

**ADOPTED REGULATION OF
THE PERSONNEL COMMISSION**

LCB File No. R193-09

Effective April 20, 2010

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

AUTHORITY: §1, NRS 284.065, 284.4065 and 284.407.

A REGULATION relating to the State Personnel System; revising provisions governing screening tests to detect the presence of alcohol or drugs; and providing other matters properly relating thereto.

Section 1. NAC 284.888 is hereby amended to read as follows:

284.888 1. Objective facts upon which an appointing authority may base a reasonable belief that an employee is under the influence of alcohol or drugs which impair the ability of the employee to perform his duties safely and efficiently include, but are not limited to:

(a) The operation of a motor vehicle by the employee in any manner that causes bodily harm;

(b) Abnormal conduct or erratic behavior by the employee that is not otherwise normally explainable;

(c) The odor of alcohol or a controlled substance on the breath of the employee;

(d) Observation of the employee consuming alcohol; ~~[or]~~

(e) Observation of the employee possessing a controlled substance or using a controlled substance that is reported by a credible source ~~[;]~~ *or*

(f) The occurrence of any accident while the employee is on the premises of the workplace for which the employee receives medical treatment.

2. Pursuant to subsection 2 of NRS 284.4065, “substantial damage to property” includes, but is not limited to:

(a) The operation of a motor vehicle in such a manner as to cause more than ~~[\$2,500]~~ **\$500** worth of property damage; or

(b) The operation of a motor vehicle in such a manner as to cause two property accidents within a 1-year period.

3. Before requiring an employee to submit to a screening test, a supervisor must complete a form provided by the Department of Personnel.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE NO. R193-09**

The following statement is submitted for amendments to Nevada Administrative Code (NAC) 284.

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

Copies of the proposed regulation, notice of workshop, and notices of intent to act upon a regulation were sent by email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice. These documents were also made available on the website of the Department of Personnel (DOP), <http://dop.nv.gov/>, mailed to all county libraries in Nevada and posted at the following locations:

Department of Personnel Blasdel Building 209 E. Musser St Carson City, NV 89701	Grant Sawyer State Office Bldg. 555 E. Washington Blvd Suite 4401 Las Vegas, NV 89101
Nevada State Library and Archives 100 Stewart St Carson City, NV 89701	Capitol Building Main Floor Carson City, NV 89701
Legislative Building 401 S. Carson St Carson City, NV 89701	Gaming Control Board 1919 College Parkway Carson City, NV 89701

Attached are excerpts from the minutes from the workshop that apply to this regulation.

A public hearing by the Nevada Personnel Commission was held on March 12, 2010. There were no comments received from the public regarding this regulation.

2. The number of persons who:

- (a) **Attended each hearing:** March 12, 2010, Personnel Commission meeting (hearing), 35 attendees
- (b) **Testified at each hearing:** March 12, 2010, Personnel Commission meeting, 1 testified.
- (c) **Submitted written comments:** None

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

Comments were not solicited, as the regulation does not affect businesses.

- 4. 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 language was changed to reflect a comment received at the regulation workshop. Karen Masters was concerned that the language “A workplace accident that results in an employee seeking treatment” would serve as a detriment to employees asking for needed medical care. The language was changed to “receiving treatment.”

- 5. 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 each case must include:**

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

This regulation does not have a direct economic effect on either a regulated business or the public.

- 6. 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.

- 7. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap 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 amendment duplicates.

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

This regulation does not include any provisions that are more stringent than any federal regulation.

- 9. 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.**

No fees are associated with this regulation.

- 10. 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?**

This regulation is specific to State government agencies and has no impact on small businesses.