

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

LCB File No. R107-03

Effective February 18, 2004

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

AUTHORITY: §§1-19, 21, 23-30, 32 and 33, NRS 481.051, 483.908 and 483.912; §§20, 22 and 31, NRS 481.051 and 483.220.

Section 1. Chapter 483 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this regulation.

Sec. 2. *The provisions of sections 2 to 15, inclusive, of this regulation apply only with respect to:*

- 1. Commercial drivers' licenses and commercial vehicles; and*
- 2. An instructor at a school for training drivers who is or wishes to be registered as a third party certifier and to a school for training drivers which has such an instructor on its staff.*

Sec. 3. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 4 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 4. *“Driving skills test” means a driving skills test for a commercial driver’s license which includes, without limitation, a pretrip test, basic skills test and road test.*

Sec. 5. *“School for training drivers” means a school for the training of drivers which is licensed to operate in this state and provides instruction in the operation of vehicles for which a Class A, Class B or Class C driver’s license is required.*

Sec. 6. *“Student” means a person who is enrolled at a school for training drivers.*

Sec. 7. 1. *“Third party certifier” means a person registered with the Department pursuant to section 9 of this regulation to certify the driving ability of a student enrolled in a school for training drivers licensed to operate in this state which provides instruction in the operation of vehicles for which a Class A, Class B or Class C driver’s license is required.*

2. The term includes, without limitation, a third party examiner and a third party tester, as those terms are used in 49 C.F.R. § 383.75.

Sec. 8. *The Department may, in lieu of the driving skills test conducted by the Department, accept an affidavit of certification of the driving ability of a person if the affidavit of certification is:*

1. Completed in its entirety by a third party certifier who is:

(a) Registered pursuant to section 9 of this regulation;

(b) Employed by the school for training drivers at which the person whose driving ability is being certified is a student; and

(c) Not responsible for the instruction of the person whose driving ability is being certified relating to the operation of the commercial vehicle; and

2. On a form provided by the Department.

Sec. 9. 1. *An instructor at a school for training drivers which owns or leases 10 or more vehicles for which a Class A, Class B or Class C driver’s license is required may apply to the Department for registration as a third party certifier. Except as otherwise provided in subsection 2, an instructor who is registered as a third party certifier may certify the driving ability of any student enrolled at the school for training drivers who wishes to obtain a Class A, Class B or Class C driver’s license and may sign an affidavit of certification to that effect. The instructor may not sign such an affidavit with respect to his own driving ability.*

2. *An instructor who is registered as a third party certifier shall not:*

(a) Certify the driving ability of a student unless the instructor has at his disposal at least one vehicle requiring the same class of driver's license as the class of driver's license for which the student's driving ability is being certified; or

(b) Sign an affidavit of certification for the operation of a vehicle for which a particular class of driver's license is required unless the instructor has at his disposal at least one vehicle requiring the same class of driver's license as that required for the vehicle the operation of which is to be certified by affidavit.

3. *An instructor who is registered as a third party certifier must:*

(a) Successfully complete a 40-hour course provided by the Department for administering a driving skills test;

(b) Hold a valid driver's license of the class and type for which he is certifying the driving ability of a student and signing an affidavit of certification; and

(c) Administer the driving skills test in a class of vehicle requiring the same class and type of driver's license as the class and type of driver's license for which the student's driving ability is being certified.

4. *The Department will assign a number to each instructor whom the Department registers as a third party certifier. This number must be used when completing an affidavit of certification. The number assigned by the Department to a third party certifier pursuant to this subsection is personal to the instructor to whom it has been assigned and must not be transferred to or used by any other person.*

5. *An instructor who is registered as a third party certifier may certify the driving ability of only those students who are enrolled at the branch locations of the school for training drivers for which the instructor is registered as a third party certifier.*

Sec. 10. 1. *An instructor who is applying for registration as a third party certifier must complete an application on a form provided by the Department which includes, without limitation:*

- (a) An authorization for an investigation of the background of the applicant;*
- (b) An authorization for an investigation of the credit of the applicant;*
- (c) The personal history of the applicant;*
- (d) The driving history of the applicant; and*
- (e) A statement that the applicant has read and will comply with the regulations and requirements for certification adopted by the Department.*

2. *An applicant must indicate on his application all the branch locations of the school for training drivers at which he will be certifying the driving ability of students enrolled at the school.*

3. *In evaluating the eligibility of an applicant for registration as a third party certifier, the Department may consider the class of his driver's license, his driving history and any additional information which the Department deems pertinent to his eligibility.*

4. *The evaluation of an application for registration as a third party certifier will include an inspection of each branch location of the school for training drivers at which the applicant will be certifying the driving ability of students. The inspection will include, without limitation, a visual inspection of:*

- (a) The vehicles to be used for training;*

- (b) Copies of training programs;*
- (c) Skill tests;*
- (d) Driving tests;*
- (e) Tests of laws and regulations; and*
- (f) Qualifications of instructors.*

5. The Department may waive any part of the inspection otherwise required pursuant to subsection 4 if the school for training drivers currently has on its staff other instructors who are registered as third party certifiers.

