

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

LCB File No. R014-22

August 8, 2022

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

AUTHORITY: §§ 1, 2 and 4-17, NRS 483.908 and 483.912; § 3, NRS 483.908 and 483.924; §§ 18 and 19, NRS 483.908.

A REGULATION relating to commercial motor vehicles; requiring the Department of Motor Vehicles to permanently revoke or suspend the commercial driver’s license or commercial learner’s permit of a person convicted of certain offenses; revising provisions governing the registration, operation and monitoring of third-party certifiers, third-party companies and third-party schools that provide commercial motor vehicle skills testing; revising provisions governing persons who act or request to act as the responsible party for a third-party company or third-party school; revising the application process for persons who are seeking a waiver of certain physical requirements to operate a commercial motor vehicle; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Department of Motor Vehicles to adopt regulations providing for the issuance, expiration, renewal, suspension, revocation and reinstatement of commercial drivers’ licenses and provides that the Department may authorize any person to administer any driving skills test required to obtain a commercial driver’s license if certain requirements are met. (NRS 483.908, 483.912) Existing regulations authorize the Department to accept, in lieu of a skills test conducted by the Department, a certification of the driving ability of a person submitted by a registered third-party certifier who is: (1) employed by the school for training drivers at which the person whose driving ability is being certified is a student; (2) the employer of the person whose driving ability is being certified; or (3) employed by the same employer as the person whose driving ability is being certified. (NAC 483.1222) A company which is registered with the Department to certify the driving ability of its employees to operate commercial motor vehicles is known as a “third-party company.” (NAC 483.12175) A school for training drivers which is registered with the Department to certify the driving ability of a student enrolled at the school for instruction in the operation of commercial motor vehicles is known as a “third-party school.” (NAC 483.1218)

Section 2 of this regulation authorizes a third-party certifier who is employed by a governmental entity that is a third-party company to apply to the Department for authorization to certify the driving ability of any eligible employee of any other governmental entity in this State.

Section 2 requires the governmental entity to maintain a record of each employee whose driving ability is certified in this manner. **Section 4** of this regulation makes a conforming change to reflect that a third-party certifier of a governmental entity who obtains authorization from the Department may certify the driving ability of employees of other governmental entities.

Section 5 of this regulation requires a third-party company or third-party school to use designated locations to administer skills tests, including vehicle inspections and backing control. **Section 5** also requires a person who acts as a responsible party for a third-party company or third-party school to enter into an agreement with the Department containing certain provisions and provides that a responsible party is subject to any disqualification periods set forth in such an agreement.

Section 6 of this regulation requires an application for registration as a third-party company or third-party school to include verification of the gross vehicle weight rating of vehicles that will be used to administer skills tests. **Section 6** also revises requirements for the inspection by the Department of an applicant for registration as a third-party school.

Section 7 of this regulation revises the records which a third-party company or third-party school is required to maintain, including certain records which must be maintained for each employee or student, as applicable, whose driving ability is certified by the third-party certifier of the company or school.

Section 8 of this regulation removes provisions authorizing the Department to conduct, and a third-party company or third-party school to request, a hearing on the refusal of the Department to renew the registration of a third-party company or third-party school. **Sections 8 and 10** of this regulation prohibit the owner of a third-party company or third-party school that has its registration suspended or revoked from applying to register a new third-party company or third-party school formed for the purpose of evading the period of suspension or revocation.

Existing regulations require a third-party company or third-party school to enter into an agreement with the Department. (NAC 483.12235) **Section 9** of this regulation revises the provisions which must be included in such an agreement.

Section 11 of this regulation revises the eligibility requirements for registration as a third-party certifier and revises provisions governing third-party certifiers who are employed by governmental entities.

Section 12 of this regulation requires a third-party certifier to enter into an agreement with the Department containing certain provisions and provides that a third-party certifier is subject to any period of disqualification set forth in such an agreement.

Section 13 of this regulation requires a person who requests to act as a responsible party for a third-party company or third-party school to consent to fingerprinting and pass a nationwide criminal background check.

Section 14 of this regulation revises the requirement for a third-party company or third-party school to provide notice to the Department of certain changes relating to the skills testing program of the third-party company or third-party school. **Section 15** of this regulation removes the requirement for a third-party company or third-party school to have any vehicle leased or purchased for use in skills testing inspected by a licensed body shop or qualified inspector within 30 days after lease or purchase and instead requires such an inspection to occur before the vehicle is used for skills testing.

Section 16 of this regulation revises the requirements for the on-site inspections by the Department of a third-party company and third-party school and removes the requirement for the

Department to inspect the vehicles of a third-party company or third-party school at least once every 2 years.

Existing regulations provide that the Department may revoke the registration of a third-party certifier if the third-party certifier has been convicted of driving under the influence within the past 7 years. (NAC 483.1236) **Section 17** of this regulation revises this time period to 3 years. **Section 17** also removes provisions authorizing the Department to conduct, and a third-party certifier to request, a hearing on the refusal of the Department to renew the registration of a third-party certifier.

Existing regulations authorize a person who is not physically qualified to operate a commercial motor vehicle pursuant to federal law, but who is otherwise qualified to operate a commercial motor vehicle, to apply to the Department for a waiver of the physical requirements with which the person does not comply. (NAC 483.803) **Section 18** of this regulation updates the address of the Department for the purpose of submitting an application for such a waiver. **Section 19** of this regulation revises provisions governing applications for such a waiver by removing certain additional requirements imposed on applicants who have diabetes mellitus and providing that a person who has diabetes mellitus treated with insulin is not required to obtain such a waiver or undergo a medical examination unless he or she self-certifies as intending to drive in nonexcepted interstate or nonexcepted intrastate commerce. **Section 19** also removes provisions requiring a medical evaluation that is submitted with an application for such a waiver to certify that the vision of the applicant is at least 20/40, corrected or uncorrected, in at least one eye if the applicant suffers from a visual deficiency.

