

LCB File No. R069-03

**PROPOSED REGULATION OF THE MANAGEMENT
SERVICES AND PROGRAMS DIVISION OF THE
DEPARTMENT OF MOTOR VEHICLES**

Notice of Workshop to Solicit Comments on Proposed Regulation

The Department of Motor Vehicles, Management Services and Programs Division, 555 Wright Way, Carson City, NV 89711, (775) 684-4778, is proposing the Amendment of regulations pertaining to Chapter 483 of Nevada Administrative Code. A workshop has been scheduled for the following date and time:

Monday, August 4, 2003, 9:00 am
Public Utilities Commission, Hearing Room "B"
1150 East Williams Street, Carson City, NV 89701
(775) 687-6007

The purpose of the workshops is to solicit comments from interested persons on the following general topics that will be addressed in the proposed regulations. Items will be discussed in the order listed:

- 1. The reduction of the concentration of alcohol a person may have in the blood or breath while operating a vehicle or vessel from 0.10 to 0.08.**

A copy of all materials relating to the proposals may be obtained at the workshop or by contacting the Department of Motor Vehicles, Management Services and Programs Division, 555 Wright Way, Carson City, NV 89711, (775) 684-4778. A reasonable fee for copying may be charged.

This notice of Workshop to Solicit Comments on Proposed Regulation has been posted at the following locations:

Carson City DMV
555 Wright Way
Carson City, NV 89711

Minden DMV
1694 County Road
Minden, NV 89423

Las Vegas DMV (West Flamingo)
8250 West Flamingo
Las Vegas, NV 89147

Reno DMV (Galletti Office)
305 Galletti Way
Reno, NV 89512-3828

Elko DMV
3920 East Idaho Street
Elko, NV 89801

Henderson DMV
1399 American Pacific Drive
Henderson, NV 89014

Ely DMV
178 Avenue F (PO Box 150088)
Ely, NV 89301 (Ely, NV 89315)

Las Vegas DMV (Sahara Office)
2701 East Sahara
Las Vegas, NV 89104

Fallon DMV
973 West Williams Street
Fallon, NV 89406

Hawthorne DMV
1085 Highway 95 (PO Box 2093)
Hawthorne, NV 89410

North Las Vegas DMV
4021 West Carey Avenue
North Las Vegas

Laughlin DMV (PO Box 32908)
3030 South Needles Hwy Suite 900
Laughlin, NV 89028

Tonapah DMV
400 Howerton Hill (PO Box 1912)
Tonapah, NV 89049

Pahrump DMV
1360 Basin Road
Pahrump, NV 89060

Winnemucca DMV
3505 Construction Way
Winnemucca, NV 89445

North Las Vegas DMV
4110 Donovan Way
North Las Vegas, NV 89030-7512

Yerington DMV
215 West Bridge Street #9
Yerington, NV 89447

Sparks DMV
810 East Greg Street
Sparks, NV 89431

Mesquite DMV
330 North Sandhill Rd, Suite H
Mesquite, NV 89027

LIBRARIES

Goldfield Public Library
Fourth & Crook Street
PO Box 430
Goldfield, Nevada 89013

Pershing County Library
1125 Central Avenue
PO Box 781
Lovelock, Nevada 89419

Lincoln County Library
93 Main Street
PO Box 330
Pioche, Nevada 89043

Storey County Library
95 South R Street
PO Box 14
Virginia City, Nevada 89440

Eureka Branch Library
10190 Monroe Street
PO Box 293
Eureka, Nevada 89316

Nevada State Library
100 North Stewart Street
Carson City, Nevada 89701

Battle Mountain Branch
625 Broad Street
PO Box 141
Battle Mountain, Nevada 89820

**PROPOSED REGULATION OF THE MANAGEMENT
SERVICES AND PROGRAMS DIVISION OF THE
DEPARTMENT OF MOTOR VEHICLES**

NOTICE OF PUBLIC HEARING

The Department of Motor Vehicles will hold a public hearing at the following location on the date and time specified:

Monday, August 4, 2003

9:00 AM

Public Utilities Commission, Hearing Room "B"
1150 East Williams Street, Carson City, NV 8701

The purpose of this hearing is to receive comments from all interested persons regarding the adoption of regulations. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Department of Motor Vehicles may proceed immediately to act upon any written submissions.

The proposed regulation amend Chapter 483 of the Nevada Administrative Code to comply with Assembly Bill 7 that was passed by the 2003 Legislative Session that lowers the concentration of alcohol a person may have in their blood breath while operating a vehicle or vessel from 0.10 to 0.08..

There is no economic effect of the regulation on the public, nor is there a cost to the agency for enforcement of the proposed regulations

The proposed amendment of regulations pertaining to Chapter 483 of the Nevada Administrative Code do not overlap or duplicate that of any other state or local governmental agency.