6. If the Department denies an application for registration as a third party certifier, the Department will notify the applicant by certified mail of its decision. Except as otherwise provided in section 15 of this regulation, the applicant may reapply at any time on a new application form. The applicant must state in the new application the measures that were taken to correct the deficiency that caused the denial of the original application.

Sec. 11. *1. If, at any time, the number of vehicles owned or leased by a school for training drivers which has on its staff a third party certifier falls below the minimum requirement of 10 vehicles, the operator of the school for training drivers shall forthwith notify the Department. The Department may suspend, revoke or refuse to renew the registration of each third party certifier employed at the school for training drivers during the time that the school for training drivers does not have the required minimum number of vehicles.*

2. If the school for training drivers purchases or leases a vehicle that will be used by a third party certifier in administering a driving skills test, the operator of the school for

training drivers shall notify the Department within 10 days after the date on which the vehicle is purchased or leased. An authorized representative of the Department:

(a) Shall inspect the vehicle within 30 days after being notified by the school; and

(b) May inspect the vehicle during any inspection conducted by the Department pursuant to section 10 or 12 of this regulation.

3. If a third party certifier does not maintain a valid driver's license of the class for which he is authorized to certify, he shall immediately notify the Department.

4. A third party certifier shall notify the Department within 10 days after a change in address.

5. A third party certifier who complies with the requirements of subsection 6 may renew his annual registration on a form furnished by the Department. If the third party certifier fails to renew the registration within 30 days after the date of expiration, his registration as a third party certifier expires and he must reapply for registration as a third party certifier in the manner set forth in section 10 of this regulation.

6. A third party certifier must annually complete a recertification course provided by the Department. The recertification course must consist of at least 24 hours of instruction.

Sec. 12. 1. *The Department may, annually or as often as it determines necessary, monitor the performance of a third party certifier who is registered pursuant to section 9 of this regulation, including, without limitation, the instruction given, teaching skills demonstrated and testing performed by the third party certifier. An examiner from the Department may conduct random reexaminations of any student to whom a third party certifier has given a driving skills test.*

2. *The Department may, annually or as often as it determines necessary, conduct an inspection of each vehicle used by a third party certifier in administering a driving skills test.*

3. *Within 30 days after an inspection, the Department will provide a written report to the third party certifier and the school for training drivers which:*

(a) Indicates compliance; or

(b) Describes each deficiency and notifies the third party certifier and the school for training drivers that each such deficiency must be corrected within 30 days after the date on which the notice is received. If each deficiency is not corrected in a timely manner, the Department may, pursuant to section 15 of this regulation, suspend or revoke the registration issued to the third party certifier or take appropriate action against the school for training drivers pursuant to NAC 483.708 to 483.795, inclusive, or both.

4. *If, pursuant to NAC 483.708 to 483.795, inclusive:*

(a) Any action is taken against the instructor's license issued to the third party certifier, the Department may revoke, suspend or refuse to renew, as appropriate, his registration as a third party certifier.

(b) The license issued to the operator of the school for training drivers is:

(1) Suspended, or if the Department refuses to renew the license issued to the school for training drivers, the Department will, except as otherwise provided in this paragraph, suspend the registration of each third party certifier employed as an instructor by the school until the license of the school has been restored. If the license issued to the operator of the school is not restored, the Department will revoke the registration of each such third party certifier. This paragraph does not prevent the Department from taking separate disciplinary action against a third party certifier if the circumstances that resulted in the suspension of, or the refusal to

renew, the license of the school for training drivers involved an act or omission by the third party certifier.

(2) Revoked, the Department will revoke the registration of each third party certifier employed as an instructor by the school.

Sec. 13. 1. An instructor who is registered as a third party certifier:

(a) Shall not instruct a student in the driving or operation of a vehicle for which a Class A, Class B or Class C driver's license is required by allowing the vehicle to be driven on a public highway, unless the student has obtained an instruction permit for the class of vehicle he is learning to drive; and

(b) Shall ensure that the student adheres to the requirements pertaining to the instruction permit.

2. Before certifying the ability of a student to drive a vehicle for which a Class A, Class B or Class C driver's license is required, the third party certifier must determine that the student is able to operate safely and control fully that vehicle.

3. While administering any part of the driving skills test, a third party certifier shall, at all times during the test, remain alert and be in a physical and mental state that renders him capable of taking physical control of the vehicle if necessary.

4. The third party certifier shall state on a form approved by the Department the means by which he determined the qualifications of the student to operate the vehicles for which a Class A, Class B or Class C driver's license is required.

5. A third party certifier shall maintain a record for each student who is certified by the third party certifier. The record must include a description of the training and tests given to

the student. The record must be available for inspection by a representative of the Department during normal business hours.