Existing federal law permanently disqualifies a person from operating a commercial motor vehicle if he or she has been convicted of certain criminal offenses. (49 C.F.R. § 383.51) **Section 3** of this regulation provides for the permanent revocation or suspension of the commercial driver's license or commercial learner's permit of a person who has been convicted of such an offense.

Section 1. Chapter 483 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *A third-party certifier who is employed by a governmental entity that is a third-party company may apply to the Department, in such form as the Department may prescribe, for authorization to certify the driving ability of any eligible employee of any other governmental entity in this State.*

2. *A governmental entity that is a third-party company shall maintain a record pursuant to NAC 483.12232 of each employee who is certified pursuant to this section by a third-party*

certifier of the governmental entity in the same manner as if the employee was an employee of the governmental entity.

Sec. 3. *If the Department receives notice that a person who holds a commercial driver's license or commercial learner's permit has been convicted of any offense for which a person is disqualified for life from operating a commercial motor vehicle pursuant to 49 C.F.R. § 383.51, the Department will suspend or revoke, as applicable, the commercial driver's license or commercial learner's permit of the person. The Department will not reinstate a commercial driver's license or commercial learner's permit that has been suspended or revoked pursuant to this section. A person whose commercial driver's license or commercial learner's permit has been suspended or revoked pursuant to this section is not eligible for a commercial driver's license or commercial learner's permit for the remainder of his or her life.*

Sec. 4. NAC 483.1222 is hereby amended to read as follows:

483.1222 The Department may, in lieu of the skills test conducted by the Department, accept certification of the driving ability of a person if the certification is submitted electronically to the Department through a system approved by the Department by a third-party certifier who is:

1. Registered pursuant to NAC 483.1224;
2. Employed by the school for training drivers at which the person whose driving ability is being certified is a student, the employer of the person whose driving ability is being certified, ~~or~~ employed by the same employer as the person whose driving ability is being certified ~~or~~ *authorized by the Department pursuant to section 2 of this regulation to certify the driving ability of the person whose driving ability is being certified;* and

3. Not responsible for the instruction of the person whose driving ability is being certified relating to the operation of the commercial motor vehicle.

Sec. 5. NAC 483.1223 is hereby amended to read as follows:

483.1223 1. A school for training drivers may apply to the Department for registration as a third-party school.

2. A business that assigns its employees to operate a commercial motor vehicle for which a Class A, Class B or Class C commercial driver's license is required may apply to the Department for registration as a third-party company.

3. A third-party company or third-party school must:

(a) Own or lease operational commercial motor vehicles in the following combinations:

(1) If the company or school certifies holders of a Class A commercial learner's permit, at least:

(I) Three trucks or truck tractors; and

(II) Three trailers.

(2) If the company or school certifies holders of a Class B or Class C commercial learner's permit, at least three vehicles that are within Class B or Class C.

(3) If the company or school certifies holders of Class A and Class B or Class C commercial learners' permits, at least:

(I) Three trucks or truck tractors;

(II) Three trailers; and

(III) One vehicle that is within Class B or Class C, as applicable.

(b) Have adequate area to conduct vehicle inspections and exercises in the skills of backing control.

- (c) Have access to public highways to perform road test maneuvers.
- (d) Use designated road test routes that have been approved by the Department for conducting road tests.
- (e) *Use designated locations that have been approved by the Department for conducting skills tests.*

(f) Have access to the Internet for submitting and posting:

- (1) Schedules for skills tests;
- (2) Routes for road tests; and
- (3) Scores received by students on skills tests.

~~(f)~~ (g) Submit to the Department appointments for skills tests within a period set forth by the Department, but not later than 2 days before each skills test.

~~(g)~~ (h) Have the vehicles that it uses for conducting skills tests inspected at least once each year.

4. A person requesting to be a responsible party for a third-party company or third-party school must have a background check completed pursuant to NAC 483.12267.

5. *Each responsible party shall enter into an agreement with the Department that includes, without limitation, a provision:*

(a) Requiring the responsible party to have access to the Internet for submitting and posting schedules for skills tests.

(b) Prohibiting the responsible party from entering any results from a skills test into the system for submitting certifications of driving ability electronically that has been approved by the Department pursuant to NAC 483.1222.

6. Each responsible party shall be subject to any disqualification period set forth in the agreement with the Department entered into pursuant to subsection 5.

7. As used in this section:

(a) “Responsible party” means an employee of a third-party company or third-party school who is designated by the company or school, as applicable, to act on behalf of the company or school.

(b) “Truck” has the meaning ascribed to it in 49 C.F.R. § 390.5.

(c) “Truck tractor” has the meaning ascribed to it in 49 C.F.R. § 390.5.

Sec. 6. NAC 483.12231 is hereby amended to read as follows:

483.12231 1. A business or school for training drivers that is applying for registration as a third-party company or third-party school, as applicable, pursuant to NAC 483.1223 must complete an application on a form provided by the Department which includes, without limitation:

(a) The name of the business or school.

(b) The address of the business or school.

(c) The name and title of the person applying on behalf of the business or school.

(d) For a school for training drivers, information concerning the ownership of the school.

