

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

LCB File No. R158-09

Effective April 20, 2010

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

AUTHORITY: §1, NRS 482.160 and 482.482; §§2 and 5, NRS 706.171; §3, NRS 706.171 and 706.821; §4, NRS 706.171 and 706.192.

A REGULATION relating to motor vehicles; allowing a person who renews the registration of certain vehicles after conviction of an offense relating to vehicle weight to request an adjustment to the declared gross vehicle weight; authorizing the Department of Motor Vehicles to require certain interstate motor carriers to make payment of certain fees by cash or certified funds; providing the amount and duration of a bond required of certain motor carriers upon a finding of habitual delinquency in payments due the Department; and providing other matters properly relating thereto.

Section 1. Chapter 482 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a person who applies to renew the registration of a vehicle that was reregistered pursuant to subsection 7 of NRS 482.482 may request an adjustment to the declared gross vehicle weight. To make such a request, the applicant must provide the Department with:

(a) An affidavit upon a form provided by the Department stating that:

(1) The operations for which the vehicle is used have changed; and

(2) The gross vehicle weight has changed.

(b) Evidence satisfactory to the Department that the statements made in the affidavit required by paragraph (a) are true. Such evidence may include, without limitation:

- (1) Proof of changes in business contracts;*
- (2) Proof of a change in the combination of vehicles used by the applicant;*
- (3) Proof of business closure or reorganization; or*
- (4) Any other proof deemed acceptable by the Department.*

2. The Department may deny a request to make an adjustment to the gross vehicle weight if:

- (a) The applicant has been convicted of two or more violations of NRS 484D.630; or*
- (b) The Department determines that the applicant submitted false or fraudulent*

information on the affidavit pursuant to subsection 1 or on the application for registration.

3. In addition to any administrative fines, a person who is convicted of a violation of NRS 484D.630 must also pay any permit fees determined by the Department to be due pursuant to NRS 706.531. The Department will assess any such permit fees from the date of conviction.

Sec. 2. Chapter 706 of NAC is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this regulation.

Sec. 3. *An operator of a vehicle that is registered pursuant to NRS 706.801 to 706.861, inclusive, may be required by the Department to pay all fees owed to the Department pursuant to NRS 706.801 to 706.861, inclusive, by cash, cashier's check, money order or traveler's check.*

Sec. 4. *1. If the Department requires a common motor carrier, contract motor carrier or private motor carrier of property to provide a bond pursuant to NRS 706.192, the amount of the bond must be in an amount equal to the greater of:*

(a) The total amount of registration fees imposed for the vehicle or fleet of vehicles of the common motor carrier, contract motor carrier or private motor carrier of property over the immediately preceding 12-month period; or

(b) \$2,500.

2. The bond provided pursuant to NRS 706.192 must be maintained by the common motor carrier, contract motor carrier or private motor carrier of property if the Department finds the common motor carrier, contract motor carrier or private motor carrier of property is habitually delinquent for:

(a) The first time, for 12 months.

(b) The second time, for 24 months.

(c) The third or subsequent time, for 36 months.

3. The Department interprets the term “habitually delinquent,” as used in NRS 706.192, to mean a taxpayer who has a check to the Department returned or fails to remit payment for any amount due the Department pursuant to this chapter by the date required two or more times within any 12-month period.

Sec. 5. NAC 706.140 is hereby amended to read as follows:

706.140 Every common or contract motor carrier shall comply with NAC 706.147 to 706.269, inclusive, *and sections 3 and 4 of this regulation* and shall instruct his employees and agents concerned with the transportation of persons or property by motor vehicle with respect thereto.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE NO. R158-09**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapters 482 and 706.

I. A description of how public comment was solicited, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Copies of the proposed regulations, notices of workshop, and notices of intent to act upon the regulation were sent by email to persons who were known to have an interest in the subject of the establishment of provisions relating to:

The Department of Motor Vehicles, amending Chapters 482 and 706 of the Nevada Administrative Code (NAC) to comply with Legislation (AB372) passed during the 2009 Legislative Session. The amendments proposed in this regulation allow a person who renews the registration of certain vehicles after conviction of an offense relating to vehicle weight, to request an adjustment to the declared gross weight; requiring certain interstate motor carriers to make payment of certain fees to the Department of Motor Vehicles by cash or certified funds; providing the amount and duration of a bond required of certain motor carriers upon finding of habitual delinquency in payments due the Department; and providing other matters properly relating thereto.

These documents were also made available on the website of the Nevada Department of Motor Vehicles (DMV), www.dmvnv.com, emailed with posting instructions to all county libraries in Nevada, and posted within each branch office.

A workshop was held on March 9, 2010 and a hearing was held on March 10, 2010 regarding the proposed amendments; a recording of both meetings was made and is on file at the Nevada Department of Motor Vehicles, Research and Development Division, 555 Wright Way, Carson City, Nevada 89711.

On or about February 4, 2010, the Director of the Department of Motor Vehicles issued a Notice of Intent to Act Upon a Regulation with a Notice of Public Workshop to be held March 9, 2010 at 1 p.m. and a Notice of Public Hearing to be held March 10, 2010 at 9 a.m. at the following location:

PUBLIC HEARING MEETING NOTICE

Wednesday, March 10, 2010 at 9:00 am

CARSON CITY

Nevada Legislative Counsel Bureau
Conference Room 2134
401 South Carson Street
Carson City, NV. 89701

VIDEO CONFERENCING WILL BE PROVIDED TO:

LAS VEGAS

State of Nevada – Grant Sawyer Building
Conference Room 4406
555 East Washington Ave.
Las Vegas, NV. 89101

ELKO

Great Basin College – Greenhaw Technical Arts Bldg.
Conference Room 118
1500 College Park Way
Elko, NV. 89801

Copies of the workshop and hearing recording or hearing minutes may be obtained by contacting Sean McDonald by telephone (775) 684-4773 or email, **smcdonald@dmv.nv.gov**.