6. A school for training drivers shall keep a record for each student to whom an instructor who is a third party certifier administers any part of the driving skills test. The record must include:

(a) The name and address of the student;

(b) The record of the driving skills test administered to the student;

(c) The number of the instruction permit or driver's license issued to the student;

(d) The name and registration number of each third party certifier who administered any part of the test to the student;

(e) A description of the type of testing given to the student and the amount of time devoted to each type of test;

(f) The date on which each type of test was given;

(g) The total number of hours of instruction given to the student; and

(h) Sufficient information that will demonstrate to the satisfaction of the Department that the third party certifier who administered a specific test to the student did not also provide instruction to the student relating to that test.

Sec. 14. *A third party certifier and a school for training drivers shall not make a guarantee in any form to a student that the student will be issued a commercial driver's license because the third party certifier is administering any part of the driving skills test to a student.*

Sec. 15. 1. *The Department may revoke the registration of a third party certifier who is registered pursuant to section 9 of this regulation if:*

(a) The third party certifier has been convicted of:

- (1) Driving under the influence of an intoxicating liquor or a controlled substance within the past 7 years;*
- (2) A gross misdemeanor or felony relating to the management of money or a business;*
- (3) Fraud;*
- (4) Embezzlement; or*
- (5) Possessing more than one valid driver's license issued to him under a name other than his own or issued to him by more than one state, or both;*

(b) The Department determines that the third party certifier falsified an application or any other information to obtain or maintain his registration as a third party certifier;

(c) The school for training drivers fails to maintain an active license or ceases to maintain an established place of business in this state;

(d) The third party certifier allows an unauthorized person to administer any part of the driving skills test to a student;

(e) Any action is taken against the instructor's license issued to the third party certifier by the Department;

(f) The third party certifier administers any part of the driving skills test to a student to whom the third party certifier has provided instruction for that part of the test; or

(g) The third party certifier refuses to allow an authorized representative of the Department access, during regular business hours, to inspect the records maintained by the third party certifier relating to the students whose driving abilities were certified by the third party certifier.

2. *The Department may suspend the registration of a third party certifier if the third party certifier or his agent, officer or employee fails to cooperate fully with an authorized representative of the Department during an inspection of the third party certifier.*

3. *The Director may temporarily suspend for not more than 30 days or refuse to renew the registration of a third party certifier if the Director finds that such a temporary suspension or refusal to renew is in the public interest. The Department may conduct a hearing and issue a final decision on the matter within 30 days after the date on which the notice of temporary suspension or refusal to renew a registration is sent to the third party certifier.*

4. *Any third party certifier whose registration is revoked pursuant to this section:*

(a) May not reapply for registration until 2 years after the date of revocation; and

(b) Must attend a training program approved by the Department for the certification of a driver at the time he reapplies for registration as a third party certifier.

5. *A third party certifier may, within 30 days after the temporary suspension or revocation of, or refusal to renew, his registration pursuant to this section, request a hearing on the question of whether he committed one or more acts constituting grounds for the suspension, revocation or refusal to renew the registration. The hearing must be conducted pursuant to the provisions of chapter 233B of NRS, and judicial review must be available as provided therein.*

Sec. 16. *As used in NAC 483.125 to 483.183, inclusive, and sections 16 to 19, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 17, 18 and 19 of this regulation have the meanings ascribed to them in those sections.*

Sec. 17. *“Driving skills test” means a driving skills test for a commercial driver’s license which includes, without limitation, a pretrip test, basic skills test and road test.*

Sec. 18. *“Employer” means any person who owns or leases a commercial motor vehicle or assigns his employees to operate such a vehicle.*

Sec. 19. *“Third party certifier” means a person registered with the Department pursuant to NAC 483.140 to certify the driving ability of an employee of any person who owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle. The term includes, without limitation, a third party examiner and a third party tester, as those terms are used in 49 C.F.R. § 383.75.*

Sec. 20. *As used in NAC 483.186 to 483.197, inclusive, and this section, unless the context otherwise requires, “third party certifier” means a person registered with the Department pursuant to NAC 483.190 to certify the driving ability of a person.*

Sec. 21. NAC 483.100 is hereby amended to read as follows:

483.100 As used in NAC 483.100 to 483.197, inclusive, ~~the words and terms defined in this section and NRS 486.031 to 486.057, inclusive, have the meanings ascribed to them in those sections unless the context otherwise requires:~~

- ~~—1. “Bus” has the meaning ascribed to it in NRS 482.013.~~
- ~~—2. “Gross vehicle weight rating” means the weight specified by the manufacturer as the loaded weight of a single vehicle.~~
- ~~—3. “Third party certifier” means:~~
 - ~~—(a) With respect to NAC 483.125 to 483.183, inclusive, a person registered with the Department pursuant to NAC 483.140 to certify the driving ability of an employee.~~
 - ~~—(b) With respect to NAC 483.186 to 483.197, inclusive, a person registered with the Department pursuant to NAC 483.190 to certify the driving ability of a person.~~

~~→ The term includes a third party examiner and a third party tester, as those terms are used in 49 C.F.R. § 383.75.]~~ and sections 2 to 20, inclusive, of this regulation, unless the context otherwise requires, “highway” has the meaning ascribed to it in NRS 486.031.

