

NAC Chapter 487

LCB File No. T015-08

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

Filed with the Secretary of State on March 4, 2009

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

AUTHORITY: Sections 1, 2 and 4, NRS 481.051; section 3, NRS 481.051, NRS 487.654

A REGULATION relating to body shops and the certification of specific body shops as “Class “A” facilities; setting forth criteria for that certification and the penalties for failure to maintain that criteria.

Section 1. Chapter 487 of NAC is hereby amended by adding thereto a new section to read as follows:

1. An auto body repair facility licensed pursuant to chapter 487 of NRS may apply for certification as a “Class “A” Body Shop” as defined by NRS487.604 and NRS 487.606.

2. In addition to the requirements set forth in NRS 487.652, certification as a class “A” body shop will require that the body shop meet, maintain and show proof of the following;

a. That the body shop possess both garage keepers’ and workers’ compensation insurance policies with each having applicable coverage in an amount of not less than one million dollars.

3. Every class “A” body shop shall incorporate~~ed~~ and maintain as part of its class “A” facility;

a. The specialized equipment necessary to obtain proper repair specifications for each vehicle being repaired.

b. Those specifications may be obtained from any of the following sources;

- 1) The manufacturer of the vehicle being repaired, or*
- 2) The manufacturer of the equipment used to repair the vehicle, or*
- 3) The industry accepted standards for the repair of the vehicle.*

c. The equipment necessary to make three dimensional measurements of vehicles being repaired that provide a computerized printout of measurements made before and after repairs of each vehicle being repaired, and;

d. At least one vehicle lift with a weight lift capacity of not less than ~~nine~~ seven thousand ~~(9000)~~ 7000 pounds manufactured by a recognized vehicle lift manufacturer and of one of the following designs:

- 1) Scissor lift,*
- 2) Two post lift,*
- 3) Four post lift.*

e. A computer assisted four wheel alignment rack.

f. A frame repair rack comprised of a minimum twenty (20) foot bed and six thousand (6000) pound weight capacity with a 360 degree pulling radius that supports a four post chassis clamping system capable of providing a secure grip on either the conventional frame itself or, if a unibody vehicle, the unibody rocker sills.

g. Multiple pulling posts capable of being securely locked to the frame rack.

h. An engine hoist having a maximum lift capacity of not less than one thousand (1,000) pounds.

i. A downdraft style paint booth which includes:

- 1) A painted surface baking capability, and;*

2) *Approval and certification if required, by local authorities having jurisdiction over the operation of such devices.*

j. An inverter resistance welder.

k. A MIG (metal inert gas) welder.

The welding devices noted above may only be operated in a class “A” facility by mechanics holding the appropriate industry certification credentials for operating such welding devices.

4. *A class “A” certificate holder or applicant must;*

a. Acquire and maintain in good standing, an “I-Car Gold” certification from the “I-Car Industry Training Alliance.”

1) *I-Car Gold and above certification and training shall be obtained from, and provided to its employees through a training provider approved by the I-Car Gold Industry Alliance.*

b. In lieu of requirements within section 4(a), class “A” certificate holders or applicants may acquire and maintain in good standing the Automotive Service Excellence (ASE) Blue Seal of Excellence, relating to Collision Repair & Refinish.

~~{b.}~~ *c. Acquire and maintain valid MVAC (Motor Vehicle Air Conditioning) certification provided by an instructor or training program that has been certified by the Federal Environmental Protection Agency (Federal EPA).*

~~{e.}~~ *d. Acquire, use and maintain a “Uniform Hazardous Waste Manifest” that is approved by The Federal Environmental Protection Agency.*

~~{d.}~~ *e. Acquire and maintain a valid Federal EPA number identifying the class “A” body shop as a hazardous waste handler, allowing the class “A” body shop to legally generate, transport, treat, store or dispose of hazardous waste.*

5. *A class “A” body shop must ensure that all original equipment and after market replacement occupant restraint devices meet the specifications of the original equipment manufacturer.*

a. Only mechanics holding the appropriate Automotive Service Excellence (ASE) credentials or I-Car certified mechanics credentials may inspect and verify that original or aftermarket equipment occupant restraint devices meet the specifications of the original equipment manufacturer.

b. Those devices include, but are not limited to:

1) Original equipment air bags installed on any make and model vehicle.

2) Original and replacement equipment lap and shoulder restraint seat belts.

6. *A class “A” body shop must have and maintain an agreement with one or more third party Consumer Satisfaction Index Verification Companies for the purpose of documenting customer complaints and responses regarding the class “A” body shop’s services and repairs.*

7. *Both a body shop and a body shop having a class “A” certification that does business at more than one location, shall designate one location in each county in which he does business as his principal place of business for that county and one name as the principal name of his business. He shall designate all of his other business locations not otherwise designated as a principal place of business pursuant to this subsection as branches.*

8. *Both a body shop and a body shop having a class “A” certification shall keep their books and records for all locations at which they do business within a county at their principal place of business within that county and permit any authorized agent of the Director or the State of Nevada to inspect and copy their books and records during usual business hours.*

a. Unless otherwise posted, usual business hours are defined as the hours of 9:00 AM to 5:00 PM, Monday through Friday, except recognized legal holidays.

b. Both a body shop and a body shop having a class “A” certification whose business hours differ from usual business hours shall post their business hours where they are easily seen by business customers.

c. Both a body shop and a body shop having a class “A” certification must adhere to either usual or posted business hours.