Workshop and Hearing Information

Workshop

II. The number of persons who:

A. Attended the workshop: 14 Total

In Attendance in Carson City: 10 Total

Lloyd Nelson, Department of Motor Vehicles (Workshop and Hearing Officer)

Rhonda Bavaro, Department of Motor Vehicles (Workshop and Hearing Officer)

Teri Baltisberger, Department of Motor Vehicles

Dawn Lietz, Department of Motor Vehicles

Carmen Shipman, Department of Motor Vehicles

Karen Stoll, Department of Motor Vehicles

Karen Winchell, Department of Motor Vehicles

Angela Smith-Lamb, Department of Motor Vehicles

Jude Hurin, Department of Motor Vehicles

Lynn Libby, Department of Motor Vehicles

In Attendance in Las Vegas: 2 Total

Sean McDonald, Department of Motor Vehicles

Betsy McCabe, Department of Motor Vehicles

In Attendance in Elko: 2 Total

Cindy Arnold, Department of Motor Vehicles

Becky Raine, Department of Motor Vehicles

B. Testified at the workshop: 1 Total

Carson City: 1 Total

The following Testimony was presented in Carson City, and includes the Departments responses to testimony both during the Workshop and after:

Angela Smith representing the Motor Carrier Division of the Department of Motor Vehicles read into the record the following change effecting Section 3 of R158-09:

Sec. 3. *An operator of a vehicle that is registered pursuant to NRS 706.801 to 706.861, inclusive, ~~shall~~ may be required to pay all fees owed to the*

Department pursuant to NRS 706.801 to 706.861, inclusive, by cash, cashier's check, money order or traveler's check.

(**Note:** Changes resulting from the Workshop are underlined)

The Motor Carrier Division of the Department of Motor Vehicles wanted payment of fees using guaranteed funds to be left to the Department's discretion. It is felt if a person should choose to open an account when they already have an account with the Division, the ability to request guaranteed funds may be needed. However for those opening new accounts, guaranteed funds would likely not be needed.

This change allows addressing problem carriers registered with the Division to be handled differently than those who are new applicants.

C. Written Statements Submitted to the agency – Workshop:

No written statements regarding R158-09 were received by the Department of Motor Vehicles

D. Attended the hearing: 11 Total

In Attendance in Carson City: 7 Total

Lloyd Nelson, Department of Motor Vehicles (Workshop and Hearing Officer)

Rhonda Bavaro, Department of Motor Vehicles (Workshop and Hearing Officer)

Dawn Lietz, Department of Motor Vehicles

Carmen Shipman, Department of Motor Vehicles

Karen Stoll, Department of Motor Vehicles

Karen Winchell, Department of Motor Vehicles

Angela Smith-Lamb, Department of Motor Vehicles

In Attendance in Las Vegas: 2 Total

Sean McDonald, Department of Motor Vehicles

Betsy McCabe, Department of Motor Vehicles

In Attendance In Elko: 2 Total

Cindy Arnold, Department of Motor Vehicles

Becky Raine, Department of Motor Vehicles

E. Testified at the hearing: 1 Total

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This change allows addressing problem carriers registered with the Division to be handled differently than those who are new applicants.

F. Written Statements / Comments Received - Hearing:

No written statements regarding R158-09 were received by the Department of Motor Vehicles

III. 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.

Comments were solicited and there was no response from any affected business.

IV. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. The statement should also explain the reasons for making any changes to the regulation as proposed.

The permanent regulation was adopted by the Department on March 18, 2010, and included the changes suggested at the workshop held on March 9, 2010 and read into the record during the hearing conducted on March 10, 2010. The proposed changes to Regulation are as follows:

Revision to Section 3:

Sec. 3. *An operator of a vehicle that is registered pursuant to NRS 706.801 to 706.861, inclusive, ~~shall~~ may be required to pay all fees owed to the Department*

pursuant to NRS 706.801 to 706.861, inclusive, by cash, cashier's check, money order or traveler's check.

(**Note:** Changes resulting from the Hearing are underlined)

The Motor Carrier Division of the Department of Motor Vehicles wanted payment of fees using guaranteed funds to be left to the Department's discretion. It is felt if a person should choose to open an account when they already have an account with the Division, the ability to request guaranteed funds may be needed. However for those opening new accounts, guaranteed funds would likely not be needed.

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- V. 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.**

There is no estimated adverse or beneficial economic effect on businesses.

- VI. The estimated cost to the agency for enforcement of the adopted regulation.**

There should be no extra cost to enforce this regulation.

- VII. 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 agency regulations that the proposed amendments duplicate.

- VII. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

N/A.

- IV. 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.**

N/A.

- X. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation, or expansion of a**

small business? What methods did the agency use in determining the impact of the regulation on a small business?

The Director has determined that the proposed regulation does not impose a direct or significant economic burden upon a small business or restrict the formation, operation, or expansion of a small business.