Sec. 22. NAC 483.110 is hereby amended to read as follows:

483.110 1. The holder of a Class A noncommercial driver’s license may drive:

(a) Any combination of vehicles with a gross combination weight rating of 26,001 or more pounds, if the gross vehicle weight rating of the trailing vehicle is more than 10,000 pounds;

(b) Any combination of vehicles not exceeding 70 feet in length with a gross combination weight rating of 26,000 pounds or less so long as the gross combination weight rating of the towed vehicles does not exceed the gross vehicle weight rating of the towing vehicle; or

(c) A vehicle falling within Class B or Class C, but may not drive a motorcycle unless the holder obtains an appropriate endorsement.

2. The holder of a Class B driver’s license may drive any single vehicle with a gross vehicle weight rating of 26,001 or more pounds, or any vehicle which is towing another vehicle which does not have a gross vehicle weight rating of more than 10,000 pounds, and all vehicles falling within Class C, but may not drive a motorcycle unless the holder obtains an appropriate endorsement.

3. The holder of a Class C driver’s license may drive any single vehicle, or combination of vehicles, that does not meet the definition of a vehicle for which a Class A or Class B driver’s license is required, including a moped or a low-speed vehicle, but may not:

(a) Drive a motorcycle, unless the holder obtains an appropriate endorsement;

(b) Tow a vehicle with a gross vehicle weight rating of more than 10,000 pounds, unless the holder obtains a J endorsement;

(c) Drive a combination of vehicles with a gross combination weight rating of less than 10,000 pounds, unless the holder obtains an R endorsement; or

(d) Drive a combination of vehicles exceeding 70 feet in length.

4. The Department may place a restriction 1 on a Class A, Class B or Class C driver's license if the holder of the *driver's* license does not pass a knowledge test and a driving skills test in a vehicle which is equipped with air brakes.

5. In addition to the tests authorized by chapter 483 of NRS, the holder of a driver's license may be required to pass a driving skills test in an appropriate vehicle to receive an endorsement authorizing the holder to drive a specific type of vehicle.

6. The holder of a driver's license who is exempt from the requirements of NRS 483.900 to 483.940, inclusive, and NAC 483.800 to 483.850, inclusive, pursuant to the provisions of subsection 1 or 2 of NAC 483.850, may operate a vehicle described in subsection 1 or 2 of NAC 483.850 only if he obtains an F endorsement on his driver's license.

7. The holder of a Class M driver's license may drive a motorcycle, trimobile or moped. The holder of a Class A, Class B or Class C driver's license may drive a motorcycle only if he obtains a Class M endorsement on his driver's license.

8. An applicant who is administered a test of his driving ability on a motorcycle which does not exceed 6 1/2 horsepower or a displacement of 90 cubic centimeters will be issued a Class M driver's license with a U restriction.

9. An applicant who is administered a test of his driving ability on a motorcycle which has three wheels in contact with the ground will be issued a Class M driver's license with an X restriction.

10. An applicant who is administered a test of his driving ability on a moped as defined by NRS 483.088 will be issued a class M driver's license with a Z restriction. A Class M driver's license with a Z restriction does not authorize the operation of any other motor vehicle.

11. An applicant who is administered a test of his driving ability in a low-speed vehicle will be issued a Class C driver's license with an X restriction. The Department shall indicate on the back of such a *driver's* license that the holder may not drive a vehicle on a highway where the posted speed limit is greater than 35 miles per hour, except to cross a highway at an intersection.

12. ~~For purposes of~~ *As used in* this section ~~[]~~, *unless the context otherwise requires:*

(a) "Gross combination weight rating" means:

(1) The weight specified by the manufacturer of a vehicle as the combined loaded weight of that vehicle and a trailing vehicle; or

(2) If the manufacturer fails to specify a weight, the sum of the gross vehicle weight rating of the power unit, the weight of the trailing vehicle and the weight of any load thereon.

(b) *"Gross vehicle weight rating means the weight specified by the manufacturer as the loaded weight of a single vehicle.*

(c) "Low-speed vehicle" has the meaning ascribed to it in NRS 484.527.

