

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

LCB File No. R142-12

Effective January 28, 2013

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

AUTHORITY: §§1-16, NRS 483.908.

A REGULATION relating to commercial drivers' licenses; requiring an applicant for or holder of a commercial driver's license or instruction permit to obtain a medical examination and certify the type of commerce in which he or she will operate a commercial vehicle; providing a means for obtaining a variance or waiver of medical requirements; providing for the cancellation of a commercial driver's license or instruction permit in certain circumstances; and providing other matters properly relating thereto.

Section 1. Chapter 483 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *As used in NAC 483.800 to 483.850, inclusive, and sections 2 to 12, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Commercial motor vehicle” means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:*

- 1. Has a gross combination weight rating of 26,001 or more pounds and which includes a towed unit with a gross vehicle weight rating of more than 10,000 pounds;*
- 2. Has a gross vehicle weight rating of 26,001 or more pounds;*
- 3. Is designed to transport 16 or more passengers, including the driver; or*

4. Regardless of size, is used in the transportation of materials which are considered to be “hazardous” for the purposes of the federal Hazardous Materials Transportation Act and for which the display of identifying placards is required pursuant to the Hazardous Materials Regulations, 49 C.F.R. Part 172, Subpart F.

Sec. 4. “Excepted interstate commerce” means the operation of a commercial motor vehicle exclusively in interstate commerce excepted under 49 C.F.R. § 390.3(f), 391.2 or 391.68 from all or parts of the qualification requirements of 49 C.F.R. Part 391 or under 49 C.F.R. § 398.2 from all or parts of the qualification requirements of 49 C.F.R. Part 398, including, without limitation, by a driver who:

- 1. Operates a school bus pursuant to 49 C.F.R. § 390.5 when transporting only school children or school personnel from home to school and from school to home;*
- 2. Is a federal, state or local government employee;*
- 3. Operates a fire truck or rescue vehicles during emergencies and other related activities;*
- 4. Primarily transports propane winter heating fuel when responding to an emergency condition requiring immediate response such as damage to a propane gas system after a storm or flooding;*
- 5. Responds to a pipeline emergency condition requiring immediate response such as a pipeline leak or rupture;*
- 6. Operates a commercial motor vehicle in custom harvesting on a farm, to transport farm machinery and supplies used in the custom harvesting operation to and from a farm or to transport custom-harvested crops to storage or market;*
- 7. Operates a commercial motor vehicle as a beekeeper in the seasonal transportation of bees;*

8. *Is a farmer who controls and operates a commercial motor vehicle to transport agricultural products to and from a farm and within 150 air miles of the farm that is not a combination vehicle including a power unit and a towed unit, farm machinery or farm supplies and contains no hazardous material of a type or quantity which would require the vehicle to be placarded in accordance with 49 C.F.R. § 177.823;*

9. *Operates a commercial motor vehicle as a private motor carrier of passengers for non-business purposes;*

10. *Transports migrant workers; or*

11. *Transports human corpses or sick or injured persons.*

Sec. 5. 1. “Excepted intrastate commerce” means the operation of a commercial motor vehicle:

(a) Solely within the borders of this State; and

(b) Exclusively in transportation or operations that would have been excepted under 49 C.F.R. § 390.3(f), 391.2 or 391.68 from all or parts of the qualification requirements of 49 C.F.R. Part 391 or under 49 C.F.R. § 398.2 from all or parts of the qualification requirements of 49 C.F.R. Part 398 if the transportation or operations had occurred in interstate commerce, including, without limitation, by a driver who:

(1) Operates a school bus pursuant to 49 C.F.R. § 390.5 when transporting only school children or school personnel from home to school and from school to home;

(2) Is a federal, state or local government employee;

(3) Operates a fire truck or rescue vehicles during emergencies and other related activities;

(4) Primarily transports propane winter heating fuel when responding to an emergency condition requiring immediate response such as damage to a propane gas system after a storm or flooding;

