

**ADOPTED REGULATION OF THE
DEPARTMENT OF PUBLIC SAFETY
LCB File No. R062-17**

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

AUTHORITY: §§1 and 2, NRS 706.171 and 706.173.

A REGULATION relating to motor carrier safety; revising provisions relating to the adoption and enforcement of federal regulations for motor carrier safety; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Nevada Transportation Authority, the Department of Motor Vehicles and the Department of Public Safety to adopt by reference any appropriate rule or regulation issued by the United States Department of Transportation or other agency of the Federal Government. (NRS 706.171) This regulation revises certain regulations of the United States Department of Transportation adopted by reference by the Department of Public Safety.

Section 1. NAC 706.2472 is hereby amended to read as follows:

706.2472 1. The Department of Public Safety hereby adopts by reference the regulations contained in 49 C.F.R. Parts 40, 382, 383, 385, 387, 390 to 393, inclusive, 395, 396 and 397, *49 C.F.R. § 386.72* and Appendices B and G of 49 C.F.R. Chapter III, Subchapter B, as those regulations existed on ~~[May 30, 2012,]~~ *the effective date of this regulation, and as subsequently revised by the United States Department of Transportation unless the Director of the Department of Public Safety gives notice pursuant to subsection 4 that a revision is not suitable for this State,* with the following exceptions:

(a) References to the ~~{Department of Transportation and the}~~ Federal Motor Carrier Safety Administration are amended to refer to the Department of Public Safety.

(b) References to the Administrator of the Federal Motor Carrier Safety Administration ~~{and to the Director}~~ are amended to refer to the Director of the Department of Public Safety.

(c) Section 391.11(b)(l) applies only to drivers of commercial motor vehicles who:

(1) Operate in interstate transportation;

(2) Transport passengers intrastate; or

(3) Transport hazardous material ~~{of a type or quantity that requires the vehicle to be marked or placarded in accordance with 49 C.F.R. §§ 172.300 and 172.500.}~~ , *as defined in NRS 459.7024.*

(d) ~~{Section 392.5(a)(3) will not apply to motor carriers authorized to provide intrastate charter service by limousine or to the drivers of those motor carriers.}~~

~~—(e)}~~ References to special agents in Appendix B of 49 C.F.R. Chapter III, Subchapter B, are amended to include personnel of the Department of Public Safety.

~~{(f)}~~ *(e)* The definition of “motor carrier” in 49 C.F.R. §§ 390.5 and 397.65 is amended to read:

“Motor carrier” includes, without limitation, interstate and intrastate common, contract and private carriers of property and passengers, including, without limitation, their agents, officers and representatives.

~~(g)~~ (f) The definition of “commercial motor vehicle” in 49 C.F.R. §§ 382.107, 385.3 and 390.5 is amended to read:

“Commercial motor vehicle” means any self-propelled or towed vehicle used on public highways in:

1. Interstate commerce to transport passengers or property if the vehicle:

(a) Is designed to transport , *for compensation*, more than eight passengers, including, without limitation, the driver;

(b) *Is designed or used to transport, not for compensation, more than 15 passengers, including, without limitation, the driver;*

(c) Is used in the transportation of hazardous materials ~~in a quantity requiring placarding under regulations issued by the Secretary pursuant to 49 U.S.C. §§ 103, 104 and 106;~~ , *as defined in NRS 459.7024*; or

~~(e)~~ (d) Has a gross vehicle weight rating, gross combination weight rating , ~~or~~ gross vehicle weight *or gross combination weight* of 10,001 or more pounds, whichever is greater.

2. Intrastate commerce to transport passengers or property if the vehicle:

(a) Is one described in paragraph (a) , ~~or~~ (b) *or (c)* of subsection 1; *or*

(b) Has a gross vehicle weight rating, gross combination weight rating , ~~or~~ gross vehicle weight *or gross combination weight* of 26,001 or more pounds, whichever is greater . ~~;~~

~~—(c) Is owned or operated by a motor carrier subject to the jurisdiction of the Nevada Transportation Authority, except that any vehicle so owned or operated is subject only to the provisions of 49 C.F.R. §§ 392.2, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 40, 382, 383, 385, 390, 391, 393, 395, 396 and 397 if the vehicle is not one described in paragraph (a) or (b).]~~

2. To enforce these regulations, enforcement officers of the Department of Public Safety may, during regular business hours, enter the property of a carrier to inspect its records, facilities and vehicles, including, without limitation, space for cargo and warehouses.

3. The volume containing 49 C.F.R. Parts 300 to 399, inclusive, is available from the Superintendent of Documents, U.S. Government Publishing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, at the price of \$37. The volume containing 49 C.F.R. Part 40 is available from the Superintendent of Documents, U.S. Government Publishing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, at the price of \$66. The volumes are also available free of charge at the Internet address <http://www.gpo.gov/fdsys>.

