

LCB File No. R079-07

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

**Notice of Public Workshop to Solicit Comments
on Proposed Regulation**

Department of Motor Vehicles

The Department of Motor Vehicles [555 Wright Way, Carson City, Nevada 89711, (775) 684-4368] is proposing the adoption of amended regulations pertaining to chapter 483 of Nevada Administrative Code. A workshop has been set to be held at the time and place below:

PUBLIC WORKSHOP

Wednesday, December 19, 2007, 10 a.m.

CARSON CITY

**Legislative Counsel Bureau, Room 2134
401 South Carson Street
Carson City, Nevada 89701**

Video conferencing will be provided to the following locations:

LAS VEGAS

**Grant Sawyer Building, Suite 4400
555 East Washington Avenue
Las Vegas, Nevada 89101**

ELKO

**Great Basin College, High Tech Center, Room 121
1500 College Drive
Elko, Nevada 89801**

The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

Proposed Regulation of the Department of Motor Vehicles, LCB File No. R079-07

This is a regulation relating to the Department of Motor Vehicles to amend Chapters 366, 482, 484 and 706 of Nevada Administrative Code (NAC). These amendments to regulation on

Special Mobile Equipment are needed to revise provisions governing the interpretation of the term “incidentally operated or moved upon a highway” for the purposes of various sections of the Nevada Revised Statutes (NRS). This regulation also revises requirements concerning the operation and movement of special mobile equipment upon a highway and qualifications of vehicles receiving the special mobile equipment designation.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting:

Sean McDonald, Management Analyst
Department of Motor Vehicles
Research and Development Division
555 Wright Way, Carson City, NV 89711
(775) 684-4773

A reasonable fee for copying may be charged. The text of the proposed regulation is also available on the Internet at <http://leg.state.NVus/Register/>.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency’s mailing list for administrative regulations and posted at the following locations (as attached).

THIS NOTICE HAS BEEN POSTED AT THE FOLLOWING LOCATIONS:

DEPARTMENT OF MOTOR VEHICLE BRANCH OFFICES

Office of the Director
555 Wright Way
Carson City, NV 89711

1085 Highway 95
Hawthorne, NV 89415

8250 West Flamingo Rd.
Las Vegas, NV 89147

3030 S. Needles Highway, Ste. 900
Laughlin, NV 89028

3920 E. Idaho St.
Elko, NV 89801

1780 E. Basin Ave.
Pahrump, NV 89060

178 No. Avenue F
Ely, NV 89301

330 N. Sandhill Rd. Ste. H
Mesquite, NV 89027

973 W. Williams Ave.
Fallon, NV 89406

7170 N. Decatur Blvd.
Las Vegas, NV 89131

4110 Donovan Way
N. Las Vegas, NV 89030

1137 S. Main St. #C-8
Tonopah, NV 89049

3505 Construction Way
Winnemucca, NV 89445

215 West Bridge St. No. 9
Yerington, NV 89447

1694 County Rd.
Minden, NV 89423

305 Galletti Way
Reno, NV 89512

1399 American Pacific Dr.
Henderson, NV 89014

2701 E. Sahara Ave.
Las Vegas, NV 89104

LIBRARIES

Goldfield Public Library
Fourth & Crook St.
Goldfield, NV 89013

Pershing County Library
1125 Central Ave.
Lovelock, NV 89419

Lincoln County Library
93 Main St.
Pioche, NV 89043

Storey County Library
95 South R St.
Virginia City, NV 89440

Eureka Branch Library
10190 Monroe St.
Eureka, NV 89316

Mineral County Library
1125 Central Ave.
Hawthorne NV 89419

Battle Mountain Branch
625 Broad St.
Battle Mountain, NV 89820

Nevada State Library
100 North Stewart St.
Carson City, NV 89701

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Public Hearing for the
Adoption of Proposed New and Amended Regulations of the
Department of Motor Vehicles**

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

PUBLIC HEARING
Thursday, December 20, 2007, 10 a.m.

CARSON CITY
Legislative Counsel Bureau, Room 2134
401 South Carson Street
Carson City, Nevada 89701

Video conferencing will be provided to the following locations:

LAS VEGAS
Grant Sawyer Building, Suite 4400
555 East Washington Avenue
Las Vegas, Nevada 89101

ELKO
Great Basin College, High Tech Center, Room 121
1500 College Drive
Elko, Nevada 89801

The purpose of the hearing is to receive comments from all interested persons regarding the Amendment of regulations that pertain to chapters 366, 482, 484 and 706 of the Nevada Administrative Code.

