

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

LCB File No. R027-10

March 23, 2010

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

AUTHORITY: §1, NRS 445B.785; §2, NRS 445B.790; §3, NRS 445B.785, 445B.790 and 445B.835.

A REGULATION relating to motor vehicles; revising certain provisions governing violations of law by an approved inspector or other employee of an emissions test station; and providing other matters properly relating thereto.

Section 1. NAC 445B.4985 is hereby amended to read as follows:

445B.4985 The owner of the test station will be held responsible for any act or omission of an approved inspector or any other employee employed at any test station owned by the owner which is committed while the inspector or other employee is acting within the scope of his employment, and which would constitute a violation of this chapter or chapter 445B of NRS if:

1. The act or omission is a second or subsequent violation of ~~[a specific section of]~~ this chapter or chapter 445B of NRS that was committed by the same inspector or other employee while employed at any test station owned by the owner; and

2. The owner of the test station received notice from the Department of the first offense previously committed by the approved inspector or other employee.

Sec. 2. NAC 445B.7035 is hereby amended to read as follows:

445B.7035 1. If the Department discovers noncompliance with any of the testing procedures set forth in NAC 445B.580, 445B.5805 or 445B.589 during an inspection conducted

pursuant to NAC 445B.7015, the Department will issue a preliminary written notice of the violation, on a form prescribed by the Department, to the approved inspector who committed the violation. If the approved inspector who committed the violation is no longer present at the test station, the Department will:

- (a) Give the preliminary written notice of the violation to another approved inspector or any other employee of the test station who is present; and
- (b) ~~{Send}~~ *Provide* a copy of the written preliminary notice to the approved inspector who committed the violation by *personal delivery or* certified mail not later than 5 business days after the violation occurred.

2. Before removing the motor vehicle used in the inspection conducted pursuant to NAC 445B.7015 from the test station, the Department will allow the approved inspector who committed the violation or, in the absence of the approved inspector, the person to whom the preliminary written notice of the violation was given pursuant to paragraph (a) of subsection 1, to inspect the motor vehicle used in the inspection.

3. If the approved inspector who committed the violation is not the owner of the test station where the violation occurred, the Department will ~~{send}~~ *provide* a copy of the written preliminary notice to the owner by *personal delivery or* certified mail not later than 5 business days after the violation occurred.

Sec. 3. NAC 445B.7045 is hereby amended to read as follows:

445B.7045 1. If the Department imposes administrative fines or other penalties against an owner of a test station pursuant to NRS 445B.835, the Department will impose such fines or other penalties for violations occurring within the 2-year period immediately preceding the most recent offense according to the following schedule:

(a) For a first offense, issue a written notice informing the owner of the test station that:

(1) An approved inspector employed by the owner has committed a violation of this chapter or chapter 445B of NRS; and

(2) In accordance with the provisions of NAC 445B.4985, the owner will be held responsible for any act or omission of the approved inspector or any other employee employed at the test station which is committed while the approved inspector or other employee is acting within the scope of his employment and which constitutes a second or subsequent violation of ~~the~~ ~~specific section of~~ this chapter or chapter 445B of NRS.

(b) For a second offense, require the owner of the test station or his authorized representative to complete successfully an educational course, which is established and conducted by the Department, not later than the date specified in the notice of the violation.

(c) For a third offense, impose a fine of \$1,000.

(d) For a fourth offense, revoke the license of the owner to operate the test station.

2. If the Department imposes administrative fines or other penalties against an approved inspector pursuant to NRS 445B.835 for a violation of NAC 445B.580, 445B.5805 or 445B.589, the Department will impose such fines or other penalties for violations occurring within the 2-year period immediately preceding the most recent offense according to the following schedule:

(a) For a first offense:

(1) Issue a cease and desist order; and

(2) Require the approved inspector to complete successfully an educational course, which is established and conducted by the Department, not later than the date specified in the notice of the violation.

(b) For a second offense:

(1) Impose a fine of \$250;

(2) Require the approved inspector to complete successfully an educational course, which is established by the Department and conducted by a provider approved by the Department, not later than the date specified in the notice of the violation; and

(3) Suspend the license of the approved inspector for 10 calendar days.

(c) For a third offense:

(1) Impose a fine of \$500; and

(2) Suspend the license of the approved inspector for 90 calendar days.

(d) For a fourth offense, permanently revoke the license of the approved inspector.

3. Any person who has been fined in accordance with the schedules set forth in this section shall make payment to the Department not later than the date specified in the notice of the violation, unless the person has requested a hearing pursuant to subsection 1 of NRS 445B.835.

4. Upon the failure of a person to pay a fine or comply with any directive imposed pursuant to the provisions of this section, the Director may suspend, revoke or refuse to issue any license obtained pursuant to the provisions of chapter 445B of NRS.

5. An owner of a test station whose license is revoked by the Department pursuant to this section:

(a) Shall not directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles, if the violation:

(1) Was knowing or willful; or

(2) Involved fraud.

(b) May directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles at a test station other than the test station where the violation occurred, if the violation:

- (1) Was not knowing or willful; and
- (2) Did not involve fraud.

6. An approved inspector whose license is revoked or suspended by the Department pursuant to this section shall not directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles.

7. For the purposes of this section, the curriculum for an educational course established by the Department may include, without limitation:

- (a) The pertinent laws and regulations related to the control of emissions of motor vehicles;
- (b) Procedures for emission control inspections of motor vehicles;
- (c) The responsibilities of owners of test stations; and
- (d) A review of the penalties which may be imposed on the owner of a test station or an approved inspector for future violations of NRS 445B.700 to 445B.845, inclusive, or any rule, regulation or order adopted or issued pursuant thereto.