

NAC Chapter 483

LCB File No. T016-08

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

**Filed with the Secretary of State on March 4, 2009**

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

AUTHORITY: § 1, NRS 481.051, NRS 483.220, NRS 483.420 and NRS 483.908.

A REGULATION relating to motor vehicles; providing certain requirements for determining a person's continued suitability to maintain a Nevada Driver's License or identification card previously issued under less stringent criteria and requirements than currently required for establishing proof satisfactory to the Department of a person's true identity.

**Section 1.** Chapter 483 of NAC is hereby amended by adding thereto a new section to read as follows:

*1. Upon discovery or receipt of information that causes a question as to the validity of a person's true identity, the Department may at its discretion, require a person attempting to obtain a new or previously issued driver's license or identification card pursuant to the provisions of chapter 483 of NRS, or an individual who has previously been issued a drivers license or identification card by the Department, to provide additional documentation or information based on current requirements or document criteria to establish proof satisfactory to the Department of that person's true identity.*

*2. Documents acceptable to the Department to establish a person's true identity shall be those acceptable per the applicable provisions of current Nevada Revised Statutes and Administrative Codes in conjunction with current Department policies developed as guidelines*

*for determining documents acceptable to the Department for verification of a person's identity.*

**Section 2.** *Grounds for discretionary refusal to renew, suspension or revocation of license or identification card; notice; hearing.*

*1. The Department may refuse to issue, renew, suspend or cancel a driver's license or identification card issued by the Department pursuant to chapter 483 of NRS for any person who fails or refuses to provide the Department with additional information or documentation to aid in determining that person's true identity, or for any person who is unable to provide proof satisfactory to the Department that they are entitled to the document issued by the Department..*

*2. Should the Department refuse to issue, renew, suspend or cancel a driver's license or identification card pursuant to this section, the Department shall with 5 ~~[Department business]~~ working days;*

*a. Provide written notice to the person subject to the action that he may, within 30 days after his receipt of the notice, petition the Director in writing for a hearing.*

*b. The Department notice shall be sent to the person subject to the action via certified mail to the address of record on file with the Department for that person.*

*c. Upon receipt a written request for hearing, the Department shall afford the person subject to the action an opportunity for a hearing as early as practical within 60 days after the Department's receipt of the request.*

*d. Upon receipt of a written request for hearing, the Department will stay the action pending the decision of an Administrative Law Judge.*

*3. The hearing shall be held in the county wherein the person subject to the action resides unless that person and the Department agree that the hearing may be held in some other county.*

*4. The Director, or his authorized agent, may issue subpoenas for the attendance of witnesses and the production of relevant books, records or other papers of the person subject to the action, or of the Department in support of its action in connection with the hearing.*

*5. The Director shall make written findings of fact and conclusions and grant or refuse to issue, renew, suspend or cancel a driver's license or identification card within 30 days after the hearing.*

*6. A person subject to an adverse decision by the Director to refuse to issue, renew, suspend or cancel a driver's license or identification card is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS.*

*7. The Department may at its discretion without a hearing, issue, renew or reinstate a driver's license or identification card that the Department has previously denied, refused to issue, suspended or canceled pursuant to this section should the person requesting such action provide proof satisfactory to the Department of his true identity.*

**NOTICE OF ADOPTION OF TEMPORARY REGULATION  
LCB File T016-08**

The Department of Motor Vehicles submits the following statement. The Department adopts a temporary regulation assigned LCB File T016-08, which pertains to Chapter 483 of the Nevada Administrative Code, relating to motor vehicles. The regulation defines certain requirements for determining a person's continued suitability to maintain a Nevada Driver's License or identification card previously issued under less stringent criteria and requirements than currently required for establishing proof satisfactory to the Department of a person's true identity.

**WORKSHOP**

Teleconferenced Reno Location to Las Vegas Location  
Thursday, January 08, 2009 at 10:00 am

Washoe County Government Complex  
1001 East Ninth Street, Building C., Room 110  
Reno, Nevada 89512

Nevada Department of Motor Vehicles  
Emissions Training Building  
2701 East Sahara Avenue  
Las Vegas, Nevada 89104

Public Workshop Notice Date: December 4<sup>th</sup>, 2008

**HEARING**

Teleconferenced Reno Location to Las Vegas Location  
Thursday, January 09, 2009 at 10:00 am

Washoe County Government Complex  
1001 East Ninth Street, Building C., Room 110  
Reno, Nevada 89512

Nevada Department of Motor Vehicles  
Emissions Training Building  
2701 East Sahara Avenue  
Las Vegas, Nevada 89104

Public Hearing Notice Date: December 4<sup>th</sup>, 2008

Date of Adoption by Agency: January 28, 2009

## INFORMATIONAL STATEMENT

**A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.** The Department of Motor Vehicles noticed the public workshop and hearing for LCB File R016-08 on December 4<sup>th</sup>, 2008 by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

There was no comment or testimony from any member of the public during the Public Workshop or Public Hearing. The Department did not receive written comment from any member of the public.