(d) *"Moped" has the meaning ascribed to it in NRS 486.038.*

(e) *"Motorcycle" has the meaning ascribed to it in NRS 486.041.*

(f) *"Trimobile" has the meaning ascribed to it in NRS 486.057.*

Sec. 23. NAC 483.125 is hereby amended to read as follows:

483.125 The provisions of NAC ~~[483.130]~~ *483.125* to 483.183, inclusive, *and sections 16 to 19, inclusive, of this regulation* apply only with respect to ~~[commercial]~~ :

1. Commercial drivers' licenses and commercial vehicles ~~[]~~; *and*

2. An employer and the authorized employees of an employer who are or wish to be registered as third party certifiers.

Sec. 24. NAC 483.130 is hereby amended to read as follows:

483.130 The Department may, in lieu of the driving skills test conducted by the Department, accept an affidavit of certification of the driving ability of a person if the affidavit of certification is:

1. Completed *in its entirety* by a third party certifier who is:

(a) Registered pursuant to NAC 483.140; ~~and~~

(b) The employer of the person whose driving ability is being certified or is employed by the same employer as the person whose driving ability is being certified; *and*

(c) Not responsible for the instruction of the person whose driving ability is being certified relating to the operation of the commercial vehicle; and

2. On a form provided by the Department.

Sec. 25. NAC 483.140 is hereby amended to read as follows:

483.140 1. Any person doing business in this state who owns or leases 10 or more vehicles for which a Class A, Class B or Class C driver's license is required, or the authorized employee of such a person, may apply to the Department for registration as a third party certifier. Except as otherwise provided in subsection 2, a third party certifier *registered pursuant to this section* may certify the driving ability of an employee who desires to obtain a Class A, Class B or Class C driver's license and may sign an affidavit of certification to that effect. *The third party certifier may not sign such an affidavit with respect to his own driving ability.*

2. A person who is registered as a third party certifier shall not:

(a) Certify the driving ability of an employee unless the third party certifier has at his disposal at least one vehicle requiring the same class of driver's license as the class of driver's license for which the employee's driving ability is being certified; or

(b) Sign an affidavit of certification for the operation of a vehicle for which a particular class of driver's license is required unless the third party certifier has at his disposal at least one vehicle requiring the same class of driver's license as that required for the vehicle the operation of which is to be certified by affidavit.

3. A third party certifier must:

(a) Successfully complete a 40-hour course provided by the Department for administering a driving skills test ; ~~for a commercial driver's license;~~

(b) Hold a valid *driver's* license of the class and type for which he is certifying the driving ability of an employee and signing an affidavit of certification ; ~~but may not sign for himself;~~ and

(c) Administer the driving skills test in a class of vehicle requiring the same class and type of *driver's* license as the class and type of *driver's* license for which the employee's driving ability is being certified.

4. The Department ~~may~~ *will* assign a number to each person *whom* the Department registers as a third party certifier. This number must be used when completing an affidavit of certification. *The number assigned by the Department to a third party certifier pursuant to this subsection is personal to the person to whom it has been assigned and must not be transferred to or used by any other person.*

Sec. 26. NAC 483.150 is hereby amended to read as follows:

483.150 1. A person who is applying for registration as a third party certifier pursuant to NAC 483.140 must complete an application on a form provided by the Department. This form may include, without limitation:

- (a) An authorization for an investigation of the background of the applicant;
- (b) An authorization for an investigation of the credit of the applicant;
- (c) The personal history of the applicant;
- (d) The driving history of the applicant; and
- (e) A statement that the applicant has read and will comply with the regulations and

requirements for certification adopted by the Department.

2. In evaluating the eligibility of an applicant for registration as a third party certifier, the Department may consider the class of his driver's license, his driving history and any additional information which the Department deems pertinent to his eligibility.

3. The evaluation of an application for registration as a third party certifier ~~may~~ will include an inspection of the site of the applicant's place of business. This inspection ~~may~~ will include, without limitation, a visual inspection of:

- (a) The vehicles *to be* used for training;
- (b) Copies of training programs;
- (c) Skill tests;
- (d) Driving tests;
- (e) Tests of laws and regulations; and
- (f) Qualifications of instructors.

4. If the Department denies an application, it will notify the applicant by certified mail of its decision. Except as otherwise provided in NAC 483.183, the applicant may reapply at any time

on a new application form. The applicant must state in the new application the measures he has taken to correct the deficiency that caused the denial of the original application.

Sec. 27. NAC 483.160 is hereby amended to read as follows:

483.160 1. If, at any time, the number of vehicles *for which a Class A, Class B or Class C driver's license is required that are* owned or leased by ~~[a]~~:

(a) *The* third party certifier, if the third party certifier is an employer ~~[, or owned or leased by the person]~~; or

(b) *The employer* for whom the third party certifier serves as an authorized employee, if the third party certifier is an employee,

↳ falls below the minimum requirement of 10 vehicles, the third party certifier shall immediately notify the Department.