(5) Responds to a pipeline emergency condition requiring immediate response such as a pipeline leak or rupture;

(6) Operates a commercial motor vehicle in custom harvesting on a farm, to transport farm machinery and supplies used in the custom harvesting operation to and from a farm or to transport custom harvested crops to storage or market;

(7) Operates a commercial motor vehicle as a beekeeper in the seasonal transportation of bees;

(8) Is a farmer who controls and operates a commercial motor vehicle to transport agricultural products to and from a farm and within 150 air miles of the farm that is not a combination vehicle including a power unit and a towed unit, farm machinery or farm supplies and contains no hazardous material of a type or quantity which would require the vehicle to be placarded in accordance with 49 C.F.R. § 177.823;

(9) Operates a commercial motor vehicle as a private motor carrier of passengers for non-business purposes;

(10) Transports migrant workers; or

(11) Transports human corpses or sick or injured persons.

2. The term does not include the operation of a commercial motor vehicle to cross any state or national border.

Sec. 6. *“Medical examiner’s certificate” means a certificate issued pursuant to 49 C.F.R § 391.43(g).*

Sec. 7. *“Non-excepted interstate commerce” means the operation of a commercial motor vehicle in interstate commerce by a driver who is subject to and meets the qualification requirements of 49 C.F.R. Part 391, including, without limitation, a driver who operates a school bus outside of the definition of “school bus operation” set forth in 49 C.F.R. § 390.5.*

Sec. 8. *“Non-excepted intrastate commerce” means the operation of a commercial motor vehicle solely within the borders of this State, including, without limitation, by a driver who operates a school bus outside of the definition of “school bus operation” set forth in 49 C.F.R. § 390.5. The term does not include the operation of a commercial motor vehicle:*

- 1. To cross any state or national border; or*
- 2. As described in paragraph (b) of subsection 1 of section 5 of this regulation.*

Sec. 9. *1. Except as otherwise provided in subsection 2, every person who applies for, or currently holds, a commercial driver’s license or instruction permit must:*

(a) Provide a current medical examiner’s certificate and, if applicable, a document showing that the person was issued a variance by the Federal Motor Carrier Safety Administration of the United States Department of Transportation from the requirement to maintain a medical examiner’s certificate or a waiver pursuant to NAC 483.8031; and

(b) On or before January 30, 2014, self-certify on a form prescribed by the Department that he or she intends to drive in only one of the following types of commerce:

- (1) Excepted interstate commerce;*
- (2) Non-excepted interstate commerce;*
- (3) Excepted intrastate commerce; or*
- (4) Non-excepted intrastate commerce.*

2. A person who applies for, or currently holds, a commercial driver's license or instruction permit and who operates a commercial motor vehicle only in excepted interstate commerce or excepted intrastate commerce is not required to comply with the provisions of paragraph (a) of subsection 1.

Sec. 10. *1. Except as otherwise provided in subsection 5, every person who applies for, or currently holds, a commercial driver's license or instruction permit shall undergo a medical examination that meets the requirements of 49 C.F.R. § 391.43.*

2. If the applicant or holder obtains a medical examiner's certificate that requires a variance or waiver, he or she may apply:

(a) To the Federal Motor Carrier Safety Administration of the United States Department of Transportation for a variance.

(b) To the Department for a waiver pursuant to NAC 483.8031 if the applicant or holder:

(1) Is unable to obtain a variance from the Federal Motor Carrier Safety Administration;

(2) Operates a commercial motor vehicle solely within the borders of this State; and

(3) Does not hold an endorsement obtained pursuant to 49 C.F.R. § 383.93 to operate a passenger vehicle, a school bus or a vehicle used to transport hazardous materials.

