

LCB File No. R107-03

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

Proposed Effective Date: Upon Codification

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

AUTHORITY: §§ 1-18, NRS 483.908 and 483.912

Section 1. Chapter 483 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, of this regulation:

Sec.2. NAC 483.100 Definitions. (NRS 483.908, 483.912) 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.
4. *"Employer" means any person who owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle.*
5. *"Student" means any person who is enrolled at a school*

Sec. 3. NAC 483.130 Affidavit of certification of driving ability: Acceptance by department in lieu of driving skills test. (NRS 483.908, 483.912) 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 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 individual in the operation of a commercial motor vehicle.*
2. On a form provided by the department *and completed in its entirety.*

Sec. 4. NAC 483.140 Third party certifier: Scope of authority; eligibility; assignment of number by department. (NRS 483.908, 483.912)

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 *commercial* 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 may certify the driving ability of an employee *or student* 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.

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 license of the class and type for which he is certifying the driving ability of an employee *or student* 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 license as the class and type of license for which the employee's driving ability is being certified.

4. The department may assign a number to each person the department registers as a third party certifier. This number must be used when completing an affidavit of certification.

5. Any authorization issued pursuant to the provisions of this regulation, inclusive, is personal to the third party certifier and is not transferable to any person.

Sec. 5. NAC 483.150 Third party certifier: Contents of application for registration; evaluation of application; inspection of site; notification of denial of application; reapplication. (NRS 483.908, 483.912)

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 include an inspection of the site of the applicant's place of business. This inspection may include, without limitation, a visual inspection of:

- (a) The vehicles 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~~;~~ *and*
- (g) *May include random reexamination of the employees or students that have been given pre-trip, basic skills and road tests by a department examiner.*

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. 6. NAC 483.160 Third party certifier: Required notifications; renewal of registration; recertification course. (NRS 483.908, 483.912)

1. If at any time the number of vehicles *for which a class A, class B or class C commercial driver's license is required*, owned or leased by a third party certifier, if the third party certifier is an employer, or owned or leased by the person 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.

(a) If a third party certifier purchases or leases a motor vehicle for the administration of pre-trip, basic skills and road test he shall immediately notify the department (or within 10 days). An authorized representative of the department will inspect the vehicle within 30 days after the purchase or lease and at the discretion of the department, during the semiannual inspection conducted pursuant to subsection 1.

2. If a person 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. A third party certifier shall notify the department within 10 days after a change in address.

4. A third party certifier who is registered pursuant to NAC 483.140 and who complies with the requirements of subsection 5 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. A third party certifier shall, on an annual basis, successfully complete a recertification course provided by the department. The recertification course must consist of at least 24 hours of instruction.

Sec. 7. NAC 483.170 Third party certifier: Monitoring by department; correction of deficiencies; revocation of registration. (NRS 483.908, 483.912)

1. The department may, on an annual basis or as often as it deems 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. *For drive school records associated with the pre-trip, basic skills and road tests, each third party certifier shall keep a record for each student of the school, which includes:*

- (a) The name and address of the student;*
- (b) The record of pre-trip, basic skills and road tests;*
- (c) The instruction permit number or driver's license number of the student;*
- (d) The name and certifier's number of each authorized examiner of each testing session attended by the student;*
- (e) A description of the type of testing given 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; and*
- (h) Ensure the certifier is not also conducting the instruction of students he is testing.*

3. 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.

(a) If the third party certifier is also licensed as a drive school, any action against either privilege will be applied to both the school license and the authority to administer pre-trip, basic skills and road tests until the action is resolved.

4. *The department shall provide a written report to the third party certifier within 30 days after an inspection. The report must:*

- (a) Indicate compliance; or*
- (b) Describe each deficiency and require the third party certifier to correct each deficiency within 30 days. If the deficiencies are not corrected within that time, the department may suspend or revoke any authorization issued pursuant to NRS 483.912, and this regulation inclusive.*

5. *The department shall give written notice of its intent to suspend or revoke the authorization of the third party certifier upon failure of the operator to correct the deficiencies.*

Sec. 8. NAC 483.183 Third party certifier: Grounds for *suspension/revocation of registration; reapplication; request for hearing.* (NRS 483.908, 483.912)

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, 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.

(c) The third party certifier:

(1) Fails to employ an authorized examiner; or

(2) Fails to maintain an active school license;

2. Permits a pre-trip, basic skills and road tests to be administered by an unauthorized person;

(a) Permits an authorized examiner to administer a pre-trip, basic skills and road test when he conducted the instruction for the student being tested.