Proposed Regulation of the Department of Motor Vehicles, LCB File No. R079-07

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation or amendment:

This is a regulation relating to the Department of Motor Vehicles to amend Chapters 366, 482, 484 and 706 of Nevada Administrative Code (NAC) to comply with legislation (Assembly Bill 39) passed during the 2007 Legislative Session. These amendments to

regulation on Special Mobile Equipment are needed to revise provisions governing the interpretation of the term “incidentally operated or moved upon a highway” for the purposes of various sections of the Nevada Revised Statutes (NRS). This regulation also revises requirements concerning the operation and movement of special mobile equipment upon a highway and qualifications of vehicles receiving the special mobile equipment designation.

2. Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved:

The Department is required by statute to amend regulations relating to the administration and enforcement of vehicles designated as special mobile equipment and/or “incidentally operated or moved upon a highway” in the state of Nevada.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include: (a) Both adverse and beneficial effects (None) and (b) Both immediate and long-term effects (None).

There is no estimated economic effect.

4. The estimated cost to the agency for enforcement of the proposed regulation:

There is no cost to the agency in the enforcement of the proposed regulations.

5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency:

The proposed amendments to the regulations do not overlap that of any other state, local, or federal governmental agency.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law:

These regulations are not required pursuant to federal law.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:

The proposed amendment does not include provisions which are more stringent than a federal regulation.

8. Whether the proposed regulation establishes a new fee or increases an existing fee:

The proposed amendment does not establish a new fee or increase an existing fee.

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:

Sean McDonald Management Analyst
Department of Motor Vehicles
Research and Development Division
555 Wright Way, Carson City, NV 89711
(775) 684-4773

Written submission must be received by Department of Motor Vehicles on or before **Monday, December 24, 2007**. 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 (Adopted) (Amended) (Repealed) 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 regulations to be (Adopted) (Amended) (Repealed) will be available at each 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. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us/Register/>. 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 locations listed on the attached page.

THIS NOTICE HAS BEEN POSTED AT THE FOLLOWING LOCATIONS:

DEPARTMENT OF MOTOR VEHICLE BRANCH OFFICES

Office of the Director
555 Wright Way
Carson City, NV. 89711

1085 Highway 95
Hawthorne, NV. 89415

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Elko, NV. 89801

1780 E. Basin Ave.
Pahrump, NV. 89060

178 No. Avenue F
Ely, NV. 89301

330 N. Sandhill Rd. Ste. H
Mesquite, NV. 89027

973 W. Williams Ave.
Fallon, NV. 89406

7170 N. Decatur Blvd.
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4110 Donovan Way
N. Las Vegas, NV. 89030

2701 E. Sahara Ave.
Las Vegas, NV. 89104

1137 S. Main St. #C-8
Tonopah, NV. 89049

1399 American Pacific Dr.
Henderson, NV. 89014

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Winnemucca, NV. 89445

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Reno, NV. 89512

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Yerington, NV. 89447

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Virginia City, NV. 89440

Lincoln County Library
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Pioche, NV. 89043

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1125 Central Ave.
Hawthorne NV. 89419

Eureka Branch Library
10190 Monroe St.
Eureka, NV. 89316

Nevada State Library
100 North Stewart St.
Carson City, NV. 89701

Battle Mountain Branch
625 Broad St.
Battle Mountain, NV. 89820

Pershing County Library
1125 Central Ave.
Lovelock, NV. 89419

LCB File No. R079-07

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

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

AUTHORITY: NRS 366.085; 482.123; 484.173; 706.121; and AB39 of the 74th Session of the Nevada Legislature

Regulations relating to special mobile equipment

Chapter 366 of NAC is hereby amended by adding thereto the provisions set forth as sections 1, 2, and 3 of this regulation:

Section 1 NAC 366.006 is hereby repealed:

~~[NAC 366.006 Special mobile equipment: Vehicles not specified in statutory definition. (NRS 366.085, 366.110) As used in NRS 366.085, the term “special mobile equipment” does not include:~~

~~— 1. Any truck that:~~

~~— (a) Is used as a water truck on any portion of a public highway, other than a controlled access highway as defined in NRS 484.041; and~~