3. A holder of a commercial driver's license that contains an endorsement to operate a passenger vehicle, a school bus or a vehicle used to transport hazardous materials who is unable to obtain a medical examiner's certificate and operates a commercial motor vehicle solely within the borders of this State must:

(a) Remove the endorsement and apply for a waiver pursuant to NAC 483.8031;

(b) Self-certify pursuant to section 9 of this regulation that he or she intends to operate a commercial motor vehicle only in non-excepted intrastate commerce and apply for a waiver pursuant to NAC 483.8031;

(c) Self-certify pursuant to section 9 of this regulation that he or she intends to operate a commercial motor vehicle only in excepted interstate commerce or excepted intrastate commerce; or

(d) Apply to the Department for a noncommercial driver's license pursuant to NRS 483.010 to 483.630, inclusive.

4. A holder of a commercial driver's license whose variance issued by the Federal Motor Carrier Safety Administration has been removed or rescinded must:

(a) If he or she wishes to continue operating a commercial motor vehicle:

(1) Provide a current medical examiner's certificate indicating that the health of the holder is such that he or she does not require, or no longer requires, a waiver or variance to operate a commercial motor vehicle;

(2) Self-certify pursuant to section 9 of this regulation that he or she intends to operate a commercial motor vehicle only in non-excepted intrastate commerce and apply for a waiver pursuant to NAC 483.8031;

(3) Self-certify pursuant to section 9 of this regulation that he or she intends to operate a commercial motor vehicle only in excepted interstate commerce or excepted intrastate commerce; or

(b) If he or she wishes to operate only a noncommercial motor vehicle, apply to the Department for a noncommercial driver's license pursuant to NRS 483.010 to 483.630, inclusive.

5. A person who applies for, or currently holds, a commercial driver's license or instruction permit and who operates a commercial motor vehicle only in excepted interstate commerce or excepted intrastate commerce is not required to comply with the provisions of subsection 1.

Sec. 11. *Before a medical examiner's certificate issued to a holder of a commercial driver's license or instruction permit expires, the Department may provide to the holder a notice that:*

1. His or her medical examiner's certificate is due to expire;

2. He or she must:

(a) Undergo a new medical examination and provide to the Department a copy of the new medical examiner's certificate;

(b) Change his or her self-certification pursuant to section 9 of this regulation to a type of commerce that does not require a medical examiner's certificate; or

(c) Appear in person at an office of the Department and apply for a noncommercial driver's license pursuant to NRS 483.010 to 483.630, inclusive, removing the commercial driving privilege; and

3. He or she may be subject to the cancellation of his or her commercial driver's license or instruction permit for failing to perform one of the actions described in subsection 2.

Sec. 12. *1. A person who fails to comply with:*

(a) The requirements of paragraph (a) of subsection 1 of section 9 of this regulation is subject to a cancellation of his or her commercial driver's license or instruction permit.

(b) The requirements of paragraph (b) of subsection 1 of section 9 of this regulation on or before January 30, 2014, or who operates a commercial motor vehicle outside of the type of

commerce for which the person, on or after January 30, 2014, self-certified pursuant to section 9 of this regulation, is subject to a cancellation of his or her commercial driver's license or instruction permit.

(c) The provisions of subsection 3 or 4 of section 10 of this regulation is subject to a cancellation of his or her commercial driver's license or instruction permit.

2. In addition to any penalty provided in the provisions adopted by reference in NAC 483.800, a person who holds a commercial driver's license or instruction permit with an expired medical examiner's certificate is subject to cancellation of his or her commercial driver's license or instruction permit.

3. A person whose commercial driver's license or instruction permit is cancelled pursuant to this section shall surrender his or her commercial driver's license or instruction permit to the Department.

4. To reinstate a commercial driver's license or instruction permit after cancellation, a person must pay the reinstatement fees established in NRS 483.910 and:

(a) Present a current medical examiner's certificate to the Department; or

(b) Self-certify pursuant to section 9 of this regulation that he or she intends to operate a commercial motor vehicle only in excepted interstate commerce or excepted intrastate commerce.

