

**PROPOSED REGULATION OF THE DEPARTMENT
OF MOTOR VEHICLES**

LCB File No. R069-03

July 28, 2003

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

AUTHORITY: §§1-4, NRS 481.051.

Section 1. NAC 483.782 is hereby amended to read as follows:

483.782 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.

Sec. 2. NAC 483.848 is hereby amended to read as follows:

483.848 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.

Sec. 3. NAC 483.8485 is hereby amended to read as follows:

483.8485 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.

Sec. 4. NAC 483.849 is hereby amended to read as follows:

483.849 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 cancellation to the last known address of the holder.