(e) A list of vehicles that the business or school will use to administer skills tests. The list must include, without limitation, the following information for each vehicle:

(1) The class of the vehicle.

(2) Any endorsements applicable to the vehicle.

(3) Whether the vehicle is equipped with air brakes.

(4) The type of transmission with which the vehicle is equipped.

(5) The types of trailer connections with which the vehicle is equipped.

(6) The make, model and vehicle identification number of the vehicle.

(7) The location at which the vehicle will be used to administer skills tests.

(8) Verification that the gross vehicle weight rating for the vehicle, as specified by the manufacturer on the certification label, as described in 49 C.F.R. Part 567, is appropriate for the types and classes of vehicles and endorsements for which the business or school will be administering skills tests.

(f) The number of employees or students that the business or school expects to test annually.

(g) A statement that the applicant has read and will comply with the regulations and requirements for registration adopted by the Department.

2. An applicant shall inform the Department of each location of the business or school for training drivers at which a third-party certifier will be certifying the driving ability of employees or students, as applicable.

3. In evaluating the eligibility of an applicant for registration as a third-party company or third-party school, the Department may consider any additional information that the Department deems necessary for eligibility.

4. The evaluation by the Department of an application for registration as a third-party company will include an inspection of the site of the place of business of the applicant. The inspection must include, without limitation, visual inspections that are substantially similar to the visual inspections described in subsection 5.

5. The evaluation by the Department of an application for registration as a third-party school will include an inspection of each branch location of the school at which drivers are trained. The inspection must include, without limitation, a visual inspection of:

(a) The vehicles to be used by the school for ~~{training-}~~ *testing*.

(b) ~~{Copies of training programs to be used by the school-}~~

~~—(c) Areas within which the school will administer skills tests.~~

~~{(d) The manner in which the school conducts tests of laws and regulations-}~~

~~—(e) The qualifications of instructors who provide instruction at the school-}~~

6. If the Department approves a third-party company or third-party school to administer skills tests, the Department will issue to the company or school, as applicable, a certificate of registration indicating the types and classes of vehicles and endorsements that the company or school may certify.

7. After the initial issuance of a certificate of registration pursuant to subsection 6, the Department may waive any part of the inspection otherwise required pursuant to subsection 4 or 5, as applicable, if the business or school for training drivers currently has on its staff other employees or instructors who are registered as third-party certifiers.

8. The Department will assign a unique number to each business or school for training drivers registered as a third-party company or third-party school, as applicable. The number must not be transferred to or used by any other business or school for training drivers.

9. If the Department denies an application for registration as a third-party company or third-party school, the Department will notify the applicant by mail of its decision. Except as otherwise provided in NAC 483.12233, the applicant may reapply at any time on a new application form. The applicant must state in the new application the measures that the applicant has taken to correct each deficiency set forth in the notice received from the Department which caused the denial of the original application.

Sec. 7. NAC 483.12232 is hereby amended to read as follows:

483.12232 1. A third-party company shall maintain a record of each employee of the company who is certified by a third-party certifier of the third-party company. The record must be available for inspection by a representative of the Department during normal business hours and ~~and [except as otherwise provided in subsection 4.]~~ must include:

- (a) ~~[A description of the training of the employee.]~~ *Proof of employment.*
- (b) ~~[The identity of the person who performed the training.]~~ *A copy of the scoring sheet for each skills test administered to the employee.*
- (c) A ~~[description of each test administered to the employee.]~~ *copy of the employee's noncommercial or commercial driver's license and commercial learner's permit.*
- (d) *Sufficient information to demonstrate to the satisfaction of the Department that the third-party certifier who administered a skills test to the employee did not provide instruction to the employee. The information required by this paragraph must include, without limitation:*
 - (1) *The full legal name of each instructor who provided any skills training to the employee.*
 - (2) *A description of each type of training provided to the employee.*
 - (3) *The date on which each type of training was provided.*

2. ~~[Except as otherwise provided in subsection 4, a]~~ A third-party school shall maintain a record of each student to whom a third-party certifier employed by the school administers any part of a skills test. The record must be available for inspection by a representative of the Department during normal business hours and include:

- (a) ~~[The full legal name and address of the student.]~~ *Proof of enrollment in the school.*
- (b) A ~~[record of]~~ *copy of the scoring sheet for* each skills test administered to the student.

(c) ~~{The number of any learner's permit or driver's license issued to the student.}~~ *A copy of the student's noncommercial or commercial driver's license and commercial learner's permit.*

(d) ~~{The full legal name and registration number of each third-party certifier who administered any part of a skills test to the student.}~~

~~—(e) A description of each type of test given to the student and the amount of time devoted to each type of test.~~

~~—(f) The date on which each type of test was given.~~

~~—(g) The total number of hours of instruction given to the student.~~

~~—(h)}~~ Sufficient information to demonstrate to the satisfaction of the Department that the third-party certifier who administered a skills test to the student did not also provide instruction to the student. *The information required by this paragraph must include, without limitation:*

(1) The full legal name of each instructor who provided any skills training to the student.

(2) A description of each type of training provided to the student.

(3) The date on which each type of training was provided.

3. ~~{Except as otherwise provided in subsection 4, a }~~ A third-party company or third-party school shall maintain a separate annual inspection record for each vehicle that it uses to administer skills tests to employees or students, as applicable.