Sec. 13. NAC 483.795 is hereby amended to read as follows:

483.795 1. The annual inspection of vehicles used for training drivers and operated on a highway that is required pursuant to NRS 483.745 must be performed by a registered garage or licensed body shop or an inspector meeting the qualifications of 49 C.F.R. § 396.19 and be reported to the Department on an inspection form provided by the Department.

2. The annual inspection of:

(a) A vehicle for which a Class C driver's license is required must include, as applicable, an inspection of the vehicle's windshield, side glass, rear glass, horn, muffler, air bag indicator light, fenders, tires and tread, headlights, taillights, turn signals, parking lights, brake lights, brakes, dual brakes, rearview mirror, second rearview mirror, steering, windshield wipers, emergency brake, safety belts, shoulder harness and dual clutch.

(b) A motorcycle must include an inspection of the motorcycle's horn, headlight, turn signals, reflectors, taillight, mufflers, brake light, fenders and mirrors.

3. Each vehicle which is not a commercial motor vehicle ~~[pursuant to NAC 483.8495]~~ and is used by a school for behind-the-wheel training must be maintained in a clean and safe operating condition at all times and have at least the following equipment:

(a) If the vehicle is equipped with an automatic transmission, a dual braking device which enables an instructor in the front passenger seat to bring the vehicle under control in an emergency;

(b) If the vehicle is equipped with a standard transmission, a dual clutch device and braking device which enables an instructor in the front passenger seat to bring the car under control in an emergency;

(c) A separate mirror which enables the instructor to view traffic behind the vehicle; and

(d) A safety belt for the driver and each passenger of the vehicle.

4. If a school for training drivers purchases or leases a motor vehicle for the training of drivers, the school shall have the vehicle inspected by a registered garage or a licensed body shop not later than 30 days after the purchase or lease and before providing any training in the vehicle.

5. Each vehicle which is a commercial motor vehicle ~~[pursuant to NAC 483.8495]~~ and is used by a school for behind-the-wheel training must meet all the requirements of the Federal Motor Carrier Safety Regulations as set forth in 49 C.F.R. Part 396.

6. While being used for behind-the-wheel training on a public road, a vehicle must display conspicuously a sign which states "Student Driver" or the name of the school. The sign must:

- (a) Be securely mounted on the vehicle;
- (b) Not be constructed of paper; and
- (c) Have a background and letters of contrasting colors and be visible at least 100 feet from both the front and rear of the vehicle while operating in traffic.

7. As used in this section, unless the context otherwise requires:

(a) "Licensed body shop" means a body shop licensed by the Department pursuant to NRS 487.630.

(b) "Registered garage" means a garage registered with the Department pursuant to NRS 487.560.

Sec. 14. NAC 483.825 is hereby amended to read as follows:

483.825 The Department will not issue a license pursuant to NRS 483.900 to 483.940, inclusive, to a person:

- 1. Who is under 21 years of age;
- 2. Who does not meet the requirements of 49 C.F.R. §§ 391.41 to 391.49, inclusive, for operating a commercial motor vehicle;
- 3. Whose driver's license is revoked, suspended or subject to disqualification;
- 4. Who has not passed the required examinations; ~~[or]~~
- 5. *Who fails to comply with the requirements of section 9 of this regulation; or*

6. Who, in the opinion of the Administrator upon good cause and belief, would not be able to drive safely a commercial motor vehicle on the highways.

Sec. 15. NAC 483.8495 is hereby amended to read as follows:

483.8495 1. In addition to the penalties provided in those provisions adopted by reference in NAC 483.800, a person who operates a commercial motor vehicle while his or her commercial driver's license is suspended, revoked or cancelled, or while the person is otherwise disqualified from operating a commercial motor vehicle, is subject to the provisions and penalties specified in NRS 483.560.

2. A person who knowingly falsifies any information or certification on an application filed with the Department for a commercial driver's license or permit is subject to the provisions specified in NRS 483.420.

3. A person who holds a commercial driver's license with an expired hazardous materials endorsement is subject to a suspension of his or her commercial driver's license for not less than 30 days.

