

Chapter 484 of NAC

LCB File No. T021-05

**ADOPTED TEMPORARY REGULATION OF THE
COMMITTEE ON TESTING FOR INTOXICATION**

Filed with the Secretary of State on February 23, 2005

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

AUTHORITY: §1, NRS 484.3884; §1, NRS 484.3886.

A REGULATION relating to evidential breath testing devices, what additional approved devices are included within a certification for one approved device; the solution used for calibrating the devices; and clarifying that devices not in service do not need to be calibrated every 90 days.

Section 1. NAC 484.640 is hereby amended to read as follows:

NAC 484.640

1. A person or his employer must apply to the Department of Motor Vehicles on a form furnished by the Department for certification of the person as an operator of an evidential breath-testing device.

2. The Director or his designee shall certify as an operator of an evidential breath-testing device each applicant who has successfully completed a course consisting of at least 4 hours of instruction on the subject of the operation of devices for testing a person's breath to determine the concentration of alcohol in his breath which has been approved by the Peace Officers' Standards and Training Commission. Such a course must be taught by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the ~~specific~~ devices for which certification is granted.

3. The Director or his designee shall certify as an operator of an additional evidential breath-testing device each applicant who:

(a) Holds a current certification as an operator of an evidentiary breath-testing device; and

(b) Has successfully completed a course consisting of at least 2 hours of instruction on the subject of the operation of the device for testing a person's breath to determine the concentration of alcohol in his breath which has been approved by the Peace Officers' Standards and Training Commission. The course must be taught by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the ~~specific~~ device for which certification is granted.

4. The certificate issued by the Director or his designee must specify by manufacturer and model the evidential breath-testing devices which the applicant has been certified to operate.

5. If an operator is certified to operate an approved device, the operator is certified to operate all approved series of the model of the device unless the committee makes a specific finding otherwise.

~~5~~ 6. Certification as an operator of an evidential breath-testing device is valid for 3 years after the date of the certification.

Section 2. NAC 484.650 is hereby amended to read as follows:

NAC 484.650 The Director or his designee shall renew the certificate of any person certified by him as an operator of an evidential breath-testing device who:

1. Individually or through his employer applies in writing to the Director for such renewal before the person's certificate expires or within 6 months after the person's certificate expires; and

2. Successfully completes a course consisting of at least 2 hours of instruction on the operation of devices for testing a person's breath to determine the concentration of alcohol in his breath which has been approved by the Peace Officers' Standards and Training Commission. Such a course must be taught by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the ~~specific~~ devices for which renewal of certification will be granted.

Section 3. NAC 484.660 is hereby amended to read as follows:

1. Each evidential breath-testing device used by a law enforcement agency must be calibrated by a certified forensic analyst of alcohol at least once *within the* ~~every~~ 90 days *immediately prior to using the device to test a person's breath.*

2. The calibration must include verification by the analyst of the response and accuracy of the device at no less than three levels of alcohol within the range which corresponds to a concentration of alcohol in the breath from 0 to 0.4 gram per 210 liters of breath, inclusive.

Section 4. NAC 484.670 is hereby amended to read as follows:

NAC 484.670 A certified operator of an evidential breath-testing device:

1. In the ordinary course of his business and at the time he is performing a test of a person's breath, shall use, follow the instructions in and enter the appropriate information on the Checklist for Operators of Breath-Testing Devices which is approved by the Committee for use with the ~~specific~~ type of device that he is operating.

2. Immediately before performing the evidentiary test of the person's breath, shall verify the calibration of the device by testing it using an aqueous solution *or gas* which is certified to contain a specific concentration of alcohol within the range that corresponds to a concentration of alcohol in the breath from .05 to .20 gram per 210 liters of breath, inclusive.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. T021-05**

The Committee on Testing for Intoxication adopted regulations assigned LCB File No. T021-05 which pertain to chapter 624 of the Nevada Administrative Code on February 23, 2005.

INFORMATIONAL STATEMENT

- a. Public comment was solicited through notices posted at the following places and sent to the following entities:

DPS Main Building	Carson City Sheriff's Office
Nevada State Library	Clark County Library
DMV, West Carey	DMV, Carson City
DMV, Henderson	DMV, Reno
DMV, West Flamingo	DMV, Elko
DMV, Ely	DMV, Fallon
DMV, East Sahara	Storey County Library
Pershing County Library	Pahrump Library
Lincoln County Library	Humboldt County Library
Goldfield Public Library	Churchill County Library
Eureka Library	Las Vegas Metro Forensic Lab
Silver Peak Library	Reno Library
Boulder City Library	Elko County Library
Lyon County Library	White Pine County Library
Douglas County Library	Tonopah Public Library
Mineral County Library	Carson City Library
Washoe County Admin Bldg.	

No written comments were submitted to the Committee.

Kimberly Buchanan, Deputy Attorney General for the Department of Motor Vehicles, suggested that the word "specific" be stricken from NAC 484.640(2) & (3)(b). Ms. Buchanan thanked the Committee for their work on these regulation changes and proposed an additional regulation change concerning designees of the Director and forensic analysts of alcohol.

For a summary of public response please write the Office of Traffic Safety, 555 Wright Way, Carson City, NV 89711.

- b. Statistics

- (1) Attendees - 5 Committee Members, 2 Attorney General Representatives, 3 Forensic Analysis, and 1 Reporter
- (2) Number of people who testified at each hearing - 1
- (3) No one submitted a written comment to the Committee.

- c. No comment was solicited from business, as no businesses are affected by the regulation changes.
- d. The proposed regulations were changed to reflect Ms. Buchanan's suggested deletions of the word "specific" from NAC 484. 640(2) & (3)(b).
- e. The regulation change has no economic effect on businesses.
- f. The regulation change does not change enforcement costs.
- g. The regulation change does not overlap or duplicate the regulations of other governmental agencies including both State and federal agencies.
- h. Not applicable.
- i. Not applicable.