

**ADOPTED REGULATION OF THE
DEPARTMENT OF MOTOR VEHICLES**

LCB File No. R034-10

Effective August 14, 2010

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1 and 2, NRS 483.908 and 483.924.

A REGULATION relating to commercial drivers' licenses; revising provisions governing the Department of Motor Vehicles' adoption by reference of certain federal regulations; providing for the suspension of a person's commercial driver's license under certain circumstances; providing for the notice the Department will give to a person before the person's hazardous materials endorsement expires; and providing other matters properly relating thereto.

Section 1. NAC 483.800 is hereby amended to read as follows:

483.800 1. ~~[Except as otherwise provided in NAC 483.802, the]~~ *The* Department hereby adopts by reference the provisions of 49 C.F.R. Parts 383 and 384 as they existed on October 1, 2004, and any subsequent amendments. Each amendment shall be deemed approved by the Department unless it disapproves the amendment within 60 days after the United States Department of Transportation has adopted such an amendment.

2. A copy of the volume containing the provisions described in this section ~~[and NAC 483.802]~~ is available at a cost of ~~[\$64]~~ \$37 from the Superintendent of Documents, United States Government Printing Office, P.O. Box ~~[371954, Pittsburgh, Pennsylvania 15250-7954.]~~ 979050, *St. Louis, Missouri 63197-9000. These provisions are also available, free of charge, at the Internet address <http://www.gpoaccess.gov/cfr/>.*

3. A licensee shall comply with the requirements of the provisions adopted by reference in subsection 1.

Sec. 2. NAC 483.802 is hereby amended to read as follows:

483.802 1. ~~[The Department hereby adopts by reference the regulations contained in 49 C.F.R. § 383.51, as provided in NAC 483.800, with the following modifications:~~

~~—(a) As used in 49 C.F.R. § 383.51, “serious traffic violation” means a conviction, when operating a commercial motor vehicle, of:~~

~~——(1) Excessive speeding, involving any single offense for any speed of 15 miles per hour or more above the posted speed limit;~~

~~——(2) Reckless driving, as defined by state or local law or regulation, including offenses of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;~~

~~——(3) Improper or erratic lane changes;~~

~~——(4) Following the vehicle ahead too closely; or~~

~~——(5) A violation of a state or local law relating to the control of motor vehicle traffic that arises in connection with a fatal accident.~~

~~↪ The term does not include a violation regarding the weight of a commercial motor vehicle, the manner in which it is parked or a mechanical defect in the vehicle.~~

~~—(b) A] *In addition to the penalties provided in those provisions adopted by reference in*~~

NAC 483.800, a person who operates a commercial motor vehicle while his *commercial* driver’s license ~~[or permit]~~ is suspended, revoked or cancelled, or while he is otherwise disqualified from operating a commercial motor vehicle, is subject to the provisions and penalties specified in NRS 483.560.

~~[(e)]~~ 2. A person who knowingly falsifies any information or certification on an application filed with the Department for a commercial driver's license or permit is subject to the provisions specified in NRS 483.420.

~~[(d)]~~ 3. *A person who holds a commercial driver's license with an expired hazardous materials endorsement is subject to a suspension of his or her commercial driver's license for not less than 30 days.*

4. *At least 90 days before the expiration of a person's hazardous materials endorsement, the Department will provide the person a notice which informs the person that he or she:*

(a) Must apply for a security threat assessment required pursuant to 49 C.F.R. § 383.141 at least 60 days before his or her hazardous materials endorsement expires and must pass the security threat assessment before his or her hazardous materials endorsement may be renewed;

(b) May be subject to suspension of his or her commercial driver's license as described in subsection 3; and

(c) May avoid such suspension of his or her commercial driver's license by:

(1) Complying with the requirements for renewing a hazardous materials endorsement, including, without limitation, passing the security threat assessment required pursuant to 49 C.F.R. § 383.141;

(2) Requesting that the Department remove the hazardous materials endorsement from his or her commercial driver's license; or

(3) Requesting that the Department issue a non-commercial driver's license in place of the commercial driver's license.

5. The Department will require a person to obtain a new driver's license that reflects the renewal of a hazardous materials endorsement, the removal of such an endorsement, or the change to a non-commercial license described in paragraph (c) of subsection 4 in person at an office of the Department.