9. If for any reason should the books and records of a body shop or a body shop having a class “A” certification not be available for inspection during usual business or posted business hours, the body shop owner shall not later than 3 business days after receiving a written request from an authorized agent of the Director or the State of Nevada for the production of the books and records or any other information, provide the requested books, records and other information to the authorized agent at the location specified in the request.

10. The owner of a body shop or of a body shop having a class “A” certification shall retain his books and records for 3 years after he ceases to be licensed as a body shop.

Section 2. *Grounds for denial, suspension or revocation of a class “A” body shop certification.*

1. An application for certification as a class “A” body shop may be denied, or an existing certification suspended or revoked on the following grounds;

a. Failure of the body shop principal to comply with any provision of Nevada Revised Statutes applicable to the operation of a body shop as defined in NRS 487.610 to NRS 487.685 inclusive, or any rule or regulation adopted pursuant thereto.

b. Failure of the body shop principal to maintain any requirement for certification of a class "A" body shop specified in NRS 487.652, or any rule or regulation adopted pursuant thereto.

c. Engages in a deceptive trade practice as defined in NRS 598.015 to NRS 598.0925 inclusive, in the operation of a body shop.

d. Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

**NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File T015-08**

The Department of Motor Vehicles submits the following statement. The Department adopts a temporary regulation assigned LCB File T015-08, which pertains to Chapter 487 of the Nevada Administrative Code, relating to motor vehicles. The regulation defines certain requirements for certification of specific body shops as Class "A" facilities; sets forth criteria for that certification and the penalties for failure to maintain that criteria.

WORKSHOP

Teleconferenced Reno Location to Las Vegas Location
Thursday, January 08, 2009 at 10:00 am

Washoe County Government Complex
1001 East Ninth Street, Building C., Room 110
Reno, Nevada 89512

Nevada Department of Motor Vehicles
Emissions Training Building
2701 East Sahara Avenue
Las Vegas, Nevada 89104

Public Workshop Notice Date: December 4th, 2008

HEARING

Teleconferenced Reno Location to Las Vegas Location
Thursday, January 09, 2009 at 10:00 am

Washoe County Government Complex
1001 East Ninth Street, Building C., Room 110
Reno, Nevada 89512

Nevada Department of Motor Vehicles
Emissions Training Building
2701 East Sahara Avenue
Las Vegas, Nevada 89104

Public Hearing Notice Date: December 4th, 2008

Date of Adoption by Agency: January 28, 2009

INFORMATIONAL STATEMENT

A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary. The Department of Motor Vehicles noticed the public workshop and hearing for LCB File R015-08 on December 4th, 2008 by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

There was no comment or testimony from any member of the public during the Public Workshop or Public Hearing. The Department did not receive written comment from any member of the public.

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: The Department of Motor Vehicles noticed the public workshop and hearing for LCB File R015-08 on December 4th, 2008 by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. The notice was posted at the main office of the public libraries in counties where the Department does not maintain an office. Special notice was also mailed to those persons who have requested to be placed on an Interested Parties special notice mailing list.

A copy of the minutes for the public workshop and public hearing may be obtained by contacting the Department of Motor Vehicles Compliance Enforcement Division by telephone at (775) 684-4805.

Nevada Department of Motor Vehicles
Compliance Enforcement Division
555 Wright Way
Carson City, Nevada 89711-0900
Attention: Ivie Harper Administrative Assistant III

The number of persons who attended each Public Workshop: Fifteen individuals attended the Public Workshop in Las Vegas on January 8th, 2009.

A summary of testimony at each Public Workshop: Three individuals representing affected business industry provided comments or questions as follows:

Automotive Service Excellence (ASE) certification should be recognized as applicable training in order to obtain Class "A" status. Allowing sole source training will increase costs to the industry. ASE training is as effective as I-Car because the exam ASE administers is very comprehensive and it is difficult to achieve a passing score.

Will all mechanics that work at a Class “A” facility require certification from I-Car or ASE? A Deputy Chief representing the Department of Motor Vehicles, Compliance Enforcement Division replied that he anticipates that all mechanics working at a Class “A” facility will require certification from I-Car or ASE.

Does a shop need to obtain all of the equipment listed in the proposed regulation, if they desire to obtain a Class “A” status? A Deputy Chief representing the Department of Motor Vehicles replied that a facility will need to have all equipment listed in the proposed regulation to achieve Class “A” status.