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

(c) Refuses to allow an agent of the department to inspect, during normal business hours, all books, records and files of the Third Party Certifier School for Commercial Drivers Licenses, which are maintained within the state.

3. The department may suspend any authorization issued pursuant to NRS 483.912, inclusive, if the authorized third party or his agent, officer or employee fails to cooperate fully with a representative in performing an inspection.

4. If the director finds that temporary suspension is necessary in the public interest, upon notice to the authorized third party certifier, he may temporarily suspend or refuse to renew the registration to operate a third party certifier for not more than 30 days. The department may conduct a hearing and issue a final decision on the matter within 30 days after it sends notice to the licensee of the temporary suspension.

~~2~~5. 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~~6. Within 30 days after *suspension or* revocation of 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 *suspension or* revocation. The hearing must be conducted pursuant to the provisions of chapter 233B of NRS and judicial review must be available as provided therein.

7. A third party certifier company who is also a licensed drive school may not guarantee in any form that a student will be licensed for or issued a commercial drivers license.

Sec. 9. NAC 483.757 School for training drivers: Examination of instructors and applicants for licensure as instructor; reexamination of qualifications of operator or instructor. (NRS 481.051, 483.720)

1. The department may require an instructor at a school for training drivers to submit to a physical and mental examination as the department finds necessary to determine the applicant's fitness to instruct a course, if there is reason to believe that he does not have the ability to provide adequate instruction. If the instructor refuses or fails to submit to the physical and mental examination within 30 days after the date on which he was notified of the requirement, the department may temporarily suspend his license until the instructor submits to the examination. The period of suspension commences 30 days after the date on which the suspension order was mailed.

2. The department will establish an examination for the licensure of an applicant as an instructor at a school for training drivers. The examination may consist of an actual demonstration or a written examination, or both. If the examination includes an actual demonstration, it will be sufficient in scope to determine if the applicant consistently complies

with all traffic laws and consistently practices the safe operation of a motor vehicle. If the examination includes a written examination, it will cover the:

- (a) Traffic laws and procedures for licensing in this state;
- (b) Practices of safe driving;
- (c) Operation of a motor vehicle;
- (d) Applicant's knowledge of teaching methods and techniques; and
- (e) Laws and regulations that apply to an instructor.

3. An applicant for a license as an instructor for a school for training drivers who fails to pass the examination established pursuant to subsection 2 must wait at least 24 hours before he may retake the examination.

4. The department may require a person who has a license to operate a school for training drivers or as an instructor at a school for training drivers to submit to a reexamination of his qualifications if the department has reason to believe that the licensee does not have the qualifications required for licensure. If the licensee refuses to submit to a reexamination, the department may suspend his license until he submits to a reexamination.

5. An authorized examiner administering a road test in a commercial motor vehicle shall, at all times while he is in the commercial motor vehicle, be alert and in a physically and mentally state that renders him capable of taking physical control of the commercial motor vehicle if necessary.

Sec. 10. NAC 483.758 Use of license as instructor of school for training drivers; instruction at multiple schools; issuance of duplicate license. (NRS 481.051)

1. A license issued to an instructor of a school for training drivers may be used in the school or any licensed branch location of the school for which the license was issued.

2. A licensed instructor who will be instructing at more than one school must apply to the department and pay the required license fee for each school in which he will instruct.

3. The department will issue a duplicate license if a licensee submits a properly signed request in writing. The department will not impose a charge for a duplicate license.

4. An authorization to certify commercial drivers issued to an authorized may be used in the school for commercial drivers license or any licensed branch location of the school for commercial drivers license for which the authorization was issued.

5. A authorized examiner who will be certifying drivers at more than one school must apply to the department for each in which he will test commercial vehicle operators.

Sec. 11. NAC 483.768 Notification and approval of certain changes concerning school; provision of certain information to department; insurance for motor vehicle used for training drivers. (NRS 481.051, 483.740)

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 in the ownership or corporate structure of the school;

(b) Change of the location of the school's principal place of business or branch office or any area used for driving skills training;

(c) Addition or deletion of a branch office of the school or any area used for driving skills training;

(d) Change of the residential address of the operator; or

(e) If the school is approved to provide behind-the-wheel-training, change in the list of motor vehicles used by the school to provide such training. *If the school also operates as a third party certification company, a change in the course used to administer pre-trip, basic skills and road tests.*

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 canceled 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 783.780, 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.