4. At least 90 days before the expiration of a person's hazardous materials endorsement, the Department will provide the person a notice which informs the person that he or she:

(a) Must apply for a security threat assessment required pursuant to 49 C.F.R. § 383.141 at least 60 days before his or her hazardous materials endorsement expires and must pass the security threat assessment before his or her hazardous materials endorsement may be renewed;

(b) May be subject to suspension of his or her commercial driver's license as described in subsection 3; and

(c) May avoid such suspension of his or her commercial driver's license by:

(1) Complying with the requirements for renewing a hazardous materials endorsement, including, without limitation, passing the security threat assessment required pursuant to 49 C.F.R. § 383.141;

(2) Requesting that the Department remove the hazardous materials endorsement from his or her commercial driver's license; or

(3) Requesting that the Department issue a noncommercial driver's license in place of the commercial driver's license.

5. The Department will require a person to obtain a new driver's license that reflects the renewal of a hazardous materials endorsement, the removal of such an endorsement, or the change to a noncommercial license described in paragraph (c) of subsection 4 in person at an office of the Department.

6. A person who is disqualified from driving a commercial motor vehicle under this section shall surrender his or her commercial driver's license or permit to the Department.

7. To reinstate a commercial driver's license or permit after disqualification, a person must, in addition to any other conditions required by law:

(a) Complete an application;

(b) Pass a vision test, knowledge tests and, if applicable, driving skills tests;

(c) Provide any additional information requested by the Department to determine his or her fitness to operate a commercial motor vehicle safely; and

(d) Pay the reinstatement fees established in NRS 483.910.

~~8. As used in this section, "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:~~

- ~~—(a) Has a gross combination weight rating of 26,001 or more pounds which includes a towed unit with a gross vehicle weight rating of more than 10,000 pounds;~~
- ~~—(b) Has a gross vehicle weight rating of 26,001 or more pounds;~~
- ~~—(c) Is designed to transport 16 or more passengers, including the driver; or~~
- ~~—(d) Regardless of size, is used in the transportation of materials which are considered to be “hazardous” for the purposes of the federal Hazardous Materials Transportation Act and for which the display of identifying placards is required pursuant to the Hazardous Materials Regulations, 49 C.F.R. Part 172, Subpart F.]~~

Sec. 16. This regulation becomes effective on January 28, 2013.

**INFORMATIONAL STATEMENT OF ADOPTED REGULATIONS AS REQUIRED BY
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE NO. R142-12**

October 22, 2012

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 483:

1. 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 regulation, notices of workshop and notices of intent to act upon the regulations were sent out for posting by electronic mail to all DMV offices and county libraries where there is not a DMV office. They were also sent out by electronic mail stakeholders and employers of commercial driver license holders known to the Department. They were also made available on the Department of Motor Vehicles website at www.dmvnv.com/publicmeetings.htm.

A Public Workshop was noticed on September 10, 2012, and held on September 27, 2012 at the Nevada State Legislative Building in Carson City and video-conferenced to the Grant Sawyer Building in Las Vegas. Nobody representing the public or business industry attended. No testimony was given and the workshop was closed.

A Notice of Intent to Act upon the Regulations was noticed on September 10, 2012, and a public hearing was held on October 10, 2012. There were three in attendance at the hearing. One offered testimony in support of the regulations. The two others did not testify. No written testimony was received.

A second public hearing was held with a 3-day notice to adopt the effective date of January 28, 2013. This hearing was noticed on Tuesday, October 16, 2012, and held on Monday, October 22, 2012. No one from the general public was in attendance in Carson City or Las Vegas.

A recording of the Public Workshop and Notice of Intent to Act upon the Regulations is on file at the Department of Motor Vehicles, Management Services and Programs Division, 555 Wright Way, Carson City, Nevada 89711. Copies of these minutes may be obtained by written request to Attention Pete Olson, Department of Motor Vehicles, Management Services and Programs Division, 555 Wright Way, Carson City, Nevada 89711.