How can the DMV state in the Small Business Impact Statement, there is no financial impact on the regulated industry? A Deputy Chief representing the Department of Motor Vehicles replied that obtaining a Class “A” status is at the option of a business owner, and is not a mandatory requirement. Therefore, no mandatory financial impact is being posed upon the regulated industry.

What type of benefit is there for the industry, to become Class “A” approved? A Deputy Chief representing the Department of Motor Vehicles replied that some industry representatives in favor of Class “A” regulations feel it will be a good marketing tool for their business.

Why can't some work be sublet to other shops, even if a business carries Class “A” status? A Deputy Chief representing the Department of Motor Vehicles replied that it would be difficult to ensure quality control, because the qualifications of the shop the work is being sublet to is not monitored or verified.

The nine thousand pound capacity lift is not necessary. Many shops will need to upgrade their lifts, which is very expensive.

Will body shops need to make their records, all records available to Department representatives? A Deputy Chief representing the Department of Motor Vehicles replied that body shops at this time are required to allow Department representatives access to all business records, including financial records if deemed warranted. And, there are also other regulatory agencies other than DMV that have right to access business records of body shops.

The number of persons who attended each Public Hearing: Seven individuals attended the Public Hearing in Reno on January 9th, 2009.

A summary of testimony at each Public Hearing: One individual representing auto insurance companies wanted to clarify that the regulations will not stipulate that a consumer must take their vehicle to a specific body shop. A Deputy Chief representing the Department of Motor Vehicles confirmed that the regulations would not stipulate that a consumer must take their vehicle to a specific body shop.

One individual representing the auto body industry requested that I-Car welding certification, or the equivalent is included into the new regulation.

A summary of written comments submitted to the agency: The notice for the Public Workshop and Public Hearing invited written comments from the public and affected businesses, with a deadline for written comments to be received by January 07, 2009. One owner of a body shop submitted a number of questions to the Department, which were addressed and answered by the Compliance Enforcement Division Chief.

Question: If it is okay for a dealership body shop to sublet work to their service department, is it then okay for an independent body shop to sublet to the service department as well, so as not to create an unfair advantage in the marketplace?

Answer: As long as all of the shops/sublet work is performed by licensed entities under the same corporation/business owner they will qualify.

Question: Section 5(b) states that only ASE certified mechanics may inspect and verify original equipment air bags and seatbelts...I-Car has a certification class on this topic as well and could an I-Car class suffice as well here?

Answer: Yes. The proposed regulations are being amended to allow I-Car certification for this purpose.

Question: If a body shop hires an ASE trained technician, or pays an ASE certified company to do airbags and restraints, will this suffice?

Answer: It would suffice if a shop hires an ASE certified technician, or contracts with an ASE technician to come into the shop to facilitate the repairs. However, it would not qualify if the repairs were sublet to another repair facility.

Question: Since Class "A" shops are required to have needed equipment to do proper repairs, does this mean that insurers can only recommend Class "A" body shops to do these repairs?

Answer: No, there is no direct connection to a Class "A" repair shop requirement for an insurance company.

Question: Does the law state that Class "A" shops can now charge a different labor rate from those shops that are not Class "A" designated?

Answer: No, there is no separation in the law. The license is for a body shop and the Class "A" is an additional certificate to the license. DMV conducts a labor rate survey each year and is not aware of any law that designates what a shop can charge for labor rates.

Question: Is the goal to have vehicles repairs to a Class "A" standard, or to have Class "A" shops?

Answer: DMV is not fully certain what the goal of the legislation is. However, the Department does not believe there is any difference in the standards of repair for a Class "A" auto body shop that a non Class "A" auto body shop.

If the regulation was adopted without changing any part of the proposed regulation, list a summary of the reasons for adopting the regulation without change. The Department adopts the temporary regulation language with the following changes:

Section 1:

Page two, subsection 3(d). The weight capacity of the vehicle lift is reduced from 9,000 pounds to 7,000 pounds.

Page three, subsection i(2). A requirement for welding certification is added to the regulations.

Page three, subsection 4(b). Either I-Car Gold certification or the ASE Blue Seal of Excellence relating to Collision Repair & Refinish will be recognized as acceptable criteria for obtaining Class "A" status.

Page four, subsection 5(a). Mechanic restraint certification (air bag, lap/shoulder belt) may be obtained through I-Car or ASE.

List 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

(b) Both immediate and long-term effects.

(a) There is no estimated economic effect on the affected businesses, either adverse or beneficial, nor immediate or long-term.

(b) There is no estimated economic effect on the public, either adverse or beneficial, nor immediate or long-term.

List the estimated cost to the agency for enforcement of the adopted regulation: There is no additional cost to the agency for enforcement of this regulation.

List 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, list the name of the regulating federal agency: There are no other state or federal government agency regulations that this adopted regulation duplicates.

If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions: There are no federal regulations that regulate the same activity as is the adopted regulation.

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: This regulation does not provide or involve a new fee. A total fee amount is not expected to be collected or used.