4. A third-party company or third-party school ~~{that is a governmental entity is not required to:~~

~~—(a) Include in the record required to be maintained pursuant to subsection 1, the items set forth in paragraphs (a) and (b) of subsection 1;~~

~~—(b) Maintain the records required by subsection 2 with respect to a student who is an employee of the governmental entity; or~~

~~—(c) Maintain the records required by subsection 3 with respect to any vehicle used to administer skills tests exclusively to employees of the governmental entity.]~~

shall maintain copies of the following records at its principal place of business or another central location:

(a) The certificate of registration issued by the Department pursuant to NAC 483.12231.

(b) For each third-party certifier who works for the company or school, the certificate of registration issued by the Department pursuant to NAC 483.1224.

(c) The most recent version of the agreement entered into between the Department and the company or school pursuant to NAC 483.12235.

(d) The scoring sheet for each skills test that has been administered under the authority of the company or school for the current year and the immediately preceding 2 calendar years.

(e) Maps of any routes for road tests approved by the Department for use by the company or school.

(f) The training record of each third-party certifier who works for the company or school if required by the agreement entered into between the Department and the company or school pursuant to NAC 483.12235.

Sec. 8. NAC 483.12233 is hereby amended to read as follows:

483.12233 1. The Department will take prompt and appropriate remedial action against a third-party company or third-party school that fails to comply with state or federal standards for the program for testing persons to receive a commercial driver's license, or fails to comply with

any other terms of an agreement between the Department and the third-party company or third-party school.

2. The Department may suspend the registration of a third-party company or third-party school that refuses to allow an authorized representative of the Department access, during regular business hours, to inspect the records maintained by a third-party certifier ~~{who works for}~~ *on behalf of* the company or school, if those records relate to any employee or student whose driving abilities were certified by the third-party certifier.

3. The Department may suspend the registration of a third-party company or third-party school if any of the following fail to cooperate fully with an authorized representative of the Department during an inspection:

- (a) A third-party certifier who works for the company or school;
- (b) An agent of the company or school; or
- (c) An officer or employee of the company or school.

4. Except as otherwise provided in subsection 8, the Director or his or her designee may temporarily suspend for not more than 30 days or refuse to renew the registration of a third-party company or third-party school if the Director or his or her designee finds that the temporary suspension or refusal to renew is in the public interest. ~~{The}~~ *If the Director or his or her designee temporarily suspends the registration of a third-party company or third-party school,* *the* Department or a designee from the Department may conduct a hearing and issue a final decision on the matter within 30 days after the date on which the notice of temporary suspension ~~{or refusal to renew a registration}~~ is sent to the third-party company or third-party school.

5. The Department may suspend the registration of a third-party company or third-party school that allows an unauthorized person to administer any part of a skills test to an employee or student, as applicable.

6. Any third-party company or third-party school whose registration is revoked pursuant to this section may not reapply for registration until 2 years after the date of revocation.

7. A third-party company or third-party school may, within 30 days after the temporary suspension or revocation of ~~it~~, ~~or refusal to renew,~~ its registration pursuant to this section, request a hearing on the question of whether the third-party company or third-party school, or a third-party certifier of the company or school, committed one or more acts constituting grounds for the suspension ~~it~~ ~~or~~ revocation ~~for refusal to renew~~ of the registration. The hearing must be conducted in accordance with the provisions of chapter 233B of NRS, and judicial review must be available as provided in that chapter.

8. The Department may suspend or revoke the registration of a third-party company or third-party school for good cause or any other reason if such disqualification is in the best interest of the public and approved by the Director or a designee of the Director.

9. The owner of a third-party company or third-party school that has its registration suspended or revoked by the Department pursuant to this section shall not apply for the registration of a third-party company or third-party school formed under a different name for the purpose of evading any period of suspension or revocation imposed pursuant to this section. The Department will reject any application for registration as a third-party company or third-party school found to be in violation of this subsection.

Sec. 9. NAC 483.12235 is hereby amended to read as follows:

483.12235 Each third-party company or third-party school shall enter into an agreement with the Department that includes, without limitation:

1. A provision allowing the Federal Motor Carrier Safety Administration of the United States Department of Transportation, or its representative, and the Department to conduct random examinations, inspections and audits of the records, facilities and operations of the company or school without notice.

2. A requirement that each third-party certifier who works for the company or school and administers skills tests meets the qualifications and training standards set forth in 49 C.F.R. § 384.228.

3. A provision allowing the Department to:

(a) Have employees of the Department covertly take the skills tests administered by a third-party certifier as if the employees were test applicants.

(b) Have employees of the Department, together with and at the same time as a third-party certifier, score skills tests to compare results of passage and failure.

(c) Retest a sample of drivers who were examined by a third-party certifier.

4. A provision reserving to the Department the right to take prompt and appropriate remedial action against a third-party company, third-party school or third-party certifier if the company, school or certifier, as applicable, fails to comply with any state or federal standards for the program to test drivers for a commercial driver's license, or if a third-party company or third-party school fails to comply with any other terms of a contract *or agreement* with a third-party certifier.

5. A requirement that a third-party company or third-party school initiate and maintain a bond pursuant to NAC 483.12234.

6. A requirement that a third-party company or third-party school use the services only of a third-party certifier who:

(a) Has completed successfully a formal training course for examiners who administer skills tests as prescribed by the Department; and

(b) Is registered with and certified by the Department as a third-party certifier who is qualified to administer skills tests.

7. A requirement that a third-party company, third-party school and third-party certifier conduct testing , *including, without limitation, vehicle inspection tests and basic vehicle control tests at locations and* on road test routes that have been designated and approved by the Department.

8. A requirement that a third-party company, third-party school or third-party certifier submit to the Department a schedule of appointments for skills tests administered by the company, school or certifier, as applicable, within a period set forth by the Department, but not less than 2 days before each skills test.