2. *If the third party certifier or his employer purchases or leases a vehicle that will be used by the third party certifier in administering a driving skills test, the third party certifier shall notify the Department within 10 days after the date on which the vehicle is purchased or leased. An authorized representative of the Department:*

(a) *Shall inspect the vehicle within 30 days after being notified by the third party certifier; and*

(b) *May inspect the vehicle during any inspection conducted pursuant to NAC 483.170.*

3. If a third party certifier does not maintain a valid driver's license of the class for which he is authorized to certify, he shall immediately notify the Department.

~~[3.]~~ 4. A third party certifier shall notify the Department within 10 days after a change in address.

~~[4.]~~ 5. A third party certifier who is registered pursuant to NAC 483.140 and who complies with the requirements of subsection ~~[5]~~ 6 may renew his annual registration on a form furnished by the Department. If the third party certifier fails to renew the registration within 30 days after the date of expiration, his registration as a third party certifier expires and he must reapply for registration as a third party certifier in the manner set forth in NAC 483.150.

~~[5.]~~ 6. A third party certifier ~~[shall, on an annual basis, successfully]~~ *must annually* complete a recertification course provided by the Department. The recertification course must consist of at least 24 hours of instruction.

Sec. 28. NAC 483.170 is hereby amended to read as follows:

483.170 1. The Department may, ~~[on an annual basis]~~ *annually* or as often as it ~~[deems]~~ *determines* necessary, monitor the ~~[-~~

~~—(a) Instruction given;~~

~~—(b) Teaching skills demonstrated; and~~

~~—(c) Testing performed;~~

~~→ by a third party certifier who is registered pursuant to NAC 483.140.~~

~~—2.— If the Department determines after an inspection that a third party certifier no longer meets the requirements for registration as a third party certifier, it will notify the third party certifier of the deficiencies. If the deficiencies are minor, the third party certifier may be allowed not more than 60 days to correct them. If the deficiencies are not corrected within that time, the Department may revoke the registration of the third party certifier.]~~ *performance of a third party certifier who is registered pursuant to NAC 483.140, including, without limitation, the instruction given, teaching skills demonstrated and testing performed by the third party*

certifier. An examiner from the Department may conduct random reexaminations of any employee to whom a third party certifier has given a driving skills test.

2. The Department may, annually or as often as it determines necessary, conduct an inspection of each vehicle used by a third party certifier in administering a driving skills test.

3. Within 30 days after an inspection, the Department will provide a written report to the third party certifier which:

(a) Indicates compliance; or

(b) Describes each deficiency and notifies the third party certifier that each such deficiency must be corrected within 30 days after the date on which the notice is received. If each deficiency is not corrected in a timely manner, the Department may, pursuant to NAC 483.183, suspend or revoke the registration issued to the third party certifier.

Sec. 29. NAC 483.180 is hereby amended to read as follows:

483.180 1. A third party certifier who is registered pursuant to NAC 483.140 ~~may~~:

(a) Shall not instruct an employee in the driving or operation of a vehicle for which a Class A, Class B or Class C driver's license is required by allowing the vehicle to be driven on a public highway, unless the employee has obtained an instruction permit for the class of vehicle he is learning to drive ~~[- The third party certifier shall]~~; *and*

(b) Shall ensure that his pupil adheres to the requirements pertaining to the instruction permit.

2. Before certifying the ability of an employee to drive a vehicle for which a Class A, Class B or Class C driver's license is required, the third party certifier must determine that the employee is able to operate safely and control fully ~~[the vehicle for which a Class A, Class B or Class C driver's license is required.]~~ *that vehicle.*

3. *While administering any part of the driving skills test, a third party certifier shall, at all times during the test, remain alert and be in a physical and mental state that renders him capable of taking physical control of the vehicle if necessary.*

4. The third party certifier shall state on a form approved by the Department the means by which he determined the qualifications of the employee to operate the vehicles for which a Class A, Class B or Class C driver's license is required.

~~4.~~ 5. A third party certifier shall maintain a record for each employee who applies for certification and who is subsequently certified by him. The record must include a description of the training and tests given to each employee. The record must be available for inspection by a representative of the Department during normal business hours.

Sec. 30. NAC 483.183 is hereby amended to read as follows:

483.183 1. The Department may revoke the registration of a third party certifier who is registered pursuant to NAC 483.140 if:

(a) The third party certifier has been convicted of:

(1) Driving under the influence of an intoxicating liquor or a controlled substance within the past 7 years;

(2) A gross misdemeanor or felony relating to the management of money or a business;

(3) Fraud;

(4) Embezzlement; or

(5) Possessing more than one valid driver's license issued to him under a name other than his own ~~4.~~ or issued to him by more than one state, or both; or

(b) The Department determines that the third party certifier falsified an application or any other information to obtain or maintain his registration as a third party certifier.