~~— (b) Was originally designed and manufactured as a vehicle to carry cargo; or~~

~~— 2. Any vehicle:~~

~~— (a) That is used to sweep any portion of a public highway, other than a controlled access highway as defined in NRS 484.041;~~

~~— (b) That was originally designed and manufactured to transport persons or property; and~~

~~— (c) To which machinery for sweeping is mounted or attached.]~~

Sec. 2 NAC 366.0065 is hereby repealed:

~~[NAC 366.0065 Special mobile equipment: “Incidentally operated or moved upon a highway” interpreted. (NRS 366.085, 366.110) As used in NRS 366.085, the Department will interpret the term “incidentally operated or moved upon a highway” to mean “off highway business use” as defined in 26 U.S.C. § 4041(b)(1)(C).]~~

Sec. 3 NAC 366.085 is hereby established to read as follows:

1. As used in NRS 366.085, the term “incidentally operated or moved upon a highway” is defined as, but not limited to,:

(a) Emergency situations to be determined by law enforcement entities or other official emergency personnel; or

(b) Roadway patching construction equipment operated in conjunction with roadway contracts, limited to a specific project; or

(c) Snow removal during or immediately following inclement weather; or

- (d) Any travel by any special mobile equipment on a public highway, other than a controlled-access highway as defined in NRS 484.041, if:

 - (1) The transportation of other persons or property is not the intent of the travel; or*
 - (2) The travel:

 - (A) Is required to complete a task for which the special mobile equipment is assigned; and*
 - (B) Is limited to a specific project; and*
 - (C) Except as otherwise provided in subsection 1, subparagraph a, b and c, does not exceed 5 miles from the point at which the special mobile equipment first entered the public highway.***
- 2. “Incidentally operated or moved upon a highway” limits movement from a place of business or from job to job.*
- 3. “Incidentally operated or moved upon a highway” cannot jeopardize traffic safety or impede traffic.*
- 4. Any special mobile equipment that maintains or cleans a public highway; or facilitates the movement of traffic on a public highway may exceed 5 miles from the point at which the special mobile equipment first entered the public highway.*
- 5. As used in NRS 366.085, the term “special mobile equipment” does not include:

 - (a) Any truck that:

 - (1) Is used as a water truck on any portion of a public highway; or*
 - (2) Was originally designed and manufactured as a vehicle to carry cargo; or**
 - (b) Any vehicle:

 - (1) That is used to sweep any portion of a public highway, or*
 - (2) That was originally designed and manufactured to transport persons or property; or*
 - (3) To which machinery for sweeping is mounted or attached; or*
 - (4) That has the capability of traveling long distances over a controlled access highway; or**
 - (c) Any trailer.**

Chapter 482 of NAC is hereby amended by adding thereto a new section to read as follows:

Section 1 NAC 482.123 is hereby established to read as follows:

- 1. As used in NRS 482.123, the term “incidentally operated or moved upon a highway” is defined as, but not limited to:

 - (a) Emergency situations to be determined by law enforcement entities or other official emergency personnel; or*
 - (b) Roadway patching construction equipment operated in conjunction with roadway contracts, limited to a specific project; or*
 - (c) Snow removal during or immediately following inclement weather; or*
 - (d) Any travel by any special mobile equipment on a public highway, other than a controlled-access highway as defined in NRS 484.041, if:

 - (1) The transportation of other persons or property is not the intent of the travel; or*
 - (2) The travel:

 - (A) Is required to complete a task for which the special mobile equipment is assigned; and****

- (B) Is limited to a specific project; and*
- (C) Except as otherwise provided in subsection 1, subparagraph a, b and c, does not exceed 5 miles from the point at which the special mobile equipment first entered the public highway.*
- 2. "Incidentally operated or moved upon a highway" limits movement from a place of business or from job to job.*
- 3. "Incidentally operated or moved upon a highway" cannot jeopardize traffic safety or impede traffic.*
- 4. Any special mobile equipment that maintains or cleans a public highway; or facilitates the movement of traffic on a public highway may exceed 5 miles from the point at which the special mobile equipment first entered the public highway.*
- 5. As used in NRS 482.123, the term "special mobile equipment" does not include:*
 - (a) Any truck that:*
 - (1) Is used as a water truck on any portion of a public highway; or*
 - (2) Was originally designed and manufactured as a vehicle to carry cargo; or*
 - (b) Any vehicle:*
 - (1) That is used to sweep any portion of a public highway, or*
 - (2) That was originally designed and manufactured to transport persons or property; or*
 - (3) To which machinery for sweeping is mounted or attached; or*
 - (4) That has the capability of traveling long distances over a controlled access highway; or*
 - (c) Any trailer.*