9. A requirement that a third-party company or third-party school maintain copies of the ~~following~~ records *described in subsection 4 of NAC 483.12232* at its principal place of business or another central location . ~~;~~

~~—(a) The certificate of registration issued by the Department pursuant to NAC 483.12231.~~

~~—(b) For each third party certifier who works for the company or school, the certificate of registration issued by the Department pursuant to NAC 483.1224.~~

~~—(c) The most recent version of the agreement specified in this section.~~

~~—(d) The scoring sheet for each skills test that has been administered under the authority of the company or school for the current year and the immediately preceding 2 calendar years.~~

~~—(e) Maps of any routes for road tests approved by the Department for use by the company or school.~~

~~—(f) The training record of each third-party certifier who works for the company or school.]~~

10. A requirement that all vehicles and equipment used by the third-party company or third-party school to administer a skills test are maintained adequately and safe to operate. Except as otherwise provided in NAC 483.1224, any incidents that are a result of unsafe vehicles or equipment are the responsibility of the company or school which owns or operates the vehicles or equipment.

11. A provision establishing disqualification periods to which the third-party company or third-party school will be subject.

Sec. 10. NAC 483.12236 is hereby amended to read as follows:

483.12236 1. The Department will revoke the registration of a third-party company or third-party school if:

(a) The company or school employs only one third-party certifier; and

(b) The third-party certifier does not meet the requirement set forth in NAC 483.12261 or is not granted an exception in accordance with that section.

2. A third-party company or third-party school whose registration is revoked pursuant to subsection 1 must wait at least 1 year before reapplying to the Department for registration as a third-party company or third-party school.

3. The owner of a third-party company or third-party school that has its registration revoked by the Department pursuant to this section may not apply for the registration of a third-party company or third-party school formed under a different name for the purpose of evading the period of revocation imposed by subsection 2. The Department will reject any

application for registration as a third-party company or third-party school found to be in violation of this subsection.

Sec. 11. NAC 483.1224 is hereby amended to read as follows:

483.1224 1. An instructor or authorized employee at a school for training drivers may apply to the Department for registration as a third-party certifier. Except as otherwise provided in subsection ~~4~~ 5, an instructor or authorized employee who is registered as a third-party certifier may certify the driving ability of any student enrolled at the school for training drivers who wishes to obtain a Class A, Class B or Class C commercial driver's license and must electronically submit to the Department certification to that effect. The instructor or authorized employee may not electronically submit to the Department certification with respect to the instructor's or employee's own driving ability.

2. Any person doing business in this State, or the authorized employee of such a person, may apply to the Department for registration as a third-party certifier. Except as otherwise provided in subsection ~~5~~ 6, a third-party certifier who is registered pursuant to this section may certify the driving ability of an employee of an employer who wishes to obtain a Class A, Class B or Class C commercial driver's license and must electronically submit to the Department certification to that effect. The third-party certifier may not electronically submit to the Department certification with respect to the third-party certifier's own driving ability.

3. An applicant to become a third-party certifier must have at least 2 years of experience *within the immediately preceding 4 years* operating a commercial motor vehicle for the type, class and endorsements of commercial drivers' licenses that he or she will certify.

4. *An applicant to become a third-party certifier must not have had his or her driver's license or driving privileges suspended or revoked within the 3 years immediately preceding the date on which the applicant submitted his or her application.*

5. A third-party certifier employed by a third-party school shall not:

(a) Certify the driving ability of a student unless the third-party certifier has at his or her disposal at least one vehicle requiring the same type and class of driver's license as the type and class of driver's license for which the student's driving ability is being certified;

(b) Attest to the certification for the operation of a vehicle for which a particular type or class of driver's license is required unless the third-party certifier has at his or her disposal at least one vehicle requiring the same type and class of driver's license as that required for the vehicle the operation of which is to be certified; or

(c) Certify the driving ability of any employee of the school. ~~5. unless the school is a governmental entity.~~

~~5.1~~ 6. A third-party certifier employed by a third-party company shall not:

(a) Certify the driving ability of an employee of the company unless the third-party certifier has at his or her disposal at least one vehicle requiring the same type and class of driver's license as the type and class of driver's license for which the employee's driving ability is being certified; or

(b) Attest to the certification for the operation of a vehicle for which a particular type and class of driver's license is required unless the third-party certifier has at his or her disposal at least one vehicle requiring the same type and class of driver's license as the type and class of driver's license as that required for the vehicle the operation of which is to be certified.

~~6.1~~ 7. A third-party certifier must:

(a) Successfully complete a 40-hour course provided by the Department for administering skills tests;

(b) Hold a valid commercial driver's license of the same type and class for which the third-party certifier is certifying the driving ability of a student or employee; and

(c) Administer the skills test in a vehicle representing the same type and class of vehicle the operation of which requires a driver's license of the same type and class as the type and class of driver's license for which the driving ability of the student or employee is being certified.

~~17.1~~ **8.** A third-party certifier who is also an instructor, whether as part of a school, training program or otherwise, shall not administer a skills test to a person who received training in skills from the third-party certifier.

~~18.1~~ **9.** If a third-party certifier successfully completes training to administer skills tests, the Department will issue to the third-party certifier a certificate of registration which:

(a) Is valid for 4 years; and

(b) Indicates the type and class of vehicle and endorsements for which the third-party certifier is allowed to provide certification.

~~19.1~~ **10.** A person who is registered as a third-party certifier for a third-party school may certify the driving ability of only those students who are enrolled at the branch locations of the school for which the person is registered as a third-party certifier.

