

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

LCB File No. R085-17

January 12, 2018

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

AUTHORITY: §§1-4 and 8, NRS 366.110, 366.220, 366.260 and 366.265; §§5, 6 and 9, NRS 481.051 and 482.160; §7, section 6 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 974.

A REGULATION relating to transportation; imposing a fee for the initial issuance, renewal or reinstatement of a license of a special fuel dealer, special fuel exporter, special fuel manufacturer, special fuel supplier, special fuel transporter and special fuel user; requiring the Department of Motor Vehicles to refuse to renew the certificate of registration or revoke the certificate of registration of certain motor carriers who fail to provide certain information to the Department or who are subject to certain out-of-service orders; repealing the fee imposed for an identifying device; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires a person to obtain a license from the Department of Motor Vehicles to engage in business as a special fuel dealer, special fuel exporter, special fuel manufacturer, special fuel supplier, special fuel transporter or special fuel user. The Department is authorized to adopt regulations relating to the issuance of such a license and the collection of fees therefor. (NRS 366.220) **Section 1** of this regulation imposes a fee of \$115 for a person applying for the initial issuance, renewal or reinstatement of a license as a special fuel dealer, special fuel exporter, special fuel manufacturer, special fuel supplier or special fuel transporter. A person applying for the initial issuance, renewal or reinstatement of a license as a special fuel user is required to pay a fee of \$25. **Sections 2-4** of this regulation make conforming changes.

Existing law requires a person who is required to be licensed as a special fuel user and who uses special fuel in a motor vehicle to display an identifying device obtained from the Department on the exterior of the motor vehicle. (NRS 366.265) Existing regulations impose a fee of \$6 for each such identifying device. (NAC 366.800) **Section 8** of this regulation repeals that fee, and **section 1** requires the Department to provide such devices to a special fuel user at no cost to the special fuel user.

The 79th Session of the Nevada Legislature enacted a law that prospectively requires certain motor carriers registering commercial motor vehicles in this State to: (1) obtain an identification number from the United States Department of Transportation, known as a

“USDOT number”; (2) display that USDOT number on certain commercial motor vehicles of the motor carrier; and (3) notify the Department of Motor Vehicles of the USDOT number and the name of the motor carrier responsible for the safety of each such vehicle. (Section 5 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 973) Another such provision prospectively authorizes the Department of Motor Vehicles to refuse to renew the certificate of registration of a commercial motor vehicle if the motor carrier fails to meet those requirements or if the motor carrier is subject to certain out-of-service orders. (Section 8 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 974) Existing law was amended prospectively to authorize the Department of Motor Vehicles to revoke the certificate of registration of a motor vehicle for the same reasons. (NRS 482.465, as amended by section 13 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 979) **Section 6** of this regulation makes such a refusal to renew or such a revocation of a certificate of registration mandatory by the Department of Motor Vehicles. **Section 6** also requires the Department of Motor Vehicles to renew or reinstate the certificate of registration, as applicable, if the motor carrier provides evidence satisfactory to the Department of Motor Vehicles that each condition which resulted in the refusal to renew or the revocation has been corrected, and the motor carrier meets all other applicable registration requirements.

The 79th Session of the Nevada Legislature also prospectively amended existing law to require the Department to adopt regulations which set forth each provision of federal regulations which, when a violation of the provision is a basis for a temporary prohibition against operation by a motor carrier, qualifies that temporary prohibition as an out-of-service order for the purposes of certain registration requirements and enforcement authority. (Section 6 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 974) **Section 7** of this regulation sets forth those provisions for both interstate and intrastate operation by a motor carrier.

The new provisions and amendments to existing law related to **sections 5-7** of this regulation will become effective on the earlier of: (1) July 1, 2020; or (2) the date on which the Director of the Department of Motor Vehicles notifies the Governor that sufficient resources are available to enable the Department to carry out the amendatory provisions of Senate Bill No. 31 of the 79th Session. (Section 26 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 987) **Section 9** of this regulation provides that **sections 1-4 and 8** become effective on January 1, 2019, or upon the filing of this regulation with the Secretary of State, whichever occurs later. **Section 9** also provides that **sections 5-7** become effective on the date: (1) the underlying bill becomes effective; or (2) the regulation is filed with the Secretary of State, whichever occurs later.

Section 1. Chapter 366 of NAC is hereby amended by adding thereto a new section to read as follows:

1. An application for the initial issuance of a license, renewal of a license or reinstatement of a suspended, cancelled or revoked license as a special fuel dealer, special fuel

exporter, special fuel manufacturer, special fuel supplier or special fuel transporter must be accompanied by a fee of \$115.