Chapter 484 of NAC is hereby amended by adding thereto a new section to read as follows:

Section 1 NAC 484.173 is hereby established to read as follows:

- 1. As used in NRS 484.173, the term "incidentally operated or moved upon a highway" is defined as, but not limited to:*
 - (a) Emergency situations to be determined by law enforcement entities or other official emergency personnel; or*
 - (b) Roadway patching construction equipment operated in conjunction with roadway contracts, limited to a specific project; or*
 - (c) Snow removal during or immediately following inclement weather; or*
 - (d) Any travel by any special mobile equipment on a public highway, other than a controlled-access highway as defined in NRS 484.041, if:*
 - (1) The transportation of other persons or property is not the intent of the travel; or*
 - (2) The travel:*
 - (A) Is required to complete a task for which the special mobile equipment is assigned; and*
 - (B) Is limited to a specific project; and*
 - (C) Except as otherwise provided in subsection 1, subparagraph a, b and c, does not exceed 5 miles from the point at which the special mobile equipment first entered the public highway.*
- 2. "Incidentally operated or moved upon a highway" limits movement from a place of business or from job to job.*

3. *“Incidentally operated or moved upon a highway” cannot jeopardize traffic safety or impede traffic.*
4. *Any special mobile equipment that maintains or cleans a public highway; or facilitates the movement of traffic on a public highway may exceed 5 miles from the point at which the special mobile equipment first entered the public highway*
5. *As used in NRS 484.173, the term “special mobile equipment” does not include:*
 - (a) *Any truck that:*
 - (1) *Is used as a water truck on any portion of a public highway; or*
 - (2) *Was originally designed and manufactured as a vehicle to carry cargo; or*
 - (b) *Any vehicle:*
 - (1) *That is used to sweep any portion of a public highway, or*
 - (2) *That was originally designed and manufactured to transport persons or property; or*
 - (3) *To which machinery for sweeping is mounted or attached; or*
 - (4) *That has the capability of traveling long distances over a controlled access highway; or*
 - (c) *Any trailer.*

Chapter 706 of NAC is hereby amended by adding thereto a new section to read as follows:

Section 1 NAC 706.121 is hereby established to read as follows:

1. *As used in NRS 706.121, the term “incidentally operated or moved upon a highway” is defined as, but not limited to:*
 - (a) *Emergency situations to be determined by law enforcement entities or other official emergency personnel; or*
 - (b) *Roadway patching construction equipment operated in conjunction with roadway contracts, limited to a specific project; or*
 - (c) *Snow removal during or immediately following inclement weather; or*
 - (d) *Any travel by any special mobile equipment on a public highway, other than a controlled-access highway as defined in NRS 484.041, if:*
 - (1) *The transportation of other persons or property is not the intent of the travel; or*
 - (2) *The travel:*
 - (A) *Is required to complete a task for which the special mobile equipment is assigned; and*
 - (B) *Is limited to a specific project; and*
 - (C) *Except as otherwise provided in subsection 1, subparagraph a, b and c, does not exceed 5 miles from the point at which the special mobile equipment first entered the public highway.*
2. *“Incidentally operated or moved upon a highway” limits movement from a place of business or from job to job.*
3. *“Incidentally operated or moved upon a highway” cannot jeopardize traffic safety or impede traffic.*
4. *Any special mobile equipment that maintains or cleans a public highway; or facilitates the movement of traffic on a public highway may exceed 5 miles from the point at which the special mobile equipment first entered the public highway*
5. *As used in NRS 706.121, the term “special mobile equipment” does not include:*

(a) Any truck that:

- (1) Is used as a water truck on any portion of a public highway; or*
- (2) Was originally designed and manufactured as a vehicle to carry cargo; or*

(b) Any vehicle:

- (1) That is used to sweep any portion of a public highway, or*
- (2) That was originally designed and manufactured to transport persons or property; or*
- (3) To which machinery for sweeping is mounted or attached; or*
- (4) That has the capability of traveling long distances over a controlled access*

highway; or

(c) Any trailer.