~~110.1~~ **11.** A person who is registered as a third-party certifier for a third-party company may certify the driving ability of only those employees who work within the same department of the company for which the person is registered as a third-party certifier, unless the third party company is a governmental entity. A person who is registered as a third-party certifier for a third-party company that is a governmental entity may certify the driving ability of any eligible

employee of the governmental entity, regardless of department or division . ~~f, subject to such limitations as the Department otherwise prescribes by regulation.~~

~~11.~~ **12.** A third-party certifier shall ensure that all vehicles and equipment used to perform skills tests are maintained adequately and safe to operate. Except as otherwise provided in NAC 483.12235, any incidents that are a result of unsafe vehicles or equipment are the responsibility of the third-party certifier.

Sec. 12. NAC 483.1226 is hereby amended to read as follows:

483.1226 1. A person who is applying for registration as a third-party certifier pursuant to NAC 483.1224 must complete an application on a form provided by the Department which includes, without limitation:

(a) An authorization for an investigation of the background of the applicant;

(b) The driving history of the applicant; and

(c) A statement that the applicant has read and will comply with the regulations and requirements for certification adopted by the Department.

2. An applicant applying for registration as a third-party certifier must consent to a background check as described in NAC 483.12267.

3. Any training with respect to how to administer skills tests that is given by the Department to an applicant for registration as a third-party certifier will be the same training that would otherwise be given by the Department to persons who administer skills tests.

4. An applicant applying to become a third-party certifier for a third-party company or third-party school must indicate on his or her application all locations at which he or she will be certifying the driving ability of employees employed by the company or students enrolled at the school.

5. In evaluating the eligibility of an applicant for registration as a third-party certifier, the Department may consider the class of the applicant's driver's license, his or her driving history and any additional information which the Department deems pertinent to his or her eligibility.

6. If the Department approves an application for registration as a third-party certifier, the Department will assign a unique number to the person registered by the Department. Any number assigned pursuant to this subsection must not be transferred to or used by any other person.

7. If the Department denies an application for registration as a third-party certifier, the Department will notify the applicant by mail of its decision. Except as otherwise provided in NAC 483.1236, the applicant may reapply at any time on a new application form. The applicant must state in the new application the measures that were taken to correct the deficiency that caused the denial of the original application.

8. Each third-party certifier shall enter into an agreement with the Department that includes, without limitation:

(a) A requirement that each third-party certifier maintain a current copy of the certificate of registration issued by the Department pursuant to NAC 483.1224.

(b) A list of approved locations for inspecting vehicles used in testing.

(c) A provision setting forth the dimensions that have been approved by the Department for any test pad used to conduct skills tests.

(d) A list of designated routes for road tests that have been approved by the Department.

(e) A requirement for the third-party certifier to maintain a valid commercial driver's license of the type and class for which he or she is authorized to certify other drivers.

(f) A requirement for the third-party certifier to ensure that each person who holds a commercial learner's permit meets all federal and state regulations and requirements to be tested before administering any skills test.

9. A provision establishing disqualification periods to which the third-party certifier will be subject.

Sec. 13. NAC 483.12267 is hereby amended to read as follows:

483.12267 1. An applicant who applies to the Department for registration as a third-party certifier *and a person who requests to act as a responsible party on behalf of a third-party company or third-party school* must consent to fingerprinting and pass a nationwide criminal background check of the following:

(a) Any felony conviction within the immediately preceding 10 years; and

(b) Any conviction involving fraudulent activities.

2. If the registration of a third-party certifier is expired, suspended or revoked for more than 90 days, the third-party certifier must submit to a new background check as a prerequisite to reinstating his or her registration.

3. A third-party certifier may not use the results of a previous background check if the third-party certifier is no longer employed by the third-party company or third-party school for which he or she worked and he or she wishes to be become a third-party certifier for another third-party company or third-party school.

4. A third-party certifier may continue to use the results of a previous background check if he or she transfers from one department or division to another within the same third-party company.

~~{5.—A person who requests to act as a responsible party on behalf of a third-party company or third-party school must submit to a background check as specified by the Department.}~~

Sec. 14. NAC 483.1228 is hereby amended to read as follows:

483.1228 1. If, at any time, the number of vehicles owned or leased by a third-party company or third-party school falls below the minimum requirement for vehicles set forth in subsection 3 of NAC 483.1223, the third-party company or third-party school shall forthwith notify the Department. The Department may suspend, revoke or refuse to renew the registration of each third-party certifier at the third-party company or third-party school during the time that the third-party company or third-party school does not have the required minimum number of vehicles.

2. If the third-party company or third-party school purchases or leases a vehicle that will be used by a third-party certifier in administering a skills test, the third-party company or third-party school shall notify the Department ~~{within 10 days after the date on which the vehicle is purchased or leased.}~~ *before administering any skills test in the vehicle.* An authorized representative of the Department:

(a) Shall inspect the vehicle within 30 days after receiving the notice; and

(b) May inspect the vehicle during any inspection conducted by the Department pursuant to NAC *483.12231* or 483.123 . ~~{or 483.12231.}~~

3. A third-party company or third-party school shall notify the Department within 10 days after a change in any address or location at which the company or school conducts business . ~~{or conducts skills tests.}~~

4. A third-party company or third-party school may renew its annual registration on a form furnished by the Department. If the third-party company or third-party school fails to renew the

registration within 30 days after the date of expiration, its registration as a third-party company or third-party school expires and it must reapply for registration as a third-party company or third-party school in the manner set forth in NAC 483.12231.