2. An application for the initial issuance of a license, renewal of a license or reinstatement of a suspended, cancelled or revoked license as a special fuel user must be accompanied by a fee of \$25. The Department will issue to a person licensed as a special fuel user any identifying device required pursuant to NRS 366.265 at no cost to the special fuel user.

Sec. 2. NAC 366.0068 is hereby amended to read as follows:

366.0068 1. An applicant for a special fuel exporter's license issued pursuant to the provisions of NRS 366.240 must submit to the Department an application on a form provided by the Department.

2. An application submitted pursuant to this section must be accompanied by a list of the states or other jurisdictions to which the applicant wishes to export and proof satisfactory to the Department that the applicant is licensed or registered to import special fuel or other petroleum products into each state and other jurisdiction to which the applicant wishes to export such fuel or products.

3. Except as otherwise provided in subsection 2 of NRS 366.240, the Department will issue a special fuel exporter's license upon receipt and approval of:

- (a) A completed application; ~~and~~
- (b) *The fee required by section 1 of this regulation; and*
- (c) Any proof required by the Department pursuant to subsection 2.

4. If a special fuel exporter wishes to export to a state or other jurisdiction in which he or she was not licensed or registered to import special fuel or other petroleum products when he or

she submitted an original application pursuant to this section, the special fuel exporter must file an addendum to the original application providing proof satisfactory to the Department of his or her licensure or registration to import special fuel or other petroleum products into each state or other jurisdiction to which he or she wishes to export such fuel or products and the date on which such licensure or registration became effective. The Department will notify the special fuel exporter of the date on which he or she may begin exporting to that state or other jurisdiction upon receipt and approval of any proof required by the Department pursuant to this subsection.

Sec. 3. NAC 366.0069 is hereby amended to read as follows:

366.0069 1. An applicant for a special fuel transporter's license issued pursuant to the provisions of NRS 366.240 must submit to the Department an application on a form provided by the Department.

2. An application submitted pursuant to this section must be accompanied by a list of the states and other jurisdictions to which the applicant wishes to transport and proof satisfactory to the Department of the valid registration of each vehicle which the applicant will use in the transportation of special fuel, whether the vehicle is apportioned or base-plated.

3. Except as otherwise provided in subsection 2 of NRS 366.240, the Department will issue a special fuel transporter's license upon receipt and approval of:

- (a) A completed application; ~~and~~
- (b) *The fee required by section 1 of this regulation; and*
- (c) Any proof required by the Department pursuant to subsection 2.

4. A special fuel supplier, special fuel dealer or special fuel exporter shall not conduct business with an unlicensed special fuel transporter. A special fuel supplier, special fuel dealer or

special fuel exporter who conducts business with an unlicensed special fuel transporter is subject to an administrative fine imposed by the Department pursuant to NRS 366.740.

5. A special fuel transporter who conducts business with a special fuel supplier, special fuel dealer or special fuel exporter must provide proof of licensure pursuant to this chapter upon the request of the special fuel supplier, special fuel dealer or special fuel exporter.

6. A special fuel transporter shall, upon the expiration, suspension or revocation of his or her license, immediately notify his or her customers who are special fuel suppliers, special fuel dealers or special fuel exporters of the expiration, suspension or revocation of the license.

7. A special fuel transporter, upon the expiration, suspension or revocation of his or her license, shall not transport special fuel into, out of or within the State pursuant to NRS 366.720. A special fuel transporter who violates the provisions of this subsection is subject to an administrative fine pursuant to NRS 366.740 for each such transport.

8. The Department may, as necessary to administer the provisions of this chapter and chapter 366 of NRS, notify the special fuel suppliers, special fuel dealers and special fuel exporters of the expiration, suspension or revocation of the license of a special fuel transporter.

Sec. 4. NAC 366.007 is hereby amended to read as follows:

366.007 1. Except as otherwise provided in chapter 366 of NRS, the Department will refuse to issue *a license* to , or renew *or reinstate* a license of, or will suspend, cancel or revoke a license issued pursuant to NRS 366.240, ~~to~~ a person if the person:

(a) Fails to provide complete and accurate information on the application for licensure as required by the Department;

(b) *Fails to pay the fee required by section 1 of this regulation;*

(c) Provides false or misleading information on the application for licensure required by the Department;

~~(e)~~ (d) Makes a material misstatement of fact on the application; or

~~(d)~~ (e) Is delinquent, without having received an extension, in the payment of a tax on special fuel or any other petroleum products in any state, district, territory or possession of the United States, or a foreign country.