2. The number of persons who:

(a) Attended the workshop; 7

In attendance in Carson City – 5

Teri Baltisberger, Department of Motor Vehicles (Workshop's Hearing Officer)

Jude Hurin, Department of Motor Vehicles
Debbie Wilson, Department of Motor Vehicles
Heather Hawkins-Fancher, Department of Motor Vehicles
Pete Olson, Department of Motor Vehicles

In attendance in Las Vegas – 2

Kevin Malone, Department of Motor Vehicles
Tracey Vanattan, Department of Motor Vehicles

(b) Testified at the workshop; 0

(c) Submitted to the agency written statements; 1

Diana Hollander, Department of Education

(d) Attended the hearing; 9

In attendance in Carson City – 6

Teri Baltisberger, Department of Motor Vehicles (Hearings Officer)
Jude Hurin, Department of Motor Vehicles
Debbie Wilson, Department of Motor Vehicles
Heather Hawkins-Fancher, Department of Motor Vehicles
John Amestoy, Department of Public Safety
Jeff Richter, Department of Transportation

In attendance in Las Vegas – 2

Kevin Malone, Department of Motor Vehicles
Diane Hollander – Department of Education

In attendance in Elko – 1

Donna Folgeman, Department of Motor Vehicles

(e) Testified at the hearing - 1

Diane Hollander, Department of Education

(f) Submitted to the agency written statements – 0

- 3. 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 using electronic mail and postings as described in Question 1 for both the Workshop and the Hearing. Copies of the minutes may be obtained by written request to Attention Pete Olson, Department of Motor Vehicles, Management Services and Programs Division, 555 Wright Way, Carson City, Nevada 89711.

- 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 proposed draft regulations were submitted to LCB for review on June 29, 2012, prior to the public workshop and hearing. Changes were made following the workshop. The final adopted regulation reflects the changes made after the workshop and prior to the hearing.

5. 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

The regulations will have no estimated adverse economic effect on businesses or on the public.

(b) Both immediate and long-term effects.

The regulations will have no estimated immediate or long-term economic effect on businesses or on the public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

Per Federal regulations, every CDL driver must self-certify to the type of commerce his/she intends to drive and to provide an updated medical examiners certificate based on the certification no later than January 30, 2014. Between February 1, 2013 and January 30, 2014, every CDL driver will be required to submit self-certification and medical examiners certificate documentation. A mail-in process will be available for a majority of the drivers. For the purposes of these calculations, the number of CDL holders submitting information on a monthly basis was calculated by dividing equally 58,000 by 12 months (4,833). These calculations are for partial FY13 and FY14.

The agency estimates postage for rejection notices will be required to be sent to commercial driver license holders as a result of incomplete/inaccurate documentation being submitted through a mail-in process. Additionally, if a driver fails to provide the information by the mandated date, withdrawal action will be taken. This is a new withdrawal that will require a certified mailer be generated notifying the driver of pending action against his/her commercial driving privileges. Below are the estimates for fiscal years 2013 through 2015.

| | Totals | FY13 | FY14 | FY15 |
|----------------------|-----------|-----------|-----------|-----------|
| Initial "Enrollment" | \$ 55,230 | \$ 23,012 | \$ 32,217 | |
| Ongoing Costs | \$ 38,882 | | \$ 11,436 | \$ 27,446 |
| Total by Fiscal Year | | \$ 23,012 | \$ 43,653 | \$ 27,446 |

7. 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 regulations that are duplicated or overlapped by the adopted regulations. 49 C.F.R. Part 383 defines the requirements as outlined in the proposed regulations. The proposed regulations offer clarification on excepted drivers.

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

The regulations are not more stringent than federal regulations.

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.

The regulations do not provide new fees or increases in any existing fees.

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 small business?

The Department of Motor Vehicles has determined that the adopted regulation does not impose a direct and significant economic burden on small businesses, nor will it restrict the formation, operation or expansion of small businesses.