5. A third-party company or third-party school shall pay the annual fee prescribed in subsection 2 of NRS 483.910 to renew its registration.

Sec. 15. NAC 483.1229 is hereby amended to read as follows:

483.1229 1. An annual inspection of vehicles that are used to administer skills tests to drivers and are operated on a highway must be performed by a registered garage, a licensed body shop or an inspector meeting the qualifications of 49 C.F.R. § 396.19, and the inspection must be reported to the Department on a form provided by the Department.

2. If a third-party company or third-party school purchases or leases a vehicle for administering skills tests to drivers, the company or school shall ensure that the vehicle is inspected by a registered garage, a licensed body shop or an inspector meeting the qualifications of 49 C.F.R. § 396.19 ~~not later than 30 days after the purchase or lease of the vehicle and~~ before ~~providing any training or~~ administering any skills test in the vehicle.

3. Each vehicle which is a commercial motor vehicle and is used by a third-party company or third-party school for administering skills tests to drivers must meet all the requirements of the Federal Motor Carrier Safety Regulations as set forth in 49 C.F.R. Part 396.

4. As used in this section:

(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. 16. NAC 483.123 is hereby amended to read as follows:

483.123 1. The Department will, at least once every 2 years, monitor the performance of a third-party company or third-party school that is registered pursuant to NAC 483.12231. The monitoring required by this subsection must include, without limitation, one announced and one unannounced on-site examination of:

(a) ~~The instruction given;~~

~~—(b) Teaching skills demonstrated;~~

~~—(e)~~ Unusual test results, including, without limitation, unusually high rates of passage or failure;

~~(d)~~ (b) Testing performed by any third-party certifier who is employed by the third-party company or third-party school;

~~(e)~~ (c) A comparison of the results achieved on skills tests with the scoring sheets for skills tests that are maintained in the files of the third-party company or third-party school; and

~~(f) Records of the inspection of vehicles.~~

(d) The records required to be maintained pursuant to NAC 483.12232.

2. An examiner from the Department may conduct random reexaminations of any student or employee to whom a third-party certifier who is employed by the third-party company or third-party school has administered a skills test.

3. The Department will ~~[- at least once every 2 years.]~~ *periodically* conduct an inspection of each vehicle listed pursuant to NAC 483.12231. The vehicles must be accessible to the Department, operational and located at the principal place of business of, or one central location used by, the third-party company or third-party school.

4. Within 30 days after an inspection, the Department will provide a written report to the third-party company or third-party school which:

(a) Indicates compliance; or

(b) Describes each deficiency and notifies the third-party company or third-party school that each such deficiency must be corrected within 30 days after the date on which the notice is received. If each deficiency is not corrected in a timely manner, the Department may, pursuant to ~~NAC 483.1236 or~~ subsection 8 of NAC 483.12233, suspend or revoke the registration issued to the third-party company or third-party school or take appropriate action against the third-party school pursuant to NAC 483.708 to 483.795, inclusive, or both.

5. If, pursuant to NAC 483.708 to 483.795, inclusive:

(a) Any action is taken against a third-party school in its capacity as a school for training drivers, the Department may revoke, suspend or refuse to renew, as appropriate, its registration as a third-party school.

(b) The license issued to the operator of the school for training drivers is:

(1) Suspended, or if the Department refuses to renew the license issued to the school for training drivers, the Department will, except as otherwise provided in this paragraph, suspend the registration of the third-party school and each third-party certifier employed by the school until the license of the school has been restored. If the license issued to the operator of the school is not restored, the Department will revoke the registration of the third-party school and each third-party certifier. This paragraph does not prevent the Department from taking separate disciplinary action against a third-party certifier if the circumstances that resulted in the suspension of, or the refusal to renew, the license of the school for training drivers involved an act or omission by the third-party certifier.

(2) Revoked, the Department will revoke the registration of the third-party school and each third-party certifier employed by the school.

Sec. 17. NAC 483.1236 is hereby amended to read as follows:

483.1236 1. The Department may revoke the registration of a third-party certifier who is registered pursuant to NAC 483.1224 if:

(a) The third-party certifier has been convicted of:

(1) Driving under the influence of an intoxicating liquor or a controlled substance within the past ~~7~~ 3 years;

(2) A gross misdemeanor or felony relating to the management of money or a business;

(3) Fraud;

(4) Embezzlement; or

(5) Possessing more than one valid driver's license issued to the third-party certifier under a full legal name other than his or her own, or issued to him or her by more than one state, or both;

(b) The Department determines that the third-party certifier falsified an application or any other information to obtain or maintain registration as a third-party certifier;

(c) The third-party school that employs the third-party certifier fails to maintain an active license or ceases to maintain an established place of business in this State as required by NAC 483.708 to 483.795, inclusive;

(d) Pursuant to NAC 483.708 to 483.795, inclusive, any action is taken against the instructor's license issued to the third-party certifier by the Department; or

(e) The third-party certifier administers any part of the skills test to a natural person to whom the third-party certifier has provided instruction for the skills test.

2. The Department, for good cause shown, may suspend or revoke the registration of a third-party certifier for any other reason if such disqualification is in the best interest of the public and approved by the Director or a designee of the Director.

3. The Department may suspend the registration of a third-party certifier if the third-party certifier or the third-party company or third-party school that employs the third-party certifier, or an agent, officer or employee of the certifier, company or school, fails to cooperate fully with an authorized representative of the Department during an inspection of the third-party certifier or third-party company or third-party school that employs the third-party certifier.