Persons wishing to comment upon the proposed action of the Department of Motor Vehicles may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form to Debbie Wilson, Management Services and Programs, 555 Wright Way, Carson City, NV 89711. Written submissions must be received by the Department of Motor Vehicles on or before July 30, 2003. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Department of Motor Vehicles may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at each office of the Department of Motor Vehicles listed, and at the main public libraries listed, for inspection and copying by members of the public during business hours. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Department of Motor Vehicle Branch Offices

Carson City DMV
555 Wright Way
Carson City, NV 89711

Minden DMV
1694 County Road
Minden, NV 89423

Las Vegas DMV (West Flamingo)
8250 West Flamingo
Las Vegas, NV 89147

Reno DMV (Galletti Office)
305 Galletti Way
Reno, NV 89512-3828

Elko DMV
3920 East Idaho Street
Elko, NV 89801

Henderson DMV
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Henderson, NV 489014

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Winnemucca, NV 89445

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Eureka, Nevada 89316

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PO Box 141
Battle Mountain, Nevada 89820

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PO Box 781
Lovelock, Nevada 89419

Storey County Library
95 South R Street
Po Box 14
Virginia City, Nevada 89440

Nevada State Library
100 North Stewart Street
Carson City, Nevada 89701
Hand Deliver

LCB File No. R069-03

**PROPOSED REGULATION OF THE MANAGEMENT
SERVICES AND PROGRAMS DIVISION OF THE
DEPARTMENT OF MOTOR VEHICLES**

Amends Chapter 483 of Nevada Administrative Code to change the concentration of alcohol a person may have in their blood or breath while operating a vehicle or vessel from 0.10 to 0.08

Chapter 483 of NAC is hereby amended to read as follows:

NAC 483.782 Courses on abuse of alcohol and controlled substances: Required subjects of instruction; examinations. (NRS 481.051)

1. A course on the abuse of alcohol and controlled substances must include instruction in the following subjects:

(a) The problem of driving under the influence of intoxicating liquor or controlled substances as it exists in this state and the United States, including relevant statistics;

(b) The law against driving under the influence of intoxicating liquor or controlled substances in this state, including penalties, the specific prohibition against driving with a concentration of ~~0.10~~ **0.08** grams or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his breath, implied consent to a test of a driver's breath, blood or urine, summary revocation of drivers' licenses and related matters;

(c) The responsibilities and procedures of law enforcement agencies, the courts and the department regarding driving under the influence of intoxicating liquor or controlled substances;

(d) The adverse effects of alcohol and controlled substances on bodily organs and the central nervous system, including the effects of abuse and addiction;

(e) The adverse effects of alcohol and controlled substances on a person's ability to drive;

(f) The possible effects of a conviction for driving under the influence of intoxicating liquor or controlled substances on a person's employment and personal life; and

(g) The types of treatment that are available for abusers of alcohol and controlled substances.

2. The time of instruction in a course on the abuse of alcohol and controlled substances must include subjects relating to:

(a) The abuse of alcohol and controlled substances; and

(b) Traffic safety and traffic laws that are primarily applicable to driving under the influence of intoxicating liquor or controlled substances.

3. The instructor of a course on the abuse of alcohol and controlled substances:

(a) May administer a preliminary written examination at the first meeting of the class to determine the knowledge of each student regarding driving under the influence of intoxicating liquor or controlled substances and the abuse of alcohol, controlled substances and other chemicals; and

(b) Shall administer a final written or oral examination, at least half of which is directly related to driving under the influence of intoxicating liquor or controlled substances.

NAC 483.848 Test to determine concentration of alcohol: Suspension of license for certain concentration. (NRS 483.908)

1. If the result of a test given pursuant to NRS 483.922 shows that a person who holds a commercial driver's license or permit, while in control of a commercial motor vehicle, had a concentration of alcohol of 0.04 or more but less than ~~0.10~~ 0.08 in his blood or breath at the time of the test, his commercial driver's license, permit or privilege to drive must be suspended for a period of 90 days.

2. If a revocation or suspension of a person's commercial driver's license or permit for a violation of NRS 484.379 or 484.3795 follows a suspension ordered pursuant to subsection 1, the department will:

(a) Cancel the suspension ordered pursuant to subsection 1; and

(b) Give the person credit towards the period of revocation or suspension ordered pursuant to NRS 484.379 or 484.3795, whichever is applicable, for any period during which the person's commercial driver's license, permit or privilege to drive was suspended pursuant to subsection 1.

3. This section does not preclude:

(a) The prosecution of a person for a violation of any other provision of law; or

(b) The suspension or revocation of a person's commercial driver's license, permit or privilege to drive pursuant to any other provision of law.