2. If the Department refuses to issue, ~~for~~ renew *or reinstate* a license or suspends, cancels or revokes a license pursuant to this section or NRS 366.240, the applicant or licensee may request an informal review by the Department at which the applicant or licensee must demonstrate why the Department should take a different action. If, after the informal review, the Department does not revise its action to the satisfaction of the applicant or licensee, the applicant or licensee may request a hearing before the Department pursuant to NRS 366.250.

Sec. 5. Chapter 482 of NAC is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this regulation.

Sec. 6. 1. *Pursuant to the provisions of NRS 482.465, as amended by section 13 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 979, the Department will revoke the certificate of registration of a commercial motor vehicle of a motor carrier who is required by state or federal law to register with the Federal Motor Carrier Safety Administration of the United States Department of Transportation and obtain a USDOT number issued by the United States Department of Transportation if the motor carrier:*

(a) Has failed to notify the Department pursuant to section 5 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 973, of the USDOT number of the motor carrier and the name of the motor carrier responsible for the safety of the commercial motor vehicle; or

(b) Is subject to an out-of-service order.

2. Pursuant to section 8 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 974, the Department will not renew the certificate of registration of a commercial motor vehicle of a motor carrier who is required by state or federal law to register with the Federal Motor Carrier Safety Administration of the United States Department of Transportation and obtain a USDOT number issued by the United States Department of Transportation if the motor carrier:

(a) Has failed to notify the Department pursuant to section 5 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 973, of the USDOT number of the motor carrier and the name of the motor carrier responsible for the safety of the commercial motor vehicle; or

(b) Is subject to an out-of-service order.

3. The Department will reinstate a certificate of registration revoked pursuant to subsection 1, or renew a certificate of registration that was not renewed pursuant to subsection 2, as applicable, if the motor carrier:

(a) Meets all other applicable registration requirements; and

(b) Provides evidence satisfactory to the Department that the motor carrier:

(1) Has complied with the notification requirements of section 5 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 973; or

(2) Is no longer subject to an out-of-service order,

↪ as applicable.

Sec. 7. 1. A temporary prohibition on interstate operation by a motor carrier that is issued by a state or federal entity with authority to issue such a temporary prohibition is

deemed an out-of-service order for the purposes of section 4 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 973, if the temporary prohibition is issued pursuant to:

- (a) 49 C.F.R. § 385.13;*
- (b) 49 C.F.R. § 385.105;*
- (c) 49 C.F.R. § 385.111;*
- (d) 49 C.F.R. § 385.308;*
- (e) 49 C.F.R. § 385.325;*
- (f) 49 C.F.R. § 385.337;*
- (g) 49 C.F.R. § 386.72; or*
- (h) 49 C.F.R. § 386.83,*

↪ as each regulation existed on October 1, 2017, and any subsequent amendments thereto.

2. A temporary prohibition on intrastate operation by a motor carrier that is issued by a state or federal entity with authority to issue such a temporary prohibition is deemed an out-of-service order for the purposes of section 4 of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 973, if the temporary prohibition is issued pursuant to:

- (a) 49 C.F.R. § 385.13; or*
- (b) 49 C.F.R. § 386.72,*

↪ as each regulation existed on October 1, 2017, and any subsequent amendments thereto.

Sec. 8. NAC 366.800 is hereby repealed.

Sec. 9. 1. This section and sections 1 to 4, inclusive, and 8 of this regulation become effective on January 1, 2019, or upon filing with the Secretary of State pursuant to NRS 233B.067 or 233B.0675, whichever occurs later.

2. Sections 5, 6 and 7 of this regulation become effective on the date determined pursuant to paragraph (a) or (b), whichever is later:

(a) On the earlier of:

(1) July 1, 2020; or

(2) The date on which the Director of the Department of Motor Vehicles notifies the Governor that sufficient resources are available to enable the Department to carry out the amendatory provisions of Senate Bill No. 31, chapter 180, Statutes of Nevada 2017, at page 971.

(b) Upon filing with the Secretary of State pursuant to NRS 233B.067 or 233B.0675.

TEXT OF REPEALED SECTION

366.800 Fee for issuance of identifying device. A special fuel user must pay a fee of \$6 to the Department for each identifying device issued pursuant to subsection 1 of NRS 366.265 to defray the administrative cost of issuing the identifying device.