4. The Director may temporarily suspend for not more than 30 days or refuse to renew the registration of a third-party certifier if the Director finds that such a temporary suspension or refusal to renew is in the public interest. ~~{The}~~ *If the Director suspends the registration of a third-party certifier, the* Department may conduct a hearing and issue a final decision on the matter within 30 days after the date on which the notice of temporary suspension ~~{or refusal to renew a registration}~~ is sent to the third-party certifier.

5. Any third-party certifier whose registration is revoked pursuant to this section:

- (a) May not reapply for registration until 2 years after the date of revocation; and
- (b) Must attend a training program approved by the Department for the certification of a driver at the time he or she reapplies for registration as a third-party certifier.

6. A third-party certifier may, within 30 days after the temporary suspension or revocation of ~~{, or refusal to renew,}~~ his or her registration pursuant to this section, request a hearing on the question of whether the third-party certifier committed one or more acts constituting grounds for the suspension ~~{}~~ *or* revocation ~~{or refusal to renew}~~ *of* the registration. The hearing must be

conducted pursuant to the provisions of chapter 233B of NRS, and judicial review must be available as provided therein.

Sec. 18. NAC 483.803 is hereby amended to read as follows:

483.803 1. A person who is not physically qualified to operate a commercial motor vehicle pursuant to 49 C.F.R. § 391.41, but who is otherwise qualified to operate a commercial motor vehicle, may apply to the Department for a waiver of the physical requirements with which the person does not comply.

2. An applicant for a waiver of one or more of the physical requirements described in subsection 1 must submit to the Department an application on a form prescribed by the Department. The application must include:

(a) The applicant's full legal name, date of birth, address of principal residence, telephone number, social security number and driver's license number;

(b) The type of vehicle the applicant will operate;

(c) The type of commodities or cargo the applicant will transport;

(d) The type of transmission, braking system and steering system of the vehicle which the applicant will operate;

(e) Whether the applicant is self-employed, employed by a motor carrier or unemployed as a commercial driver;

(f) Information relating to the driving history of the applicant, including, without limitation, the number of years the applicant has been licensed to drive a commercial motor vehicle and the number of years he or she has operated the type of vehicle for the operation of which he or she is requesting a license;

(g) If the applicant is or will be employed by a motor carrier, the name and address of the motor carrier; and

(h) A description of any modifications made to the vehicle for the driver.

3. The application must be submitted to the Department of Motor Vehicles, ~~{810 East Greg Street, Sparks, Nevada 89431.}~~ *9155 Double Diamond Parkway, Reno, Nevada 89521.*

Sec. 19. NAC 483.8031 is hereby amended to read as follows:

483.8031 1. An applicant for a waiver of one or more of the physical requirements described in 49 C.F.R. § 391.41 must submit to the Department with his or her application:

(a) A copy of a medical examination required pursuant to ~~{paragraph (e) of}~~ 49 C.F.R. § 391.43;

(b) A copy of a medical certificate required pursuant to 49 C.F.R. § 391.43; and

(c) A medical evaluation signed by a physician on a form prescribed by the Department if the applicant suffers from a physical impairment . ~~{or by a physician or optometrist if the applicant suffers from a visual impairment.}~~ The medical evaluation must:

(1) Identify and describe the ~~{visual or}~~ physical impairment of the applicant;

(2) Indicate whether the applicant's condition is stable or progressive;

(3) Certify that the applicant is able to operate a commercial motor vehicle;

(4) ~~{Certify that the vision of the applicant is at least 20/40, corrected or uncorrected, in at least one eye if the applicant suffers from a visual deficiency;~~

~~{5}~~ If a limb of the applicant has been amputated or otherwise impaired, assess the physical capabilities of the applicant as they relate to his or her ability to perform the tasks specified in the description of the applicant's job which the applicant must provide to the physician;

~~6~~ (5) If the applicant wears a prosthetic or orthotic device, include a description of the manner in which the prosthetic or orthotic device operates; and

~~7~~ (6) If the applicant suffers from epilepsy or any other condition which is likely to cause loss of consciousness or any loss of the ability to control a commercial motor vehicle safely, ~~for if the applicant is diabetic and dependent upon insulin,~~ indicate the date of his or her most recent seizure and whether:

(I) The seizure was an isolated incident;

(II) Additional seizures are likely to occur; and

(III) The prescribed medication will interfere with the person's ability to operate a motor vehicle.

2. An applicant who suffers epilepsy or any other condition which is likely to cause loss of consciousness or any loss of the ability to control a commercial motor vehicle safely ~~or is diabetic and dependent upon insulin,~~ will not be issued a waiver unless:

(a) The applicant has not suffered any fainting or dizzy spells, seizures or other similar disorders for at least 1 year immediately preceding the date the Department receives the application; and

(b) A physician's diagnosis of the applicant's condition and its effect on the person's ability to operate a motor vehicle safely has been submitted to the Department.

3. An applicant for a waiver who wears a prosthetic or orthotic device must demonstrate his or her ability to operate safely the type of motor vehicle the applicant intends to operate. The Department may require any other applicant to demonstrate his or her ability to operate safely the type of motor vehicle the applicant intends to operate if the Department determines that such a demonstration is necessary.

4. Any information that is submitted to the Department pursuant to NAC 483.799 to 483.850, inclusive, is privileged and may be released only upon the written consent of the applicant or pursuant to a court order.

5. A person who has diabetes mellitus treated with insulin is not required to obtain a waiver pursuant to this section or undergo a medical examination pursuant to 49 C.F.R. § 391.43 unless he or she self-certifies as intending to drive in nonexcepted interstate commerce or nonexcepted intrastate commerce.