**A description of how comment was solicited from affected businesses, a summary of their response and an explanation how other interested persons may obtain a copy of the summary:** The Department of Motor Vehicles noticed the public workshop and hearing for LCB File R016-08 on December 4<sup>th</sup>, 2008 by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

A copy of the minutes for the public workshop and public hearing may be obtained by contacting the Department of Motor Vehicles Compliance Enforcement Division by telephone at (775) 684-4805.

Nevada Department of Motor Vehicles  
Compliance Enforcement Division  
555 Wright Way  
Carson City, Nevada 89711-0900  
Attention: Ivie Harper Administrative Assistant III

**The number of persons who attended each Public Workshop:** Fifteen individuals attended the Public Workshop in Las Vegas on January 8<sup>th</sup>, 2009.

**A summary of testimony at each Public Workshop:** Two individuals representing the driving school industry provided comments as follows, in opposition of the proposed regulation.

Homeland Security has sole authority of tracking a person's identity. And, no other agency including staff with the Department of Motor Vehicles has the background or training to handle Homeland Security tasks.

DMV must issue license in good faith per Chapter 483 of NAC. If someone can drive a car, a license must be issued.

DMV is trying to implement laws to humiliate Latin people.

Someone who already has a driver's license should be allowed to renew a license, without supplying additional documentation or be subject to document review.

This regulation will open the door to bigotry and racism, based on an observation by Department of Motor Vehicles representatives. Everyone should be subject to this regulation, should not be discretionary and there needs to be very specific criteria in regulation for what can be provided to the investigators for review.

**The number of persons who attended each Public Hearing:** Seven individuals attended the Public Hearing in Reno on January 9<sup>th</sup>, 2009.

**A summary of testimony at each Public Hearing:** There was no comment at the Public Hearing on January 9<sup>th</sup>, 2009.

**A summary of written comments submitted to the agency:** The notice for the Public Workshop and Public Hearing invited written comments from the public and affected businesses, with a deadline for written comments to be received by January 07, 2009. No written comment was received

**If the regulation was adopted without changing any part of the proposed regulation, list a summary of the reasons for adopting the regulation without change.** The Department adopts the temporary regulation language as written in the proposed document.

At the Public Workshop a Deputy Chief with the Department of Motor Vehicles Compliance Enforcement Division clarified the following items brought forth by the two representatives of the drive school industry:

The Department of Motor Vehicles Compliance Enforcement Division Investigators are fully qualified to review documentation to determine if it is proper to issue a driver license. And, anyone who is denied a driver's license is allowed to request an administrative hearing.

The proposed regulation will allow representatives of the Department of Motor Vehicles to review documents of all nationality, not just those of Latin decent. Past history has shown the Department's integrity when investigating fraudulent documentation. All people are investigated in the same manner, regardless of nationality. The Deputy Chief also stated that there is extensive data proving American born people provided sixty percent of all documentation that suspected as fraudulent, since Department review began in 2002. The Deputy Chief replied that the investigators have large case loads and that there are up to 250,000 possible questionable records waiting for review, and tried to alleviate the concerns of racial profiling.

The proposed regulation is essential to fully utilize the facial recognition technology used by the agency.

Both a Deputy Chief and Investigator based in Las Vegas the affected industry representatives that documents will be reviewed, regardless of first time application, or renewal of a license. The Deputy Chief further explained that this intention of the regulation is to try and protect individuals from identity theft, and that the Technician at the window will not make final decisions. Only trained investigative staff will make final decisions after reviewing documentation and utilizing the new technology now used within the Department, and that if there is no suspicion of a person's documentation, there will be no referral to the investigative staff.

**List 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 is no estimated economic effect on the affected businesses, either adverse or beneficial, nor immediate or long-term.

(b) There is no estimated economic effect on the public, either adverse or beneficial, nor immediate or long-term.

**List the estimated cost to the agency for enforcement of the adopted regulation:** There is no additional cost to the agency for enforcement of this regulation.

**List 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, list the name of the regulating federal agency:** There are no other state or federal government agency regulations that this adopted regulation duplicates.

**If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:** There are no federal regulations that regulate the same activity as the adopted regulation.

**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 regulation does not provide or involve a new fee. A total fee amount is not expected to be collected or used.