

**PROPOSED REGULATION OF THE ADMINISTRATOR OF THE
DIVISION OF INDUSTRIAL RELATIONS OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R166-97

November 10, 1997

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

AUTHORITY: §§1-4, NRS 616A.400.

Section 1. NAC 616D.340 is hereby amended to read as follows:

616D.340 [1. If the manager determines that an employer within the provisions of NRS 616B.633 has failed to provide and secure compensation, he will, pursuant to NRS 616D.200, charge the employer an amount equal to three times the premiums that the employer should have paid to the system for the period that the employer did business in this state without providing and securing the compensation, but not to exceed 6 years.

2. After the manager notifies the] *Within 10 days working days after the administrator notifies an* employer of his determination , *made pursuant to NRS 616D.200*, that the employer failed to provide and secure [the compensation, the] *compensation as required by the terms of chapters 616A to 616D, inclusive, of NRS:*

1. The employer shall provide *written* information to the [manager] *administrator* that verifies the amount of pay earned by his employees during the period that the employer was doing business in this state without providing and securing compensation [.] ; *or*

2. If the employer fails or is unable to provide [such information,] *the information pursuant to subsection 1*, he shall calculate and provide to the [manager] *administrator* an estimate of the pay earned by his employees [for that period,] *during the period that the employer was doing business in this state without providing and securing compensation*, using the wages actually received or deemed to be received, pursuant to the applicable provisions of chapters 616A to 617, inclusive, of NRS, by his employees.

Sec. 2. NAC 616D.350 is hereby amended to read as follows:

616D.350 [1. If the manager determines that an employer within the provisions of NRS 616B.633 provided and secured compensation but failed to maintain the compensation, he will, pursuant to NRS 616D.200, charge the employer an amount equal to three times the premiums that the employer should have paid to the system for the period that the employer did business in this state without maintaining the compensation, but not to exceed 6 years.

2.] After the manager notifies [the] *an* employer of his determination , *made pursuant to NRS 616D.200*, that the employer failed to maintain [the compensation, the] *compensation as required by the terms of chapters 616A to 616D, inclusive, of NRS:*

1. *The* employer shall , *within 10 working days*, provide *written* information to the [manager] *administrator* that verifies the amount of pay earned by his employees during the period that the employer was doing business in this state without maintaining the compensation [.] ; *or*

2. If the employer fails or is unable to provide [such information, the manager] *the information pursuant to subsection 1, the administrator* will estimate the payroll of the employer for [that] *the* period *that the employer was doing business in this state without maintaining the compensation*, based on reports of payroll previously submitted by the employer to the [system]

insurer and on the wages deemed to be received by the employer's employees pursuant to the applicable provisions of chapters 616A to 617, inclusive, of NRS.

Sec. 3. NAC 616D.360 is hereby amended to read as follows:

616D.360 The amount of any charge imposed by the [manager] *administrator* pursuant to [NAC 616D.340 or 616D.350] *NRS 616D.200* is subject to verification by auditors of the [system.] *insurer, including the industrial insurance regulation section and auditors employed by the insurer.*

Sec. 4. NAC 616D.370 is hereby amended to read as follows:

616D.370 At any hearing held pursuant to subsection 2 of NRS 616D.220, on appeal from a determination of the [manager] *administrator* made pursuant to NRS 616D.200, the [manager] *administrator* may modify the amount charged the employer if it is shown by a preponderance of the evidence that the:

1. Failure to provide and secure or maintain compensation was caused by an error on the part of the [system;] *insurer;* or
2. Employer was exempt from the requirement to provide and secure or maintain compensation.