4. If a provision adopted by reference pursuant to subsection 1 is revised, the Director of the Department of Public Safety will review the revision to determine its suitability for this State. If the Director of the Department of Public Safety determines that the revision is not suitable for this State, the Director of the Department of Public Safety will hold a public hearing to review his or her determination and give notice of the hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Director of the

Department of Public Safety does not revise his or her determination, the Director of the Department of Public Safety will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Director of the Department of Public Safety does not give such notice, the revision becomes part of the provision adopted by reference pursuant to subsection 1.

Sec. 2. NAC 706.297 is hereby amended to read as follows:

706.297 1. The Department of Motor Vehicles and the Department of Public Safety hereby adopt by reference the regulations contained in 49 C.F.R. Parts 382, 383, **385**, 387, 390 to 397, inclusive, **49 C.F.R. § 386.72** and Appendix G of 49 C.F.R. Chapter III, Subchapter B, as those regulations existed on ~~May 30, 2012,~~ *the effective date of this regulation, and as subsequently revised by the United States Department of Transportation unless the Director of the Department of Motor Vehicles or the Director of the Department of Public Safety gives notice pursuant to subsection 4 that a revision is not suitable for this State*, with the following exceptions:

(a) References to the ~~[Department of Transportation, the Federal Highway Administration and the]~~ Federal Motor Carrier Safety Administration are amended to refer to the Department of Motor Vehicles and the Department of Public Safety.

(b) References to the ~~[Federal Highway Administrator and to the Director]~~ *Administrator of the Federal Motor Carrier Safety Administration* are amended to refer to the Director of the Department of Motor Vehicles and the *Director of the* Department of Public Safety.

(c) Section 391.11(b)(1) applies only to drivers operating in interstate transportation and drivers transporting hazardous material ~~[of a type or quantity that requires the vehicle to be marked or placarded pursuant to 49 C.F.R. § 177.823.]~~, *as defined in NRS 459.7024.*

(d) The definition of “motor carrier” in 49 C.F.R. § 390.5 is amended to read:

“Motor carrier” includes interstate and intrastate common and contract motor carriers of property, other than fully regulated carriers, and private motor carriers, including , *without limitation*, their agents, officers and representatives.

(e) The definition of “commercial motor vehicle” in 49 C.F.R. § 390.5 is amended to read:

“Commercial motor vehicle” means any self-propelled or towed vehicle used on public highways in:

1. Interstate commerce to transport property, other than household goods, if the vehicle:

(a) Is used in the transportation of hazardous materials ~~[in a quantity requiring placarding under regulations issued by the Secretary pursuant to 49 U.S.C. §§ 103, 104 and 106;]~~, *as defined in NRS 459.7024;* or

(b) Has a gross vehicle weight rating , ~~or~~ gross combination weight rating , *gross vehicle weight or gross combination weight* of 10,001 or more pounds.

2. Intrastate commerce to transport property, other than household goods, if the vehicle:

- (a) Is one described in paragraph (a) of subsection 1;
- (b) Has a gross vehicle weight ~~[, gross vehicle weight]~~ rating , ~~[or]~~ gross combination weight rating , *gross vehicle weight or gross combination weight* of 26,001 or more pounds; or
- (c) Is owned or operated by a motor carrier subject to the jurisdiction of the Department of Motor Vehicles, except that any vehicle so owned or operated is subject only to the provisions of 49 C.F.R. §§ 391.51, 392.2, 392.4, 392.5, 392.9 and 396.3(b)(2) and 49 C.F.R. Parts 390, 393 and 397 if the vehicle is not one described in paragraph (a) or (b).

2. To enforce these regulations, enforcement officers of the Department of Motor Vehicles and the Department of Public Safety may, during regular business hours, enter the property of a carrier to inspect its records, facilities and vehicles, including space for cargo.

3. A copy of the publication which contains the provisions described in subsection 1 may be obtained by mail from the Superintendent of Documents, U.S. Government Publishing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, for the price of \$37. The publication is also available free of charge at the Internet address <http://www.gpo.gov/fdsys>.

4. If a provision adopted by reference pursuant to subsection 1 is revised, the Director of the Department of Motor Vehicles and the Director of the Department of Public Safety will review the revision to determine its suitability for this State. If the Director of the Department of Motor Vehicles or the Director of the Department of Public Safety determines that the

revision is not suitable for this State, the Director of the Department of Motor Vehicles or the Director of the Department of Public Safety, as applicable, will hold a public hearing to review his or her determination and give notice of the hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Director of the Department of Motor Vehicles or the Director of the Department of Public Safety, as applicable, does not revise his or her determination, the Director of the Department of Motor Vehicles or the Director of the Department of Public Safety, as applicable, will give notice that the revision is not suitable for this State within 30 days after the hearing. If neither the Director of the Department of Motor Vehicles nor the Director of the Department of Public Safety gives such notice, the revision becomes part of the provision adopted by reference pursuant to subsection 1.