2. *The Department may suspend the registration of a third party certifier if the third party certifier or his agent, officer or employee fails to cooperate fully with an authorized representative of the Department during an inspection of the third party certifier.*

3. *The Director may temporarily suspend for not more than 30 days or refuse to renew the registration of a third party certifier if the Director finds that such a temporary suspension or refusal to renew is in the public interest. The Department may conduct a hearing and issue a final decision on the matter within 30 days after the date on which the notice of temporary suspension or refusal to renew a registration is sent to the third party certifier.*

4. Any third party certifier whose registration is revoked pursuant to this section:

(a) May not reapply for registration until 2 years after the date of revocation; and

(b) Must attend a training program approved by the Department for the certification of a driver at the time he reapplies for registration as a third party certifier.

~~{3.—Within}~~

5. *A third party certifier may, within 30 days after the temporary suspension or revocation of, or refusal to renew, his registration pursuant to this section, ~~{a third party certifier may}~~ request a hearing on the question of whether he committed one or more acts constituting grounds for ~~{such revocation.}~~ the suspension, revocation or refusal to renew the registration.* The hearing must be conducted pursuant to the provisions of chapter 233B of NRS , and judicial review must be available as provided therein.

Sec. 31. NAC 483.186 is hereby amended to read as follows:

483.186 The provisions of NAC 483.186 to 483.197, inclusive, *and section 20 of this regulation* apply only with respect to noncommercial drivers' licenses.

Sec. 32. NAC 483.7631 is hereby amended to read as follows:

483.7631 1. The Department may suspend, revoke or refuse to renew:

(a) Any license issued pursuant to NRS 483.700 to 483.780, inclusive, if, in addition to the grounds set forth in NRS 483.760:

(1) The licensee is convicted of a:

(I) Felony in this state or any other jurisdiction;

(II) Gross misdemeanor;

(III) Misdemeanor for violating any of the provisions of NAC 483.708 to 483.795,

inclusive;

(IV) Crime involving fraud, dishonesty or moral turpitude;

(V) Sexual offense as defined in NRS 179D.410; or

(VI) Crime that the Department determines is related to the license in question.

(2) The licensee willfully fails to comply with any:

(I) Statute of this state governing motor vehicles, including, without limitation, NRS 483.700 to 483.780, inclusive, and any regulations adopted pursuant thereto; or

(II) Directive issued by the Director.

(3) The licensee fails or refuses to pay or otherwise discharge any final judgment entered against the licensee arising out of any misrepresentation or fraud committed by the licensee in connection with the license.

(4) The Director determines that:

(I) The licensee knowingly made a false or misleading statement or concealed a material fact in connection with his application for the license;

(II) The licensee is unfit to hold the license;

(III) The licensee no longer satisfies the requirements for the issuance of the license; or

(IV) The suspension or revocation of the license, or the refusal to renew the license, is in the best interest of the public.

(b) A license to operate a school for drivers if the licensee:

(1) Makes any change in the curriculum, schedule of classes or physical or mailing address of the school without having first applied for and obtained the approval of the Department for the change as required by NAC 483.768;

(2) Fails to provide the Department with a current schedule of classes and instructors at least once a month;

(3) Fails to satisfy the Department that the licensee:

(I) Holds a license as an instructor; or

(II) Employs or contracts with a licensed instructor to operate the school;

(4) Permits a class to be taught by:

(I) An unlicensed person; or

(II) An instructor trainee without an instructor being present in the classroom; or

(5) Ceases to maintain an established place of business in this state.

(c) A license to operate a school for training drivers if the licensee fails to maintain the surety bond required by NRS 483.710 or any other bond or license required by any political subdivision of this state.

(d) *A license to operate a school for drivers if the licensee has on its staff an instructor who is registered as a third party certifier pursuant to section 9 of this regulation if:*

(1) Such an instructor executes an affidavit certifying the driving ability of a student enrolled at the school and:

(I) The instructor did not administer the driving skills test to the student; or

(II) The instructor also conducted the instruction to the student relating to the test given.

(2) A person other than such an instructor executes an affidavit certifying the driving ability of a student enrolled at the school.

(3) The operator of the school refuses to allow an agent of the Department to inspect, during normal business hours, all books, records and files of the school that relate to such instructors at the school and to the students enrolled at the school whose driving abilities are being certified by those instructors.

(e) A license as an instructor who is registered as a third party certifier pursuant to section 9 of this regulation, if the licensee violates any provision of sections 2 to 15, inclusive, of this regulation.

(f) A license as an instructor or instructor trainee if the licensee is convicted of any traffic offense involving alcohol or a controlled substance.

2. If the Department revokes the license of an instructor upon the revocation of the driver's license or driving privilege of the instructor following his conviction of any traffic offense involving alcohol or a controlled substance, the Department will not:

(a) Issue to that person a new license as an instructor until 1 year after the date of the reinstatement of his driver's license or driving privilege; or

(b) Approve that person to provide behind-the-wheel training until 3 years after the date of the reinstatement of his driver's license or driving privilege.

3. For the purposes of this section, the failure of a licensee to comply with a directive of the Director shall be deemed to be willful if the licensee fails to comply with the directive within 10 days after his receipt of the directive.