NAC 483.8485 Test to determine concentration of alcohol: Duties of peace officer; review by department; contents and mailing of order for suspension of license. (NRS 483.908)

1. A peace officer who has received the result of a test given pursuant to NRS 483.922 which indicates that a person who holds a commercial driver's license or permit to whom the test was given had a concentration of alcohol of 0.04 or more but less than ~~0.10~~ 0.08 in his blood or breath shall prepare a written certificate indicating whether the peace officer:

(a) Had reasonable grounds to believe that the person was driving under the influence of alcohol;

(b) Served an order of suspension on the person pursuant to subsection 2; and

(c) Issued the person a temporary commercial driver's license pursuant to subsection 2.

2. If a person who holds a commercial driver's license or permit to whom a test is given pursuant to NRS 483.922 is present when a peace officer receives the result of the test and the test indicates that the person has a concentration of alcohol of 0.04 or more but less than ~~0.10~~ 0.08 in his blood or breath, the peace officer shall:

(a) Serve an order of suspension of the commercial driver's license permit or privilege to drive;

(b) Seize any commercial driver's license or permit of the person;

(c) Advise the person of his right to:

(1) Administrative and judicial review of the suspension; and

(2) Obtain a temporary commercial driver's license, if his commercial driver's license is seized pursuant to paragraph (b);

(d) If the person requests a temporary commercial driver's license, and his commercial driver's license is seized pursuant to paragraph (b), issue the person a temporary commercial driver's license on a form approved by the department which becomes effective 24 hours after he receives the temporary commercial driver's license and expires 168 hours after it becomes effective; and

(e) Transmit to the department:

(1) Any commercial driver's license or permit seized pursuant to paragraph (b); and

(2) The written certificate that the peace officer is required to prepare pursuant to subsection 1.

3. If a person who holds a commercial driver's license or permit to whom a test is given pursuant to NRS 483.922 is not present when a peace officer receives the result of the test and the test

indicates that the person has a concentration of alcohol of 0.04 or more but less than ~~0.10~~ 0.08 in his blood or breath, the peace officer shall transmit to the department a copy of the result of the test and the written certificate that the peace officer is required to prepare pursuant to subsection 1.

4. The department, upon receiving a copy of the result of the test and the written certificate transmitted by the peace officer pursuant to subsection 3, will:

(a) Review the result of the test and the written certificate; and

(b) If the department determines that it is appropriate, issue an order to suspend the commercial driver's license, permit or privilege to drive of the person by mailing the order to the person at his last known address.

5. An order for suspension issued by the department pursuant to subsection 4 must:

(a) Explain the grounds for the suspension;

(b) Indicate the period of the suspension;

(c) Require the person to transmit to the department any commercial driver's license or permit held by the person; and

(d) Explain that the person has a right to administrative and judicial review of the suspension.

6. An order for suspension issued by the department pursuant to subsection 4 is presumed to have been received by the person 5 days after the order is deposited by the department, postage prepaid, in the United States mail. The date of mailing of the order may be shown by a certificate that is prepared by an officer or employee of the department specifying the date of mailing.

NAC 483.849 Suspension of license as result of certain concentration of alcohol: Hearing; temporary license; judicial review. (NRS 483.908)

1. At any time during which the commercial driver's license, permit or privilege to drive is suspended pursuant to NAC 483.8485, the person may request in writing an administrative hearing by the department to review the order of suspension. A person is entitled to only one administrative hearing pursuant to this section.

2. Unless the parties agree otherwise, the hearing must be conducted within 15 days after receipt of the request, or as soon thereafter as is practicable, in the county in which the requester resides.

3. The director of the department or his agent may:

(a) Issue subpoenas for:

(1) The attendance of witnesses at the hearing; and

(2) The production of relevant books and papers; and

(b) Require a reexamination of the requester.

4. The scope of the hearing must be limited to the issues of whether the person, at the time of the test:

(a) Held a commercial driver's license or permit; and

(b) Had a concentration of alcohol of 0.04 or more but less than ~~0.10~~ 0.08 in his blood or breath.

5. The department will issue the person a temporary commercial driver's license, if he holds a commercial driver's license for a period that is sufficient to complete the administrative hearing.

6. Upon an affirmative finding on the issues listed in subsection 4, the department will affirm the order of suspension. Otherwise, the order of suspension must be rescinded.

7. If the order of suspension is affirmed by the department, the person is entitled to judicial review of the issues listed in subsection 4 in the manner provided in chapter 233B of NRS.

8. Upon receiving a notice from a court of competent jurisdiction that the court has issued a stay, the department will issue an additional temporary commercial driver's license if he holds a commercial driver's license for a period that is sufficient to complete the judicial review.

9. Upon receiving a notice from:

(a) A hearing officer that he has granted a continuance of the administrative hearing; or

(b) A court of competent jurisdiction that the court has granted a continuance after issuing a stay of the suspension,

the department will cancel any temporary commercial driver's license granted pursuant to this section and notify the holder by mailing an order of cancelation to the last known address of the holder.