Carson City
 Nevada State Capitol, Carson City
 Blasdel State Building, Carson City
 Nevada State Library and Archives, Carson City
 Grant Sawyer Building, Las Vegas
 White Pine County Sheriff's Office, Ely
 Carson City Sheriff's Office
<http://post.state.nv.gov>
<http://leg.state.nv.us>
<https://notice.nv.gov>

There was one public response to section 2 amending NAC 289.290. Mr. Laity asked if this amendment is retroactive and requires employers to conduct another background investigation on existing employees. It was clarified that this would not be retroactive.

3. The number of persons who:

- (a) Attended each hearing:**
- | | |
|-----------------------------------|----|
| 03/05/2014 Workshop | 14 |
| 07/24/2014 Public Comment Hearing | 5 |

(b) Testified at each hearing:
03/05/2014 Workshop 0
07/24/2014 Public Comment Hearing 1

(c) Submitted written comments:
03/05/2014 Workshop 0
07/24/2014 Public Comment Hearing 0

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing: N/A

(a) Name; David Laity
(b) Telephone number; 775-688-1421 x 224
(c) Business address; 560 Mill Street Ste 250 Reno, Nevada 89502
(d) Business telephone number; 775-688-1421 x 224
(e) Electronic mail address; and dlaity@dcfs.nv.gov
(f) Name of entity or organization represented. Nevada Youth Parole Bureau

5. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary. N/A

This regulation has no application toward businesses and only applies to Nevada law enforcement agencies. See #2 notice.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Commission accepted and adopted the recommended language provided by the Legislative Counsel Bureau without revisions.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

(a) Estimated economic effect on the businesses which they are to regulate.

N/A

(b) Estimated economic effect on the public which they are to regulate.

N/A

8. The estimated cost to the agency for enforcement of the proposed regulation:

There should be no extra costs. It is projected that with changes to the Management Certificate and properly aligning it with the Intermediate and Advanced Certificates, and repealing of the Instructor Certificate it is feasible this could result in being fiscally efficient in the amount of time needed to process and validate qualifications for the certificates.

9. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or

overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other regulations which overlap or duplicate the proposed regulations.

- 10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

There are no federal regulations that regulate the same activity.

- 11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

None