Sec. 33. NAC 483.768 is hereby amended to read as follows:

483.768 1. An operator of a school for drivers must apply, on a form provided by the Department, for approval of any proposed change in the curriculum, schedule of classes or physical or mailing address of the school, or any branch thereof, at least 30 days before the day on which the proposed change is to become effective.

2. If an operator of a school for drivers is applying for approval of a change in the curriculum, he must describe the reason for the change and estimate its effect on the students.

3. An operator of a school for drivers shall notify the Department in writing within 10 days after ~~any:~~

~~(a) Change~~ :

(a) *Any change* in the ownership or corporate structure of the school;

(b) ~~Change~~ *Any change* of the location of the school's principal place of business or branch office;

(c) ~~Addition~~ *Any addition* or deletion of a branch office of the school;

(d) ~~Change~~ *Any change* of the residential address of the operator; ~~or~~

(e) If the school is approved to provide behind-the-wheel-training, *any* change in the list of motor vehicles used by the school to provide such training ~~;~~ *or*

(f) If the school has any instructors on its staff who are registered as third party certifiers pursuant to section 9 of this regulation, any change in any course used to administer the driving skills test.

4. An operator of a school for drivers shall submit to the Department a written schedule of each course which is offered at the school at least 1 week before the course begins. The schedule must include the date, time and location of the course.

5. An operator of a school for drivers shall notify the Department of any cancellation of a course at least 24 hours before the cancelled course is scheduled to begin.

6. Before an operator of a school for training drivers that is approved to provide behind-the-wheel-training may use a motor vehicle for training, he must:

- (a) Submit a copy of the certificate of insurance for the vehicle; and
- (b) Obtain the approval of the Department.

7. The Department may require each person licensed pursuant to the provisions of NRS 483.700 to 483.780, inclusive, to provide any additional information that the Department considers necessary for it to carry out the provisions of NRS 483.700 to 483.780, inclusive, and NAC 483.708 to 483.795, inclusive.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R107-03**

The Department of Motor Vehicles adopted regulations assigned LCB File No. R107-03 which pertain to chapter 483 of the Nevada Administrative Code on January 13, 2004.

Notice date: 10/13/2003

Date of adoption by agency: 1/13/2004

Hearing date: 12/10/2003 & 12/11/2003

Filing date: 2/18/2004

INFORMATIONAL STATEMENT

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

The Department of Motor Vehicles noticed and held public workshops and public hearings on December 10, 2003 in Carson City and on December 11, 2003 in Las Vegas to solicit comments and opinions on proposed regulations to amend Chapter 483 of the NAC with regard to third-party certifier schools for commercial driver licensing. Copies of the proposed regulations were available by contacting the Department at (775) 684-4778 or by mail, 555 Wright Way, Carson City, Nevada 89711.

The notice of public workshops and hearings and complete copies of the proposed regulations were posted on or before October 14, 2003, at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. In each county where the Department does not maintain an office, the notice was posted at the main office of the public library.

- 2. The number of people who:**

(a) Attended the hearing:	0 in Carson City; 9 in Las Vegas
(b) Testified at the hearing:	0 in Carson City; 4 in Las Vegas
(c) Submitted to the agency written comments:	1

One set of written comments was received following the hearing in Las Vegas.

- 3. 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.**

Copies of the proposed regulations were made available as outlined in number 1, above, and were also provided to affected businesses in Las Vegas by the Department's staff responsible for the commercial driver licensing program. Several affected businesses were represented at the public workshop and hearing in Las Vegas.

The affected businesses that testified at the hearing and that provided written comments were in favor of the proposed regulations. Other comments made at the Las Vegas workshop and hearing centered around the forms used by the certifiers, and that they should be consistent with the final regulations. There was also discussion regarding the number of required power units (tractors). The only written comment not consistent with the proposed regulations was the desire for a minimum of five power units rather than only one as proposed in the regulations. It was received after the close of the public comment period.

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

No formal comments were received during the public review and comment period that recommended changes to the proposed regulations. As such, no changes are being made. In addition, the January 13, 2004 recommendations of the Department's hearing officers are that the proposed regulations be approved.

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.**

- (a) There are no adverse economic effects of this regulation on the affected businesses or the public. The expansion of the third-party commercial certifier program offers additional opportunities for the public to obtain commercial driver's licenses. No tangible beneficial economic effects can be determined.
- (b) There are immediate and long-term effects by virtue of an expanded certification program.

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

There is no additional cost to the agency to enforce the proposed regulations.

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.

There are no other state or government regulations that the proposed regulations overlap or duplicate. The regulations are authorized by the Federal Motor Carrier Safety Administration at 49 C.F.R Part 383, Section 383.75.

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

The regulations are not more stringent than federal regulations that regulate the same activity.

- 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 proposed regulation does not provide a new fee or increase an existing fee.