6. A person who is disqualified from driving a commercial motor vehicle under this section shall surrender his commercial driver's license or permit to the Department.

~~[(e)]~~ 7. To reinstate a commercial driver's license or permit after disqualification, a person must, in addition to any other conditions required by law:

~~[(1)]~~ (a) Complete an application;

~~[(2)]~~ (b) Pass a vision test, knowledge tests and, if applicable, driving skills tests;

~~[(3)]~~ (c) Provide any additional information requested by the Department to determine his fitness to operate a commercial motor vehicle safely; and

~~[(4)]~~ (d) Pay the reinstatement fees established in NRS 483.910.

~~[(2. The volume containing 49 C.F.R. Parts 200 to 399 is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at the price of \$64.]~~

~~3.]~~ 8. As used in this section, "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating of 26,001 or more pounds which includes a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(b) Has a gross vehicle weight rating of 26,001 or more pounds;

(c) Is designed to transport 16 or more passengers, including the driver; or

(d) Regardless of size, is used in the transportation of materials which are considered to be “hazardous” for the purposes of the federal Hazardous Materials Transportation Act and for which the display of identifying placards is required pursuant to the Hazardous Materials Regulations, 49 C.F.R. Part 172, Subpart F.

NOTICE OF ADOPTION OF AMENDED REGULATION
LCB FILE NO. R034-10

The Department of Motor Vehicles adopted amended regulations, which pertained to chapter **483** of the Nevada Administrative Code on **07/27/2010**. A copy of the regulations as adopted is attached hereto.

INFORMATIONAL STATEMENT OF ADOPTED REGULATIONS AS REQUIRED BY
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE NO. R034-10
July 27, 2010

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 366:

1. A description of how public comment was solicited, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

- The Department of Motor Vehicles noticed and held a public workshop in Carson City with video conferencing to Las Vegas, and Elko on March 9, 2010. The notice of public workshop and complete copies of the proposed regulations were posted on February 19, 2010, at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. In counties where the Department does not maintain an office, the notice was posted at the main office of the public library. The purpose of the workshop was to solicit comments and opinion on proposed regulation changes relating to the federal definition of “serious traffic violation” and language mandating a suspension of not less than 30-days for the driver of a commercial motor vehicle who transports hazardous materials without authorization from the Transportation Security Administration (TSA). No member of the public attended the workshop.
- The Department of Motor Vehicles noticed and held a public hearing in Carson City with video conferencing to Las Vegas on the 23rd of July at 10:00. The notice of public hearing and copies of the proposed regulations were posted on June 22, 2010, at the Nevada State Library and Archives, each office of the Department of Motor Vehicles, LCB, and the DMV Website. In counties where the Department does not maintain an office, the notice was posted at the main office of the public library. Due to the Department’s work with the Nevada Motor Transport Association prior to any public workshop or hearing, we had no opposition to the proposal. No citizen, association, or businesses were present at the public hearing.

2. The number of persons who:

- (a) Attended each workshop:** Carson City = 0, Las Vegas = 0, Elko = 0
- (b) Testified at each workshop:** 0

(c) **Submitted to the agency written statements:** No written comments were received by the Department.

(d) **Attended each hearing:** Carson City = 0, Las Vegas = 0

(e) **Testified at each workshop:** 0

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

Prior to the public workshop notice, the Department sent copies of the notice and proposed regulations to the Nevada Motor Transport Association during construction of the proposed changes. This organization provided support for the changes as presented, and updated their drivers of the coming changes.

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

No change was needed due to the support of the Nevada Motor Transport Association. No parties attended the public workshop and hearing to give their support or opposition to the proposed regulation changes.

5. The estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:

(a) **Both adverse and beneficial effects; and**

(b) **Both immediate and long-term effects.**

There is no economic effect of the regulation on the businesses regulated or the public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

7. A description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The amendments to the regulation do not overlap that of any other state, local, or federal governmental agency.

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

The amendments do not include provisions which are more stringent than a federal regulation.

9. 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.

This regulation does not provide or involve a new fee, and hence since no fee is involved, there is not a total amount expected to be collected or used.