

PROPOSED REGULATION OF THE DEPARTMENT OF MOTOR VEHICLES

LCB File No. R034-10

EXPLANATION – Matter *italicized* is new; matter in strikethrough ~~omitted material~~ is material to be omitted.

AUTHORITY: NRS 481.051, 483.220, 483.250, 483.470(d), 483.906-.908, 483.924-.928

Problem 1: NAC 483.800 currently contains provisions that modify 49 CFR 383.51 regarding serious traffic violations. This modification was part of the original regulations passed in 1992, and was the basis for a number of adverse findings in the federal Commercial Driver's License (CDL) audit performed in June 2009.

Solution 1: Removing this language in NAC 483.800 and related language in NAC 483.802 will allow the Department to come into compliance with 49 CFR 383.51 for the first time since CDL regulations were adopted in 1992.

Problem 2: 49 CFR 384.233 requires states to ensure CDL drivers with a hazardous materials endorsement obtain appropriate background checks and authorization from the Transportation Security Administration (TSA) to transport such materials. This authorization runs for a 5-year period and does not coincide with the renewal of a CDL. While Nevada currently won't issue a CDL without proof that the driver has obtained this authorization, no legal mechanism is in place to ensure drivers renew their authorization if it runs out before their CDL expires.

Solution 2: For no less than 30 days, suspend the commercial driving privilege of any driver who does not (a) renew his TSA authorization before the TSA expiration date, or (b) come into a Nevada DMV office to have the hazardous materials endorsement removed from his license, or (c) come into a Nevada DMV office to downgrade to a non-commercial license. Notification of the *potential* for this action will be sent to a driver 90 days before his TSA authorization expires to ensure he has sufficient time for renewal.

NAC 483.800 Federal regulations: Adoption by reference of certain provisions; compliance required. (NRS 483.908)

1. ~~Except as otherwise provided in NAC 483.802, t~~The Department hereby adopts by reference the provisions of 49 C.F.R. Parts 383 and 384 as they existed on October 1, 2004, and any subsequent amendments. Each amendment shall be deemed approved by the Department unless it disapproves the amendment within 60 days after the United States Department of Transportation has adopted such an amendment.

2. A copy of the volume containing the provisions described in this section ~~and NAC 483.802~~ is available at a cost of \$64 from the Superintendent of Documents, United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

3. A licensee shall comply with the requirements of the provisions adopted by reference in subsection 1.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 2-14-91; A 5-27-92; A by Dep't of Motor Veh. by R062-02, 9-20-2002; R105-04, 8-2-2004; R108-05, 10-31-2005)

NAC 483.802 Disqualification of commercial motor vehicle drivers. ~~[Federal regulations: Adoption by reference of provision regarding disqualification of drivers; modifications.]~~ (NRS 483.908)

1. ~~[The Department hereby adopts by reference the regulations contained in 49 C.F.R. § 383.51, as provided in NAC 483.800, with the following modifications:~~

~~—(a) As used in 49 C.F.R. § 383.51, “serious traffic violation” means a conviction, when operating a commercial motor vehicle, of:~~

~~—(1) Excessive speeding, involving any single offense for any speed of 15 miles per hour or more above the posted speed limit;~~

~~—(2) Reckless driving, as defined by state or local law or regulation, including offenses of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;~~

~~—(3) Improper or erratic lane changes;~~

~~—(4) Following the vehicle ahead too closely; or~~

~~—(5) A violation of a state or local law relating to the control of motor vehicle traffic that arises in connection with a fatal accident.~~

~~□ The term does not include a violation regarding the weight of a commercial motor vehicle, the manner in which it is parked or a mechanical defect in the vehicle.~~

~~—(b)]~~ *In addition to the provisions and penalties provided in NAC 483.800, a [A]* person who operates a commercial motor vehicle while his ~~[driver’s]~~ license ~~[or permit]~~ is suspended, revoked or cancelled, or while he is otherwise disqualified from operating a commercial motor vehicle, is subject to the provisions and penalties specified in NRS 483.560.

~~[(e)]~~ 2. A person who knowingly falsifies any information or certification on an application filed with the Department for a commercial driver’s license or permit is subject to the provisions specified in NRS 483.420.

3. A person who holds a commercial driver’s license with a hazardous material endorsement or who operates a commercial motor vehicle transporting a hazardous material in commerce without express authorization from the Transportation Security Administration per 49 CFR 383.141 is subject to no less than a 30-day suspension of his commercial driving privilege.

~~[(d)]~~ 4. A person who is disqualified from driving a commercial motor vehicle under this section shall surrender his commercial driver’s license or permit to the Department.

~~[(e)]~~ 5. To reinstate a commercial driver’s license or permit after disqualification, a person must, in addition to any other conditions required by law:

~~[(1)]~~a) Complete an application;

~~[(2)]~~b) Pass a vision test, knowledge tests and, if applicable, driving skills tests;

~~[(3)]~~c) Provide any additional information requested by the Department to determine his fitness to operate a commercial motor vehicle safely; and

~~[(4)]~~d) Pay the reinstatement fees established in NRS 483.910.

~~[(2)]~~ 6. The volume containing 49 C.F.R. Parts 200 to 399 is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at the price of \$64.

~~[(3)]~~ 7. As used in this section, “commercial motor vehicle” means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- (a) Has a gross combination weight rating of 26,001 or more pounds which includes a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- (b) Has a gross vehicle weight rating of 26,001 or more pounds;
- (c) Is designed to transport 16 or more passengers, including the driver; or
- (d) Regardless of size, is used in the transportation of materials which are considered to be “hazardous” for the purposes of the federal Hazardous Materials Transportation Act and for which the display of identifying placards is required pursuant to the Hazardous Materials Regulations, 49 C.F.R. Part 172, Subpart F.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 5-27-92; A 12-2-96; A by Dep’t of Motor Veh. by R062-02, 9-20-2002; R105-04, 8-2-2004; R108-05, 10-31-2005)